

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

Doyet A. Early, III, Circuit Court Judge

Trial Court Case Nos. 2013-CP-02-02849 and 2013-CP-02-02850
Appellate Case No. 2015-002417

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

Tommie Rae BrownRespondent,

v.

David C. Sojourner, Jr., in his capacity as Limited
Special Administrator and Limited Special Trustee,
Deanna Brown-Thomas, Yamma Brown, Venisha Brown,
Larry Brown, Terry Brown and Daryl Brown Respondents below,

Of whom David C. Sojourner, Jr., in his capacity as
Limited Special Administrator and Limited Special Trustee,
Deanna Brown-Thomas, Yamma Brown, Venisha Brown,
Terry Brown, Michael Deon Brown and Daryl Brown are the Appellants.

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1 (WHEREUPON, ON MARCH 4, 2009 THE FOLLOWING
2 PROCEEDINGS WERE HELD:)

3 THE COURT: PURSUANT TO THE AGENDA THAT I SET OUT I
4 WILL NOW ENTERTAIN ARGUMENTS FROM THE SETTLING PARTIES IN
5 SUPPORT OF THEIR POSITION WHETHER OR NOT I HAVE
6 JURISDICTION TO MOVE FORWARD IN THE MCMASTER CASE.

7 MR. JONES: YOUR HONOR, I AM SONNY JONES OF THE
8 ATTORNEY GENERAL'S OFFICE. IF I MAY, I'LL TAKE THE LEAD
9 ON THAT ARGUMENT.

10 THE COURT: YOU MAY.

11 MR. JONES: YOUR HONOR, THE JANUARY 7 ORDER THAT YOU
12 ISSUED CONCERNING THE APPOINTMENT OF RUSSELL BAUKNIGHT --
13 WE HAD A HEARING JANUARY 30. THERE WAS SEVERAL PARTIES.
14 MR. WARNER AND THE P.R. TRUSTEES OBJECTED TO THAT ORDER
15 AND ASKED FOR RECONSIDERATION. THERE IS SOME QUESTION IS
16 -- I KNOW MR. WARNER'S ARGUMENT WAS HEARD, BUT THERE IS
17 SOME QUESTION AS TO WHETHER MRS. POPE AND MR. BUCHANAN'S
18 ARGUMENT WAS HEARD, BUT WHAT HAS HAPPENED --

19 THE COURT: WELL, I HAVE ORALLY DENIED MR. WARNER'S
20 MOTION TO RECONSIDER.

21 MR. JONES: YES, SIR, BUT YOU HAVE NOT REDUCED IT TO
22 WRITING.

23 THE COURT: WELL, I THOUGHT I ASKED SOMEBODY TO DO
24 IT, BUT, APPARENTLY, I DID NOT.

25 MR. JONES: YES, SIR. WHAT WE HAVE ON THAT IS THE

1 ISSUE OF THE APPEALS FILED BY THE P.R. TRUSTEES AND
2 MR.~BYRD WHERE THAT PUTS YOUR HONOR AS FAR AS PROCEEDING
3 IN THE SETTLEMENT CASE WHAT YOU'VE ASKED US TO REVIEW AND
4 ADVISE YOU ON. APPELLATE COURT RULE 225 ADDRESSES THIS,
5 AND WHAT IT AMOUNTS TO IS ONLY THE MATTERS ON APPEAL ARE
6 STAYED PENDING APPEAL. OF COURSE, OUR CONTENTION IS THAT
7 THE A.G.'S OFFICE HAS FILED A MOTION TO DISMISS BECAUSE OF
8 NO WRITTEN ORDER, BUT PENDING THAT DECISION BY THE COURT
9 OF APPEALS -- AND AS OF YESTERDAY, YOUR HONOR, WE HAVE NO
10 DECISION -- IS THAT ONLY THE MATTERS THAT ARE ON APPEAL
11 ARE STAYED.

12 THIS IS THE -- AND WE'D LIKE TO PASS UP A MEMORANDUM
13 TO YOUR HONOR AND TO OTHER PARTIES. THIS IS THE LIST --
14 LONG LIST OF CASES INCLUDING JACKSON V SPEED AND ENRIQUE
15 DEVELOPMENT VERSUS MERICO AND THE CASES CITED IN OUR
16 MEMORANDUM THAT YOUR HONOR CAN PROCEED ON OTHER MATTERS.
17 SO, WHAT WE NEED TO DO WOULD BE TO FOCUS ON WHAT ISSUE
18 THAT THE JANUARY 7 ORDER THAT YOUR HONOR SIGNED DID, AND
19 THAT APPOINTED MR. BAUKNIGHT AS A SPECIAL TRUSTEE TO
20 PROVIDE INFORMATION TO YOUR HONOR TO THE CONSIDER IN
21 APPROVING THIS SETTLEMENT.

22 THE COURT: AND THAT WAS HIS ONLY DUTY.

23 MR. JONES: YES, SIR. AND, IN FACT, YOUR HONOR
24 AND -- WE'LL HAVE ARGUMENT AND I'LL TOUCH ON IT IN A FEW
25 MINUTES AND MR. ROSEN WILL TOUCH ON IT -- ACTUALLY, YOUR

1 HONOR DOESN'T NEED INPUT FROM THE P.R. TRUSTEES ON MAKING
2 A DECISION ON THIS SETTLEMENT. YOU NEED TO HAVE ALL OF
3 THE PARTIES BEFORE THE COURT. YOU NEED TO UNDERSTAND THAT
4 IT IS CONTROVERSY WHICH YOUR HONOR HAS ALREADY HEARD FROM
5 THE RECORD, AND YOU NEED TO MAKE A DECISION THAT'S FAIR
6 AND REASONABLE. SO, OUR POSITION IS, YOUR HONOR, THAT THE
7 ONLY ISSUE IS THE APPOINTMENT OF THE SPECIAL TRUSTEE AND
8 YOUR HONOR CAN PROCEED WITH THE SETTLEMENT PENDING THE
9 COURT OF APPEALS' RULING WHETHER THE APPEAL WAS PROPER OR
10 NOT.

11 SECONDLY, YOUR HONOR, I'D LIKE TO ADDRESS WHILE I'M
12 MAKING THIS ARGUMENT CONCERNING THE PROPER PARTIES BEING
13 BEFORE THE COURT BECAUSE THERE'S BEEN SOME ISSUE ABOUT
14 THAT. THE ATTORNEY GENERAL'S OFFICE AS SET FORTH IN OUR
15 BRIEF AND WE'VE ARGUED BEFORE THE COURT IS THE APPROPRIATE
16 PARTY TO PREVENT ANY BREACHES OF THE CHARITABLE TRUST AND
17 TO ENFORCE THE CHARITABLE TRUST. THE CASELAW IS, YOUR
18 HONOR, WHEN THE ATTORNEY GENERAL APPEARS OR INTERVENES
19 WITH A CASE INVOLVING THE CHARITABLE TRUST HE TAKES OVER
20 THE LITIGATION AS FAR AS THE CHARITABLE TRUST.

21 THE CASELAW IS, YOUR HONOR, THAT THE ATTORNEY GENERAL
22 CAN SETTLE AN ISSUE WITH THE CHARITABLE TRUST. THE A.G.'S
23 OFFICE -- THE ATTORNEY GENERAL -- RECOGNIZES THAT THERE
24 ARE TWO ENTITIES THAT PROTECT THE CHARITABLE TRUST WHEN
25 THE A.G. APPEARS. THE ATTORNEY GENERAL ENFORCES, BUT YOUR

1 HONOR SUPERVISES.

2 SO, WE'RE NOT TRYING TO USURP YOUR HONOR IN SAYING
3 THAT THE A.G. SAYS IT'S A PROPER SETTLEMENT WHICH WE DO IN
4 THIS CASE AND THAT PREEMPTS EVERYTHING. WE'RE BEFORE A
5 COURT OF EQUITY. WE ARE PRESENTING THIS SETTLEMENT TO
6 YOUR HONOR AND REQUESTING IT TO BE APPROVED.

7 THIS WOULD ALSO APPLY, YOUR HONOR, TO EVEN THE '99
8 TRUST ISSUES IF THEY EVEN SURFACE CONCERNING SPECIFIC
9 COLLEGES. THE P.R. TRUSTEES HAVE PRESENTED THAT ISSUE
10 SAYING THAT THE THREE COLLEGES OR UNIVERSITIES
11 MENTIONED -- THOSE NEED TO BE NAMED. YOUR HONOR, THE
12 CASELAW HORN BOOK LAW IS THAT WHEN THE ATTORNEY GENERAL
13 INTERVENES OR IS INVOLVED IN MATTERS TO PROTECT THE
14 CHARITABLE BENEFICIARIES EVEN WITH NAMED COLLEGES TO GIVE
15 SCHOLARSHIPS THE ATTORNEY GENERAL TAKES OVER THE
16 LITIGATION.

17 ADDITIONALLY, YOUR HONOR, AND AS FAR AS 1102 AS FAR
18 AS MOVING FORWARD WITH THE SETTLEMENT THAT THE PROPER
19 PARTIES WOULD BE THE BENEFICIARIES OF THE SETTLEMENT NEED
20 TO BE BEFORE YOUR HONOR AND REPRESENTED WHICH WE CONTEND
21 THAT THE CHARITABLE BENEFICIARIES ARE REPRESENTED BY US.
22 MR. LEVENSON AND MR. BELL AND MR. ROSEN REPRESENT THE
23 OTHER BENEFICIARIES OF THE SETTLEMENT.

24 SECOND, YOUR HONOR, IS SOMEWHAT CURIOUS ABOUT THE
25 ROLE OF THE P.R. TRUSTEES IN ONE OF THESE. IT SEEMS TO BE

1 FROM 1102 -- 62-3-1102 -- THAT THEY MUST BE NOTIFIED.
2 WELL, WHAT DOES THAT MEAN WHEN THEY'RE NOTIFIED? WHAT
3 ACTUAL FUNCTION DO THEY TAKE PART IN THE PRESENTATION?
4 YOUR HONOR AT THE LAST HEARING GAVE GREAT LATITUDE IN
5 HEARING FROM EVERYONE AND WE'RE NOT THROUGH WITH THAT,
6 YOUR HONOR, YET, BUT YOU HAD MRS. POPE UP TO GIVE HER
7 OPINION ON THE SETTLEMENT. YOUR HONOR WANTS TO HEAR FROM
8 EVERYBODY, BUT THE CASELAW IN THE 1102 SAY, BASICALLY,
9 THAT ALL THE P.R. TRUSTEES DO ON THIS TYPE OF A SETTLEMENT
10 IS THEY SIGN OFF IF YOUR HONOR DIRECTS.

11 KEEP IN MIND NOT THE A.G.'S OFFICE MAKES THE FINAL
12 DECISION, NOR MR. LEVENSON OR MR. ROSEN MAKES THE FINAL
13 DECISION ON WHAT IS FAIR AND PROPER, NOT THE P.R.
14 TRUSTEES. YOUR HONOR MAKES THAT FINAL DECISION, AND, IN
15 FACT, THE COMMENTS TO 1102 IN THE CODE -- AND I AM GOING
16 TO READ ABOUT THREE LINES OF THIS AND MR. ROSEN IS GOING
17 TO GO INTO IT A LITTLE FURTHER, BUT IT SAYS BASICALLY THE
18 THRUST OF THE PROCEDURE IS TO PUT AUTHORITY -- THIS IS THE
19 COMPROMISE SETTLEMENT AGREEMENT PROVISION IN 1102 -- FOR
20 INITIATING SETTLEMENT PROPOSALS WITH THE PERSONS WHO HAVE
21 BENEFICIAL INTEREST IN THE ESTATE -- MR. ROSEN, CHARITABLE
22 BENEFICIARIES, AND MR. LEVENSON -- AND TO PREVENT
23 EXECUTORS AND TESTAMENTARY TRUSTEES FROM VETOING ANY SUCH
24 PROPOSAL.

25 THIS IS ON PAGE SIX OF THE MEMORANDUM. THE ONLY

1 REASON FOR APPROVING A SCHEME OF DEVOLUTION WHICH DIFFERS
2 FROM THAT FRAMED BY THE TESTATOR OF THE STATUTES GOVERNING
3 TESTACY IS TO PREVENT DISSIPATION OF THE ESTATE AND
4 WASTEFUL LITIGATION. IT'S BEEN A MAJOR CONCERN OF THE
5 ATTORNEY GENERAL'S OFFICE THE FEES AND SO FORTH BEING
6 ACCRUED OVER THE LAST TWO YEARS. BECAUSE EXECUTORS AND
7 TRUSTEES -- WHICH WILL BE OUR P.R. TRUSTEES IN THIS CASE
8 THAT ARE PRESENTLY ONBOARD MAY HAVE -- BECAUSE THEY MAY
9 HAVE AN INTEREST IN FEES AND COMMISSIONS WHICH THEY MIGHT
10 EARN THROUGH EFFORTS TO CARRY OUT TESTATOR'S INTENTION THE
11 JUDGMENT OF THE COURT IS SUBSTITUTED FOR THAT OF SUCH
12 FIDUCIARY IN APPROPRIATE CASES."

13 SO, ONCE AGAIN, YOUR HONOR, AS YOU KNOW YOU MAKE THE
14 FINAL DECISION. THEY DON'T HAVE A POSITION TO APPROVE OR
15 DISAPPROVE, BUT YOUR JUDGMENT IS SUBSTITUTED FOR THAT, AND
16 WE'D ASK, YOUR HONOR, THAT BASED UPON THE FACT THAT THE
17 ONLY ISSUE ON APPEAL IS WHETHER MR. BAUKNIGHT WAS
18 APPROPRIATELY APPOINTED AS SPECIAL TRUSTEE IS THE ISSUE ON
19 APPEAL THAT YOU CAN PROCEED WITH THE SETTLEMENT, THE
20 APPROPRIATE PARTY IS BEFORE THE COURT, AND PURSUANT TO
21 1102 WE'D ASK YOU TO PROCEED WITH THE SETTLEMENT HEARING.

22 THE COURT: WELL, PURSUANT TO THAT STATUTE,
23 MR. JONES, ARE YOU TELLING ME THAT THE SPECIAL P.R.'S
24 TRUSTEES WERE NOT NECESSARY PARTIES TO THE MCMASTER
25 ACTION?

1 MR. JONES: YES, SIR. THEY NEED TO BE NOTIFIED.

2 THE COURT: BUT NOT NECESSARY PARTIES?

3 MR. JONES: YES, SIR. THE CASELAW THAT WE CITED ON
4 PAGE SIX, YOUR HONOR, SAYS, BASICALLY, IF THE COURT
5 DIRECTS AND IF THE COURT APPROVES THIS SETTLEMENT AND
6 DIRECTS IT TO BE APPROVED, YOU DIRECT THE P.R. TRUSTEES TO
7 SIGN IT AND --

8 THE COURT: WELL, THEN HOW CAN THEY APPEAL AN ACTION
9 IF THEY'RE NOT PARTIES?

10 MR. JONES: SIR?

11 THE COURT: HOW CAN THEY APPEAL AN ACTION IF THEY'RE
12 NOT PARTIES?

13 MR. JONES: WELL, I DON'T KNOW HOW THEY APPEAL THIS.
14 IN THIS CASE THEY APPEALED OF YOUR JANUARY 7 ORDER WE'RE
15 SAYING IS NON-MERITORIOUS ANYWAY, BUT THE CASELAW IS IF
16 THEY DON'T SIGN THEY RESIGN. THAT'S WHAT THE CASELAW
17 SAYS. SO, WE ASK YOU TO PROCEED.

18 THE COURT: THANK YOU. ALL RIGHT. FIFTEEN MINUTES
19 TO THE NEXT LITIGANT.

20 MR. ROSEN: YOUR HONOR, I AM NOT GOING TO REPEAT
21 EVERYTHING THAT THE ATTORNEY GENERAL SAID. I DO WANT TO
22 POINT OUT THAT I THINK IT'S THE TEMPEST IN THE TEAPOT.
23 YOU KNOW, YOU'RE WELL AWARE THAT RULE 225 SAYS AS A
24 GENERAL RULE THE SERVICE OF A NOTICE OF APPEAL IN A CIVIL
25 MATTER ACTS AUTOMATICALLY STAY MATTERS DECIDED IN THE

1 ORDER. WELL, I MEAN, THE ONLY THING DECIDED IN THE ORDER
2 WAS TO APPOINT THIS FELLOW FOR THIS VERY LIMITED PURPOSE.
3 SO, I MEAN, I REALLY THINK THIS IDEA THAT THE APPEAL STAYS
4 ANYTHING IS PRETTY MUCH DISPATCHED BY, YOU KNOW, THE FIRST
5 SENTENCE OF RULE 225, AND I DON'T THINK YOU HAVE TO GET
6 TOO MUCH FURTHER THAN THAT.

7 THE OTHER THING IS I WANT TO POINT OUT THAT IN JUDGE
8 CURETON'S ORDER THAT YOU RECALL HE HELD THAT THE APPEAL
9 DID NOT STAY THE ONGOING BUSINESS OF THE ESTATE. SO, I
10 MEAN, WE'VE ALREADY GOT A RULING. THAT'S NOT THE SAME
11 APPEAL, BUT THAT'S AN ONGOING THING.

12 I DON'T THINK WE CAN BE HELD HOSTAGE TO AN APPEAL ON
13 A TRIVIAL MATTER, AND AS A PRACTICAL MATTER THE P.R.'S
14 RECOGNIZE THAT THEMSELVES BECAUSE THEY'VE NOW FILED TWO
15 EMERGENCY MOTIONS AND I DON'T KNOW HOW THEY EXPECT THE
16 COURT TO HAVE JURISDICTION OF THAT. I MEAN, IT'S KIND
17 OF -- I DON'T THINK THEY CAN TAKE THE POSITION THAT THE
18 COURT HAS NO JURISDICTION BUT HAS JURISDICTION TO HEAR
19 THEIR MOTIONS.

20 THE COURT: WELL, I THINK THEY'RE TAKING THE POSITION
21 THAT I HAVE NO JURISDICTION IN THE MCMASTER CASE. THEY'RE
22 FILING PETITIONS IN THE OTHER CASES.

23 MR. ROSEN: WELL...

24 THE COURT: WELL, I'LL HAVE TO LISTEN TO THEM.

25 MR. ROSEN: YOUR HONOR, THE OTHER THING IS IS THAT

1 1102 -- IT REALLY -- WHEN YOU STUDY IT, IT REALLY COMES
2 DOWN TO IT FREEZES THE P.R.'S OUT. I MEAN, THERE ARE
3 POLICY REASONS FOR THIS. IF YOU READ 1102 CAREFULLY --
4 WE'VE ALL BEEN READING IT VERY CAREFULLY THE LAST WEEK --
5 THE COMPROMISE IS SET OUT IN AN AGREEMENT. ANY INTERESTED
6 PERSON INCLUDING THE PERSONAL REPRESENTATIVE OR TRUSTEE
7 MAY SUBMIT THE AGREEMENT, BUT THEY DON'T HAVE TO.

8 THE COURT: WHAT'S THE -- 62?

9 MR. ROSEN: IT IS 62-3-1102. THIS IS PART OF THE
10 UNIFORMED ACT. IT'S NOT LIKE PEOPLE HAVEN'T THOUGHT THIS
11 THROUGH. IT'S NOT LIKE THIS HAS NEVER HAPPENED BEFORE.
12 SO, THIS IS A PRETTY SIMPLE -- I MEAN, WHEN YOU GET RIGHT
13 DOWN TO IT, IT IS KIND OF LIKE FAMILY COURT. I MEAN, THE
14 JUDGE HAS GOT TWO PEOPLE COMING IN. THEY SAY THEY HAVE AN
15 AN AGREEMENT AND THE COURT HAS TO APPROVE IT. I MEAN,
16 THAT'S ABOUT ALL IT IS TO IT. I DON'T EVEN KNOW THAT THE
17 TRUSTEES OR THE P.R.'S -- IT DOESN'T REALLY MATTER WHAT
18 THEY SAY. I MEAN, IT'S -- -- I'M SURE YOU'RE GOING TO
19 HEAR FROM THEM, BUT I MEAN --

20 THE COURT: WELL, IT DOES MATTER WHAT THEY SAY. I
21 MEAN, THEY'VE LIVED THIS THING AND THEY KNOW IT AS GOOD AS
22 ANYBODY. IT MATTERS WHETHER OR NOT THEY'RE NECESSARY
23 PARTIES AND WHETHER OR NOT THEY HAVE TO AGREE TO THE
24 SETTLEMENT. IT SEEMS LIKE TO ME UNDER THIS STATUTE I'M
25 THE ONE WHO HAS TO DETERMINE WHETHER OR NOT IT'S

1 REASONABLE AND FAIR.

2 MR. ROSEN: BUT THE INTENT OF THE PEOPLE WHO WROTE
3 THIS STATUTE, BASICALLY, EXCLUDE THE P.R. I MEAN, THE
4 P.R.'S ARE VIEWED AS HAVING A CONFLICT OF INTEREST,
5 ACTUALLY, IN THIS PROCEEDING. IN OTHER WORDS, WE DID A
6 LITTLE RESEARCH AND THE COMMENTS THAT THE ATTORNEY GENERAL
7 READ TO YOU IS THAT THERE'S A POLICY REASON BEHIND THIS
8 STATUTE. IT SAYS THAT THE THRUST OF THE PROCEDURE IS TO
9 PUT THE AUTHORITY FOR INITIATING THE SETTLEMENT WITH THE
10 PERSONS WHO HAVE A BENEFICIAL INTEREST. WELL, THAT'S US.
11 WE'RE THE PEOPLE WHO HAVE A BENEFICIAL INTEREST, AND TO
12 PREVENT -- AND TO PREVENT EXECUTORS AND TESTAMENTARY
13 TRUSTEES FROM VETOING ANY SUCH PROPOSAL. THAT'S PRETTY
14 STRONG LANGUAGE.

15 THE COURT: WHERE ARE YOU READING?

16 MR. ROSEN: THIS IS IN THE MEMORANDUM OF THE COURT
17 HAVING JURISDICTION THAT WAS JUST HANDED UP.

18 THE COURT: WHERE IS THAT COMING FROM?

19 MR. ROSEN: THAT IS COMING FROM THE THE COMMENTS.
20 I'VE GOT -- COMING FROM COMMENTS --

21 THE COURT: THE REPORTER'S COMMENTS?

22 MR. ROSEN: COMMENTS TO THE UNIFORMED ACT. IN OTHER
23 WORDS -- AND I CAN HAND UP AN ELECTRONIC CITE YOU CAN GO
24 TO. IT'S HTTP: --

25 THE COURT: THAT'S OKAY. JUST MAKE ME A COPY.

1 MR. ROSEN: IT IS WWW.NCCUSL.ORG AND WHAT THIS IS IS
2 THE UNIFORMED LAWS ANNOTATED. YOUR HONOR SHOULD REMEMBER.
3 IT USED TO BE GREEN BOOKS WHEN WE WERE IN LAW SCHOOL.

4 THE COURT: NO, SIR. I AM NOT FAMILIAR WITH IT.

5 MR. ROSEN: THE COMMISSIONERS ON UNIFORMED LAWS WRITE
6 THESE ACTS AND THEN THEY PUBLISH BOOKS CALLED THE
7 UNIFORMED LAWS ANNOTATED.

8 THE COURT: AND WE HAPPEN TO HAVE IT RIGHT UP HERE ON
9 THE COMPUTER.

10 MR. ROSEN: THERE YOU GO. THERE YOU GO. SEE, THIS
11 YOUNGER GENERATION KNOWS HOW TO DO THIS STUFF.

12 SO, THE COMMISSIONERS ON THE UNIFORMED LAWS TELL YOU
13 WHAT THEY INTEND AND SOUTH CAROLINA CASELAW INDICATES THAT
14 WE SHOULD NOT NECESSARILY BE BOUND BY THESE, BUT WE SHOULD
15 LOOK TOWARDS THEM. WE ADOPTED 62-3-1102 OF THE SOUTH
16 CAROLINA PROBATE COURT FROM THE UNIFORM ACT. AS SUCH
17 COMMENTS CAN BE USED TO SHED LIGHT ON LEGISLATIVE INTENT.
18 SEE GENERALLY THE STAY OF GUIDE VERSUS SPOONER, 457 SE 2D
19 632.

20 I MEAN, THIS IS JUST BASIC STATUTORY CONSTRUCTION.
21 WE HAVE A STATUTE AND IT'S PART OF THE UNIFORMED ACT OR IS
22 DERIVED FROM THE UNIFORMED ACT AND THE AUTHORS OF THE
23 UNIFORMED ACT HAVE SAID WHAT THEY MEANT BY IT. I THINK
24 I -- DON'T KNOW THAT YOU'RE BOUND STRICTLY BY IT, BUT I
25 THINK IT'S -- CERTAINLY, THEY HAVE NO DOG IN THIS FIGHT.

1 IT SAYS, THE THRUST OF THE PROCEDURE IS TO PUT THE
2 AUTHORITY ON THE PEOPLE WHO HAVE THE BENEFICIAL INTEREST.
3 IN OTHER WORDS, IF MY BROTHER AND SISTER AND I AGREE WE
4 DON'T LIKE MY FATHER'S WILL AND WE ARE THE ONLY
5 BENEFICIARIES, WE DON'T HAVE TO FIGHT ABOUT IT, AND THE
6 P.R. CAN'T TELL US THAT WE HAVE TO FIGHT ABOUT IT. THE
7 THREE OF US CAN SIT DOWN AND SETTLE THE CASE, I MEAN, JUST
8 TO GIVE A SIMPLE EXPLANATION. THE P.R. CAN'T SAY WE KNOW
9 WHAT YOUR FATHER INTENDED. WE CAN SAY WE ARE THE THREE
10 CHILDREN, WE'RE THE BENEFICIARIES, AND WE SETTLED. THAT'S
11 WHAT IS GOING ON HERE IN MY SIMPLIC VIEW OF IT. THE ONLY
12 REASON --

13 THE COURT: WELL, THEN WHY SHOULD ANYBODY HAVE A
14 WILL?

15 MR. ROSEN: IF THERE IS A CONTROVERSY.

16 THE COURT: IT'S GOT TO BE A GENUINE CONTROVERSY.

17 MR. ROSEN: YOU HAVE TO HAVE GENUINE CONTROVERSY. IN
18 OTHER WORDS, IF I AM COMING IN AND SAYING HE WAS
19 OVERPOWERED AND WASN'T IN HIS RIGHT MIND AND ALL THAT.
20 YOU HAVE TO HAVE A CONTROVERSY.

21 THE COURT: I FIRST HAVE TO FIND THAT THERE WAS A
22 CONTROVERSY EXISTING IN GOOD FAITH STANDING --

23 MR. ROSEN: RIGHT.

24 THE COURT: -- IN GOOD FAITH AMONG THE INTERESTED
25 PARTIES.

1 MR. ROSEN: AND WE --

2 THE COURT: OBVIOUSLY, WE HAVE A --

3 MR. ROSEN: I WAS GOING TO SAY YOU HAVE TO ALMOST
4 LAUGH WHEN YOU READ THAT. NO ONE COULD SAY THERE WASN'T A
5 GOOD FAITH CONTROVERSY. I MEAN, LORD, WE'VE BEEN
6 LITIGATING FOR ALMOST TWO YEARS. SO, THAT PARTICULAR
7 CRITERIA WOULDN'T STAND IN THE WAY, AND THEN IT SAYS, THE
8 ONLY REASON FOR APPROVING A SCHEME OF DEVOLUTION WHICH
9 DIFFERS FROM THAT FRAMED BY THE TESTATOR OR THE STATUTES
10 GOVERNING TESTACY IS TO PREVENT DISSIPATION OF THE ESTATE.
11 I MEAN, THIS IS LIKE THE POSTERCHILD FOR THE UNIFORMED
12 LAW. I MEAN, TALK ABOUT WASTEFUL LITIGATION.

13 I MEAN, IF -- WE'VE DECIDED TO QUIT. WE DON'T WANT
14 -- NOBODY WANTS TO PAY LAWYERS ANYMORE. WE WANT TO STOP.
15 BECAUSE EXECUTORS AND TRUSTEES MAY HAVE AN INTEREST IN
16 FEES AND COMMISSIONS -- NO ONE IS ACCUSING ANYBODY OF
17 ANYTHING -- WHICH THEY MIGHT EARN THROUGH EFFORTS TO CARRY
18 OUT THE TESTATOR'S INTENTION, THE JUDGMENT OF THE COURT IS
19 SUBSTITUTED FOR THAT OF SUCH FIDUCIARY. SO, THAT IMPLIES
20 THAT THEIR JUDGMENT IS NOT EVEN -- I WOULDN'T SAY IT'S NOT
21 ADMISSIBLE, BUT IT IS ALMOST IS A PRESUMPTION AGAINST
22 THEM. THEY HAVE A VESTED INTEREST IN CONTINUING THE
23 LITIGATION. I AM NOT ACCUSING THEM OF THAT, BUT THAT'S --

24 THE COURT: WELL, THERE IS NO ACCUSATION OF THAT AT
25 ALL IN THIS CASE.

1 MR. ROSEN: NO, ABSOLUTELY.

2 THE COURT: THEY'VE CERTAINLY BEEN BURDENED WITH A --

3 MR. ROSEN: AN ALBATROSS.

4 THE COURT: -- A TREMENDOUS ALBATROSS.

5 MR. ROSEN: I AGREE WITH YOUR HONOR, BUT YOU JUST --

6 THE COURT: I UNDERSTAND IT.

7 MR. ROSEN: -- SHOW US --

8 THE COURT: MY QUESTION WAS ARE THEY NECESSARY.

9 PARTIES TO MCMASTER CASE, AND YOU'RE ARGUING THEY'RE NOT
10 AND THESE ARE THE REASONS AND THE STATUTE AND COMMENTS, ET
11 CETERA, ET CETERA.

12 MR. ROSEN: SO, YOUR HONOR, FOR ALL OF THOSE REASONS,
13 WE -- YOU KNOW, I JUST THINK, REALLY, UNDER THE FIRST
14 SENTENCE OF RULE 25 WE SHOULD JUST MOVE ON, AND, YOU KNOW,
15 YOU DON'T HAVE TO APPROVE THE SETTLEMENT. IF WE DON'T
16 PROVE OUR CASE TO YOU, THEN THERE WE ARE. THANK YOU.

17 THE COURT: THANK YOU. ANYBODY ELSE ON THIS SIDE OF
18 THE AISLE, SO TO SPEAK?

19 MR. LEVENSON: JUDGE, VERY BRIEFLY. AT THE RISK OF
20 BEING PRAGMATIC, THE ISSUE -- IN ADDITION TO WHAT
21 MR. JONES SAID, THE ISSUE OF AN APPEAL OF YOUR HONOR'S
22 APPOINTMENT OF MR. BAUKNIGHT TO BE THE PARTY MAKING A
23 RECOMMENDATION IS A MOOT POINT. HE'S ALREADY TESTIFIED.
24 HIS JOB ESSENTIALLY AS FAR AS MAKING A RECOMMENDATION
25 WHICH WAS THE GRAVAMEN OF YOUR ORDER DATED JANUARY 7 IS

1 OVER. SO, I DOUBT THE APPELLATE COURT WOULD EVEN
2 ENTERTAIN AN APPEAL WHERE THAT CAT IS OUT OF THE BAG, AND,
3 IN FURTHERANCE OF THAT --

4 THE COURT: AND, PLUS, HE WAS JUST AN ADVISORY TYPE
5 OF CAPACITY.

6 MR. LEVENSON: AT THE RISK OF YOU READING MY MIND,
7 JUDGE, WHAT I WAS ABOUT TO SAY WAS THAT HAD HE NOT BEEN
8 APPOINTED BY YOUR HONOR, HE COULD HAVE BEEN AN ORDINARY
9 WITNESS WHO WALKS INTO THIS COURTROOM UPON OUR SUBPOENA
10 AND SAYS TO THE COURT, JUDGE, I HAVE REVIEWED THIS, AND I,
11 AT THE REQUEST OF LEVENSON AND JONES AND ROSEN, THIS IS MY
12 OPINION WHICH MAY BE CONSIDERED OR NOT AS YOUR HONOR SEES
13 FIT. SO, THE TEMPEST IN THE TEAPOT ANALYSIS IS
14 APPROPRIATE AND THE ISSUE IS MOOT.

15 WE ARE -- THE ONLY THING I WOULD TAKE ISSUE WITH
16 MR. ROSEN IS THAT I'M NOT SURE WHAT EVIDENCE IS IN THIS
17 RECORD TO ESTABLISH THE GOOD FAITH NATURE OF THE
18 CONTROVERSY, BUT WE ARE PREPARED TODAY ASSUMING THAT YOUR
19 HONOR ALLOWS US TO PRESENT EVIDENCE TO ESTABLISH A GOOD
20 FAITH BASIS FOR THE CONTROVERSY SO THAT YOU MAY THEN
21 EXERCISE THE AUTHORITY UNDER THE 1102.

22 THE COURT: WELL, I THINK THAT'S BEEN AMPLY SHOWN TO
23 THE COURT. IF NOTHING ELSE, IT IS A GOOD FAITH
24 CONTROVERSY.

25 MR. LEVENSON: WHAT I WOULD SAY ABOUT THAT IS THIS.

1 THE COURT: LET'S JUST STICK WITH THE ISSUE RIGHT NOW
2 WHETHER OR NOT I CAN TAKE TESTIMONY IN LIGHT OF THE
3 APPEAL.

4 MR. LEVENSON: WELL, THEN IF THAT'S THE LIMITED ISSUE
5 I BELIEVE IT'S BEEN AMPLY ARGUED.

6 THE COURT: THANK YOU.

7 PROFESSOR, ANYTHING YOU WANT TO TELL ME?

8 MR. MEDLIN: YOUR HONOR, I WOULD JUST ADD --

9 THE COURT: TELL ME THIS. ARE THEY NECESSARY PARTIES
10 TO THE MCMASTER CASE?

11 MR. MEDLIN: WELL, THEY CERTAINLY HAVE AN INTEREST IN
12 BEING HEARD.

13 THE COURT: I UNDERSTAND THAT. DO THEY HAVE TO BE
14 NAMED A PARTY -- AN ESSENTIAL PARTY TO THE LITIGATION OR
15 TO THE SUIT MCMASTER, ET AL, FILED OR ASKING ME TO FIND
16 THE SETTLEMENT IS REASONABLE AND FAIR?

17 MR. MEDLIN: THEY'RE NOT NECESSARY TO THE APPROVAL OF
18 THE SETTLEMENT FOR THE REASONS THAT BOTH MR. ROSEN AND
19 MR. JONES --

20 THE COURT: I AGREE THEY'RE NOT NECESSARY TO THE
21 APPROVAL, BUT ARE THEY NECESSARY PARTIES TO THE ACTION?

22 MR. MEDLIN: YOUR HONOR, I DON'T KNOW THE ANSWER TO
23 THAT. I DON'T KNOW THAT THERE IS A CASE THAT SAYS THEY'RE
24 NECESSARY PARTIES OR NOT. THERE MAY BE. I DON'T KNOW,
25 BUT THE PRACTICAL ASPECT OF THAT IS THAT YOU HAVE THE

1 DECISION. THE STATUTE IS SET OUT SO THAT YOU TELL THEM TO
2 SIGN. WE DON'T HAVE THE BURDEN OF HAVING TO GET THEM TO
3 SIGN AND AGREE. WE AS BENEFICIARIES UNDER THE PROCESS OF
4 THE STATUTE BRING THE BRING THE REQUEST TO YOU. YOU
5 DECIDE WHETHER TO APPROVE IT, AND IF YOU DO, THEN YOU ARE
6 UNDER THE STATUTE EMPOWERED TO DIRECT THEM TO BECOME A
7 PARTY TO IT.

8 SO, TO THAT EXTENT I AM NOT SURE -- WELL, THEY AREN'T
9 NECESSARY PARTIES IN THE SENSE THAT THEY HAVE TO APPROVE
10 IT. WHETHER THEY ARE TECHNICALLY NECESSARY PARTIES TO BE
11 SERVED, I JUST DON'T KNOW, YOUR HONOR, AND I'M NOT GOING
12 TO TELL YOU I DON'T THINK THEY ARE BECAUSE I DON'T KNOW
13 FOR SURE, BUT WHAT I WOULD ADD, YOUR HONOR, IS THAT OUR
14 SETTLEMENT SETTLES TWO MAJOR DISPUTES -- TWO SEPARATE CASE
15 NUMBERS. MRS. POPE ESPECIALLY IS METICULOUS ABOUT
16 INSISTING ON CASE NUMBERS AND CAPTIONS AND SEPARATING
17 MATTERS, AND WE SETTLED THE WILL-TRUST-HEIRS MATTER WHICH
18 IS A SEPARATE ACTION. WE SETTLED THOSE MATTERS IN DISPUTE
19 IN THE GENERAL ESTATE MATTER, THE ELECTIVE SHARE, THE
20 OMITTED SPOUSE'S SHARE, THE OMITTED CHILD SHARE. ALL OF
21 THOSE DISPUTES ARE SETTLED. THEY ARE NOT IN THE MCMASTER
22 CASE. IN FACT, THE MCMASTER CASE ONLY DEALS WITH THE
23 PETITION TO REMOVE FIVE FIDUCIARIES. THE SETTLEMENT
24 REALLY SETTLES TWO OTHER CASES.

25 SO, THOSE CASES CLEARLY SHOULD BE ALLOWED TO GO

1 FORWARD BECAUSE NOT ONLY DOES THE RULE THAT MR. ROSEN
2 CITED INDICATE THAT, NOT ONLY DOES JUDGE CURETON'S ORDER
3 IN THE DALLAS-BRADLEY APPEAL FROM LAST SUMMER STATE THE
4 OBVIOUS, WE CAN'T STOP THE ADMINISTRATION OF THE ESTATE
5 JUST BECAUSE THE FIDUCIARIES ARE FIGHTING ABOUT SOMETHING.
6 THE ADMINISTRATION OF THE ESTATE HAS TO GO FORWARD, AND
7 WE'RE TRYING TO ACCOMPLISH THAT.

8 AND THE PROBATE CODE ITSELF WHEN IT TALKS ABOUT
9 REMOVAL IN SECTION 62-1-302(F) SAYS THAT THERE IS A
10 SEPARATE ISSUE EVERY TIME. SO, JUST BECAUSE YOU REMOVE
11 ONE ISSUE TO THE CIRCUIT COURT, THE OTHER ISSUES STAY WITH
12 THE PROBATE COURT. WE TALKED ABOUT THAT TWO YEARS AGO,
13 YOUR HONOR, AND WE HAVE A PROCESS TO DEAL WITH THAT, BUT
14 THAT'S JUST ANOTHER INDICATION THAT THE PROBATE CODE
15 FOLLOWS SUIT IN RECOGNIZING THAT EACH ISSUE IS SEPARATE.
16 SO, WE'RE SETTling TWO ISSUES THAT ARE NOT BEING APPEALED
17 BY MRS. POPE AND MR. BUCHANAN, AND, SO, CONSEQUENTLY, WE
18 THINK WE CAN MOVE FORWARD ON THAT.

19 THE COURT: THANK YOU. ANYBODY ELSE? MR. BELL?

20 I'M SORRY. MR. SHAHID?

21 MR. SHAHID: JUDGE, I HAVE NO NEW ARGUMENT TO PRESENT
22 TO YOU EXCEPT OUR POSITION IS CONSISTENT WITH WHAT HAS
23 BEEN SAID ALREADY.

24 MR. BELL: I HAVE NOTHING ELSE TO ADD.

25 THE COURT: THANK YOU. ANYBODY ELSE ON THOSE ASKING

1 THAT THEY GO FORWARD, ON THAT SIDE OF THE AISLE?

2 MR. BAILEY, I'LL BE GLAD TO HEAR FROM YOU OR WHOEVER.

3 MS. HAYES: YOUR HONOR, TRESSA HAYES FOR --

4 THE COURT: GOOD MORNING, MS. HAYES. HOW ARE YOU?

5 MS. HAYES: GOOD MORNING, YOUR HONOR. WE AGREE THAT
6 UNDER RULE 225 OF THE APPELLATE COURT RULES THE APPEAL
7 WOULD ONLY STAY THE MATTERS ON APPEAL, AND, FURTHER, SINCE
8 OPPOSING COUNSEL DIDN'T MENTION AS AN OFFICER OF THE COURT
9 I DO ALSO NEED TO MENTION THAT UNDER 225(B) ONE OF THE
10 EXCEPTIONS TO THE AUTOMATIC STAY IS THE INJUNCTIVE RELIEF,
11 AND THAT'S HOW WE ARE IN APPELLATE COURT RIGHT NOW. WE'RE
12 CLAIMING THAT THE ORDER IS IMMEDIATELY APPEALABLE BECAUSE
13 IT PARTIALLY DENIES A REQUEST FOR AN INJUNCTION AND
14 PARTIALLY GRANTS THE INJUNCTION.

15 THE COURT: WHAT KIND OF INJUNCTION WAS GRANTED IN
16 THAT ORDER?

17 MS. HAYES: WELL, THE P.R. TRUSTEES WOULD BE ENJOINED
18 FROM FULLY PERFORMING THEIR DUTIES. THEY HAVE BEEN
19 ALLOWED TO TESTIFY, AND THAT'S IMPORTANT.

20 THE COURT: MA'AM, I DIDN'T ENJOIN MY SPECIAL P.R.'S
21 AND TRUSTEES FROM DOING ANYTHING. I SIMPLY APPOINTED
22 MR. BAUKNIGHT TO REPORT TO THIS COURT ON THE PROS AND CONS
23 OF THE PROPOSED SETTLEMENT. I HAVEN'T ENJOINED MRS. POPE
24 OR MR. BUCHANAN FROM DOING ANYTHING UNLESS I TOTALLY
25 MISREAD MY ORDER.

1 MS. HAYES: YOUR HONOR, WE DO BELIEVE THAT IT DOES
2 DEPRIVE THEM OF FULLY PERFORMING THEIR DUTIES BECAUSE --
3 WELL, TO ANOTHER POINT THAT WAS RAISED ABOUT WHETHER OR
4 NOT WE'RE NECESSARY PARTIES, WE DO BELIEVE THAT THEY ARE
5 ABSOLUTELY NECESSARY PARTIES.

6 THE COURT: NO, MA'AM. NO, MA'AM. PLEASE GO BACK
7 AND ANSWER. I AM NOT BEING RUDE TO YOU. I AM JUST
8 QUESTIONING YOU. WHERE DID I ENJOIN YOUR CLIENTS FROM
9 DOING ANYTHING IN THAT ORDER?

10 MS. HAYES: THEY ARE NOT ENJOINED FROM ACTING AS P.R.
11 TRUSTEES, BUT IF MR. BAUKNIGHT ACTS AS A SPECIAL
12 ADMINISTRATOR AND ASSUMES A CRITICAL DUTY TO REVIEW AND
13 EVALUATE THE PROPOSED SETTLEMENT PLAN, AS IT STANDS RIGHT
14 NOW THE SETTLEMENT PLAN DOESN'T EVEN INCLUDE MRS. POPE AND
15 MR. BUCHANAN AS PARTIES. THEY WERE UNILATERALLY OMITTED
16 FROM THE CAPTION.

17 THE COURT: I KNOW THAT, BUT ANSWER WHERE HAVE I
18 ENJOINED THEM FROM DOING ANYTHING? HAVE I?

19 MS. HAYES: IT PARTIALLY ENJOINS THEM TO THE EXTENT
20 THAT MR. BAUKNIGHT IS APPOINTED TO TAKE OVER THAT DUTY.
21 THEY CAN'T FULFILL THAT DUTY IF SOMEONE ELSE STEPS IN
22 THEIR SHOES TO FULFILL IT, YOUR HONOR.

23 THE COURT: OKAY. GO AHEAD.

24 MS. HAYES: AND, YOUR HONOR, SO, THE INJUNCTIVE
25 RELIEF MAKES THE ORDER IMMEDIATELY APPEALABLE. SO, THERE

1 IS NO AUTOMATIC STAY. 225(B) -- SO, WE DON'T CONTEND THAT
2 THERE IS AN AUTOMATIC STAY. WE ARE MORE CONCERNED WITH
3 JUDICIAL ECONOMY BECAUSE OF ALL OF THE PENDING APPEALS.
4 WE BELIEVE THE PROPRIETY OF MR. BAUKNIGHT'S APPOINTMENT
5 SHOULD BE ADDRESSED FIRST BEFORE WE GO FORWARD, AND WITH
6 THAT SAID AS FAR AS SUBJECT MATTER JURISDICTION IS
7 CONCERNED, EVEN IF WE WANTED TO CONSENT TO THAT,
8 OBVIOUSLY, EVERYONE KNOWS WE CANNOT CONSENT TO THAT.

9 SO, WE'RE HERE TO COOPERATE. IF WE GO FORWARD, THAT
10 JUST MIGHT BE ANOTHER ISSUE FOR ANOTHER TIME.

11 THE COURT: THANK YOU. ANYTHING ELSE?

12 MS. HAYES: AND, YOUR HONOR, THE OTHER POINT THAT I
13 NEED TO MENTION IS THAT THE JURISDICTION IS NOT JUST ABOUT
14 SUBJECT MATTER JURISDICTION ABOUT THE STAYS WITH THE
15 APPEALS BUT ALSO PROCEDURAL ISSUES WITH THE PARTIES, AND
16 WE'VE MENTIONED THESE POINTS AGAIN AND AGAIN IN MEMORANDUM
17 NOT AT ALL TO BE NIT-PICKY, BUT THE P.R. TRUSTEES ARE THE
18 GUARDIANS OF THE TRUST AND ESTATE, AND AS SUCH THEY'RE
19 TRYING TO REDUCE FUTURE COST AND LITIGATION EXPENSE TO THE
20 ESTATE AND TRUST. SO, WE'RE VERY CONCERNED THAT
21 EVERYTHING IS HANDLED APPROPRIATELY TO PREVENT FUTURE
22 ATTACKS DOWN THE ROAD.

23 THE COURT: AND IN THAT REGARD, THAT'S WHY I BEGGED
24 MY P.R.'S TO TRY TO WORK WITH THE SETTLING PARTIES TO --
25 IF I APPROVE IT, TO HAVE SOME TYPE OF SMOOTH TRANSITION

1 AND I UNDERSTAND THAT HAS NOT BEEN DONE.

2 MS. HAYES: YES, YOUR HONOR. WE'RE ALSO CONCERNED
3 ABOUT THE FACT THAT THERE ARE PARTIES -- WELL, WE BELIEVE
4 THAT THE ESTATE PLAN IS VALID. IF IT IS NOT VALID, THERE
5 NEEDS TO BE A DETERMINATION OF THE HEIRS AND THAT HASN'T
6 BEEN DONE. WE'RE VERY CONCERNED ABOUT THE EFFECT OF THE
7 SETTLEMENT THAT DOESN'T INCLUDE POTENTIAL HEIRS. WE'RE
8 ALSO VERY CONCERNED ABOUT THE FACT THAT THERE ARE NOT
9 GUARDIANS AD LITEM APPOINTED FOR SOME OF THE MINORS.

10 THE COURT: WELL, THAT'S GOING TO THE SETTLEMENT
11 ITSELF AND THE MECHANICS OF IT. THAT'S NOT GOING AS TO
12 WHETHER OR NOT I CAN MOVE FORWARD TODAY.

13 MS. HAYES: OH, YES, YOUR HONOR, THOSE ARE JUST OTHER
14 ISSUES --

15 THE COURT: YES, MA'AM.

16 MS. HAYES: -- ABOUT THE TRANSITION. WE ALSO BELIEVE
17 IT IS IMPORTANT FOR THE P.R. TRUSTEES TO BE NAMED AS
18 PARTIES BECAUSE THE ENTITY ITSELF IN ORDER TO NEGOTIATE
19 ARE BOUND -- IT HAS TO BE REPRESENTED BY ITS GUARDIAN OR
20 REPRESENTATIVE. IF A CONSERVATORSHIP OR TRUSTEESHIP GIVES
21 OWNERSHIP OR SIGNS A DEED, OBVIOUSLY, IT HAS TO BE
22 EXECUTED BY THE TRUSTEES, BY THE CONSERVATOR FOR THAT
23 ENTITY -- NOT BY THE ENTITY ITSELF. SO, THE PARTIES
24 REPRESENTING THAT ENTITY HAVE TO BE INCLUDED AS PARTIES,
25 AND WE BELIEVE ALL POTENTIAL HEIRS MUST BE INCLUDED AS

1 PARTIES SO THEY DON'T COME BACK LATER AND CHALLENGE THE
2 SETTLEMENT AGREEMENT IF APPROVED.

3 THE COURT: THANK YOU, MA'AM. ANYTHING ELSE?

4 MR. BAILEY, DO YOU NEED TO ADD ANYTHING?

5 MR. BAILEY: YES, YOUR HONOR. I WOULD LIKE TO JUST
6 ADD ONE THING AND IT KIND OF GOES TO WHAT MR. ROSEN SAID.
7 I THINK WE'RE DEALING, BASICALLY, WITH A FUNDAMENTAL ISSUE
8 HERE. THE WAY I UNDERSTAND THE PROBATE CODE STATUTE THAT
9 DEALS WITH THE SETTLEMENT AMONG PARTIES IS THAT IT'S GOT
10 TO BE COMPETENT SUCCESSORS OF THE TESTATOR IN EITHER
11 HAVING BEEN NAMED IN THE WILL OR UNDER THE STATUTE OF
12 DISSENT AND DISTRIBUTION.

13 I THINK WHAT WE'RE LOOKING AT IS A BOOTSTRAP
14 SITUATION WHERE THE PARTIES WITHOUT EVER ACTUALLY
15 DETERMINING IN THE EYES OF THE P.R. TRUSTEES THEY HAVE
16 DECIDED, WELL, WE'RE GOING TO AGREE THAT WE ARE THESE
17 COMPETENT SUCCESSORS, AND I THINK THE FUNDAMENTAL FLAW
18 THERE IS WE HAVE AN OBLIGATION TO BE SURE THAT THE ESTATE
19 IS ADMINISTERED PROPERLY AND PART OF THAT, I THINK, DEALS
20 WITH, YOU KNOW, YES, IF THEY ARE COMPETENT SUCCESSORS,
21 THEN GO FORWARD, BUT WE HAVEN'T MADE THAT DETERMINATION.
22 WE HAVE NOT DETERMINED WHO THE HEIRS ARE IN THE LEGAL
23 SENSE. THEY'VE DONE IT IN A PRIVATE AGREEMENT. WE'RE
24 LOOKING AT IT, ARE THEY LEGALLY THE PEOPLE THEY SAY THEY
25 ARE? AND CONSEQUENTLY, ALL OF THE --

1 THE COURT: WAIT A MINUTE. ARE THEY LEGALLY THE
2 PEOPLE THEY SAY THEY ARE? I MEAN, IS...

3 MR. BAILEY: WELL, IS MRS. HYNIE BROWN ACTUALLY THE
4 WIFE?

5 THE COURT: WELL, YOU KNOW, THERE'S -- IT IS HOTLY
6 DISPUTED. IT IS LITIGATED. THEY HAVE SETTLED THAT --
7 THEY'RE ATTEMPTING TO SETTLE THAT LITIGATION. I HAVE
8 SETTLED LITIGATION FOR THIRTY YEARS AS A LAWYER. WHERE, YOU
9 KNOW, I SETTLED A LOT OF CASES WHERE I THOUGHT I WAS
10 RIGHT, BUT I HAD TO COMPROMISE, AND THIS IS A COMPROMISE
11 SETTLEMENT OF, I THINK, A LEGITIMATE CONTROVERSY. IS THAT
12 NOT APPROPRIATE UNDER THE STATUTE THAT ALLOWS A COMPROMISE
13 SETTLEMENT?

14 MR. BAILEY: NO.

15 THE COURT: I MEAN, DO WE HAVE TO LITIGATE IT TO THE
16 VERY NTH DEGREE OR ARE THE PARTIES UNDER THE CODE ALLOWED
17 TO COMPROMISE IT? IF WE LITIGATE IT TO THE NTH DEGREE,
18 THE ATTORNEYS' FEES, THE EXPENSES, THE COURT TIME WILL
19 CONTINUE TO MULTIPLY RAPIDLY. IT WILL END UP IN THE COURT
20 OF APPEALS, SUPREME COURT. WE'LL NEVER GET THROUGH WITH
21 IT. I CAN'T EVEN GET THROUGH A SETTLEMENT, MUCH LESS
22 CONTESTED LITIGATION.

23 I AM NOT FUSSING, MR. BAILEY, AND EVERYBODY IN THIS
24 COURTROOM KNOWS MY FEELINGS ABOUT ADELE POPE AND BOB
25 BUCHANAN ARE THE HIGHEST REGARDS, AND THEY HAVE DONE

1 EVERYTHING HUMANLY POSSIBLE AND LEGALLY POSSIBLE TO FOSTER
2 WHAT THEY FEEL TO BE THE ESTATE PLAN OF JAMES BROWN, BUT
3 WE HAVE PARTIES WHO DISAGREE, AND THEY'RE TRYING TO
4 COMPROMISE IT AND SETTLE IT, AND THAT'S WHAT I'M TRYING TO
5 BALANCE ALL THAT OUT. IT'S BEEN A DIFFICULT TASK, AND I
6 IN NO WAY FAULT YOU OR MRS. POPE OR MR. BUCHANAN. Y'ALL
7 HAVE DONE A MAGNIFICENT JOB IN ASSERTING WHAT YOU FEEL TO
8 BE MR. BROWN'S ESTATE PLAN. UNFORTUNATELY, WE HAVE ALL OF
9 THIS CONTROVERSY REGARDING IT OR SURROUNDING IT WHICH
10 THEY'RE TRYING TO RESOLVE. I HAVE TO LISTENED TO
11 EVERYBODY. PLEASE, YOU UNDERSTAND WHERE I'M COMING FROM.

12 MR. BAILEY: YES, SIR, YOUR HONOR. AND, AGAIN, OUR
13 ONLY BASIC POSITION IS SOME FUNDAMENTAL FACTS SHOULD BE
14 DECIDED BEFORE --

15 THE COURT: I APPRECIATE THAT.

16 MR. BAILEY: -- THE SETTLEMENT IS PRESENTED AND
17 APPROVED.

18 THE COURT: I CAN CERTAINLY APPRECIATE THAT. YOU'VE
19 RAISED THOSE FACTS, I.E., LITIGATING THE LEGALITY OF
20 MS. HYNIE BROWN'S MARITAL STATUS AND JAMES THE SECOND'S
21 D.N.A. RESULTS WHICH Y'ALL WANT TO BE DONE THROUGH LAB
22 CORPS OR WHOEVER IT WAS. THEY'VE SUBMITTED A D.N.A.
23 ANALYSIS FROM SOMEONE ELSE INDICATING HE IS THE CHILD.
24 SO, THOSE ARE THE THINGS I HAVE TO DECIDE, BUT I
25 UNDERSTAND YOUR POSITION. I APPRECIATE IT, AND I WOULD --

1 ADMIRE YOU FOR IT.

2 MR. BAILEY: MAY I JUST ADD --

3 THE COURT: YOU MAY KEEP GOING.

4 MR. BAILEY: -- WE DO POINT OUT THAT THERE ARE TWO
5 WILLS AND TWO TRUSTS THAT CLEARLY SET OUT MR. BROWN'S
6 ESTATE PLAN.

7 THE COURT: BUT YOU WILL ACKNOWLEDGE THERE IS A
8 SERIOUS CHALLENGE TO THOSE BASED ON UNDUE INFLUENCE AND
9 FOR NO OTHER REASON FOR THE FEES THAT WERE ALLOWED UNDER
10 THOSE DOCUMENTS TO BE PAID TO BRADLEY, DALLAS, AND
11 BUCHANAN (SIC) UP TO 50 PERCENT OF THE GROSS?

12 MR. BAILEY: YOUR HONOR, I DON'T -- NO, I DON'T AGREE
13 WITH THAT.

14 THE COURT: YOU DON'T THINK THAT PRESENTS A
15 CHALLENGE?

16 MR. BAILEY: I DON'T THINK THAT THE VALIDITY OF THE
17 WILLS OR THE TRUSTS ARE -- I THINK THE CHALLENGES DO NOT
18 HAVE THE PROPER SUPPORT. THEY DO NOT HAVE THE PROBABLE
19 CAUSE. I THINK IF YOU LOOK AT THE WILLS AND WHAT
20 MR. BROWN ATTEMPTED TO DO, THE TRUST AND WHAT MR. BROWN
21 ATTEMPTED TO DO, THESE ARE THINGS THAT ARE CLEAR IN THE
22 WILL, AND, YES, PERHAPS THE TRUST HAS A HIDDEN CLAUSE THAT
23 ALLOWED FOR UNREASONABLE COMPENSATION. THAT DOES NOT IN
24 AND OF ITSELF INVALIDATE --

25 THE COURT: WELL, THAT WAS ONE EXAMPLE I WAS USING.

1 MR. BAILEY: WELL, I WAS ONLY POINTING OUT THAT THAT
2 CAN BE ALTERED BY AN AMENDMENT TO THE TRUST, AND I WOULD
3 SAY THAT THAT WOULD BE SOMETHING OF VERY DEEP INTEREST TO
4 THE ATTORNEY GENERAL. THAT IS SOMETHING THAT THE TRUST IS
5 VIABLE. THIS IS AN ASPECT OF THE TRUST THAT IS NOT
6 PROPER, BUT IT CAN BE REMEDIED WITHOUT DISTURBING THE
7 TRUST'S INTENT.

8 THE COURT: ANYTHING ELSE, MR. BAILEY?

9 MR. BYRD?

10 MR. BYRD: YES, YOUR HONOR, ONLY BRIEFLY. I
11 RESPECTFULLY DISAGREE WITH THE POSITION THAT YOUR ORDER OF
12 JANUARY 7 WAS MEANINGLESS.

13 THE COURT: I DIDN'T SAY IT WAS MEANINGLESS. I
14 SAID --

15 MR. BYRD: WELL, YOUR HONOR, IT'S BEING ARGUED THAT
16 IT REALLY HAS NO MEANING ON WHAT YOUR DECISION ULTIMATELY
17 IS AND THE POINT IS THIS. THE PURPOSE OF THE APPOINTMENT
18 OF A SPECIAL TRUSTEE AND SPECIAL PERSONAL REPRESENTATIVE
19 WAS TO ADVISE THE COURT. NOW, MR. LEVENSON SAYS THAT IS A
20 MOOT ISSUE BECAUSE HE'S ALREADY TESTIFIED. WELL, HERE IS
21 THE POINT. IF THE APPOINTMENT WAS IMPROPER AND THE COURT
22 OF APPEALS AGREES, ANYTHING HE SAYS OR SAID IN THIS
23 COURTROOM IS WITHOUT ANY LEGAL AUTHORITY. SO, THE COURT
24 CANNOT CONSIDER IT.

25 IF THE COURT FOR WHATEVER REASON DETERMINED IN

1 ISSUING YOUR ORDER ON JANUARY 7 THAT THAT WAS IMPORTANT TO
2 THE PROCESS, THEN WHAT WE HAVE IS SOMEBODY THAT WAS
3 IMPROPERLY APPOINTED, HAD NO LEGAL AUTHORITY TO RENDER AN
4 OPINION ONE WAY OR THE OTHER. WE HAVE APPEALED THAT
5 APPOINTMENT. THE ULTIMATE CONCLUSION FROM THE COURT OF
6 APPEALS IF THEY RULE THAT WAY IS NOBODY HAS RECOMMENDED
7 THE SETTLEMENT TO THE COURT EXCEPT THE SETTLING PARTIES.

8 NOW, YOU MAY CONCLUDE THAT THAT DOESN'T MATTER -- YOU
9 DON'T NEED A SPECIAL TRUSTEE OR THE P.R. TRUSTEES THAT
10 WERE APPOINTED IN NOVEMBER OF 2008 -- SEVEN, I BEG YOUR
11 PARDON. YOU MAY CONCLUDE THAT ALL OF THAT IS IRRELEVANT,
12 BUT AT THIS POINT IN TIME WE HAVE AN ORDER THAT SAYS THAT
13 IT IS IMPORTANT. NOW, IF THAT APPOINTED -- SPECIAL
14 APPOINTED TRUSTEE -- IF THAT WAS AN INVALID APPOINTMENT,
15 WE HAVE TO GO BACK TO SQUARE ONE AND BRING SOMEBODY IN
16 HERE THAT IS PROPERLY APPOINTED. IF IT'S NOT MRS. POPE
17 AND MR. BUCHANAN -- AND I DON'T SEE ANY REASON WHY IT
18 SHOULDN'T BE THEM. THEY KNOW MORE ABOUT THIS SIDE OF THE
19 ISSUE THAN ANYBODY ELSE.

20 THE COURT: WELL, MR. BYRD, THEY NOW FILED AN
21 EMERGENCY PETITION ASKING THAT I APPOINT SOMEBODY ELSE.

22 MR. BYRD: AND I CAN'T ARGUE THAT POINT, YOUR HONOR.
23 IF THEY THINK THAT'S IMPORTANT, FINE. MY POINT IS,
24 THOUGH -- AND I DISAGREE THAT THIS STAY DOES NOT IMPLICATE
25 WHAT WE'RE DOING HERE, YOUR HONOR, AND I THINK IT DOES.

1 THE COURT: THANK YOU, MR.~BYRD.

2 ANYBODY ELSE?

3 MR. BAILEY: MAY I RESPOND TO SOMETHING --

4 THE COURT: YOU MAY.

5 MR. BAILEY: -- THAT WAS JUST MENTIONED WAS THAT THE
6 MOTION THAT WE HAVE FILED FOR A APPOINTMENT OF A SPECIAL
7 ADMINISTRATOR SPECIAL TRUSTEE IS STRICTLY FOR THE
8 MANAGEMENT OF AND PROTECTION OF THE ESTATE THROUGH THE
9 WILLS-TRUST-HEIRS CASE, NUMBER 872, AND IT'S -- IT IS,
10 BASICALLY, SOME TYPE OF A DIVISION OF RESPONSIBILITY WHERE
11 THE SPECIAL ADMINISTRATOR SPECIAL TRUSTEE CAN ACTUALLY GO
12 FORWARD WITH THE MANAGEMENT AND ADMINISTRATION OF THE
13 ESTATE WHEREAS MRS. POPE AND MR. BUCHANAN CAN CONTINUE TO
14 DEFEND THE ESTATE IN THE MATTERS THAT BE SET FORTH IN THE
15 MOTION, BUT WE PRESENT THIS ONLY BECAUSE OF EVERYTIME WE
16 TRY TO DO ANYTHING WE'RE MET WITH OBSTACLES BY THE
17 SETTling PARTIES, AND IT'S -- EVERYTHING WE DO IS
18 OBJECTIONABLE.

19 THE COURT: NOW YOU KNOW HOW I FEEL.

20 MR. BAILEY: THANK YOU, YOUR HONOR.

21 MR. LEVENSON: JUDGE, MAY I HAVE CLOSING ON IT?

22 THE COURT: HOLD ON ONE SECOND. ANYBODY ELSE?

23 MA'AM, YOU'RE MS.?

24 MS. HOLLANDER: HOLLANDER.

25 THE COURT: MA'AM, I APOLOGIZE, BUT YOU'RE NOT A

1 LAWYER. YOU HAVE NOT BEEN ADDED AS A PARTY IN THIS CASE.
2 SO, I CANNOT ALLOW YOU TO PARTICIPATE UNTIL YOUR PETITION
3 TO INTERVENE HAS BEEN -- IF THERE IS SUCH A THING, HAS
4 BEEN HEARD. THE ONLY THING I SEE THAT YOU'VE FILED IS
5 OBJECTION TO SETTLEMENT. SO ...

6 MS. HOLLANDER: SIR...

7 THE COURT: MA'AM, I'M SORRY. I CANNOT HEAR YOU ON
8 THIS MATTER. I ASKED YOU TO GET A LAWYER TO HELP YOU.

9 MS. HOLLANDER: SIR, MY LAWYER'S MOTHER TOOK
10 CRITICALLY ILL THE DAY AFTER THIS AND HE WENT TO COLORADO.
11 HIS MOTHER RECENTLY DIED, AND HE IS A ONE-MAN SHOW. HE IS
12 NOT A LAW FIRM. I DID FILE MY MOTION. HOWEVER, I WAS NOT
13 PROPERLY NOTIFIED OF THIS. I DID COME DOWN HERE
14 YESTERDAY. I THINK IT IS VERY IMPORTANT, YOUR HONOR.

15 THE COURT: MA'AM, I CANNOT HEAR YOU. I'M SORRY.
16 THE LAW -- THE RULES DO NOT PERMIT ME TO ENTERTAIN
17 ARGUMENTS FROM YOU. THE ONLY THING YOU FILED IN THIS
18 COURT IS AN OBJECTION TO SETTLEMENT. THEN YOU FILED
19 SOMETHING CALLED A PETITION TO INTERVENE WHICH IS SIMPLY A
20 PROOF OF MAILING. THAT HAS NOT BEEN HEARD. YOU HAVE NOT
21 BEEN ALLOWED TO INTERVENE. SO, I AM ASKING YOU, PLEASE, I
22 CANNOT ENTERTAIN YOU TODAY. THANK YOU.

23 MR. LEVENSON?

24 MR. LEVENSON: JUDGE, VERY BRIEFLY IN REBUTTAL OR
25 CLOSING ON THE MOTION THAT WE'RE ASKED TO ARGUE WITH

1 RESPECT TO THE COURT HAVING CONTINUING SUBJECT MATTER
2 JURISDICTION TO THEN GO FORWARD AND HEAR EVIDENCE, I WANT
3 TO REITERATE THAT YOUR HONOR COULD HEAR EVIDENCE IF YOU
4 BELIEVE ADDITIONAL EVIDENCE IS NECESSARY AND WE ANTICIPATE
5 THERE BEING AN APPEAL FROM THE VERY PARTIES WHO HAVE
6 APPEALED THE BAUKNIGHT ORDER DATED JANUARY 7 WHICH IS WHY
7 WE WILL BE OBLIGED TO PERFECT THE RECORD AMPLY TO SATISFY
8 THE CRITERIA OF 1102. EVEN THOUGH YOUR HONOR BELIEVES
9 THAT YOU'VE HEARD THE EVIDENCE, WE MIGHT -- UNLESS THERE
10 IS A STIPULATION, WE WOULD FEEL IT NECESSARY TO PRESENT
11 SOME FURTHER, BUT IT WOULD BE -- IT WOULD BE APPROPRIATE,
12 PERHAPS, FOR THE COURT TO FURTHER MOOT THE APPEAL BY
13 SIMPLY SAYING, IF YOUR HONOR AGREES, I'VE HEARD FROM
14 MR. BAUKNIGHT AS A WITNESS; I AM GOING TO DISREGARD HIS
15 TESTIMONY BECAUSE THERE IS AMPLE OTHER EVIDENCE UNDER 1102
16 THAT WOULD BE MORE THAN ADEQUATE TO CARRY THE DAY WITH
17 RESPECT TO THE GOOD FAITH AND THE APPROPRIATENESS AND
18 REASONABLENESS OF THIS SETTLEMENT AS TO THE PARTIES.

19 ONE FOOTNOTE THAT TROUBLES ME. I KNOW YOUR HONOR
20 WANTS TO HEAR FROM EVERYONE, AND TO THE EXTENT THAT
21 MR.~BYRD IS ARGUING I QUESTION WHAT HIS STATUS IS, AND I
22 NOTE THAT WHEN WE TRIED TO SERVE A SUBPOENA UPON MR.~BYRD
23 FOR HIS CLIENT'S MR. DALLAS AND MR. BRADLEY MR.~BYRD'S
24 RESPONSE -- OR AUDRA BYRD'S RESPONSE WAS WE'RE NOT A PARTY
25 TO THE ACTION; YOU CAN'T SERVE US. SO, MR. BYRD IS NOT A

1 PARTY -- IF MR.~BYRD IS NOT A PARTY TO THE ACTION, THEN HE
2 SHOULD NOT HAVE STANDING TO BE HERE TO ARGUE FOR OR
3 AGAINST THE PROPOSITION OF LAW WHICH YOUR HONOR IS CURIOUS
4 ABOUT.

5 THE COURT: I UNDERSTAND, BUT I AM GOING TO ALLOW
6 MR.~BYRD TO PARTICIPATE.

7 MR. LEVENSON: YES, SIR. THANK YOU.

8 THE COURT: HE IS A LICENSED PRACTICED LAWYER IN THE
9 STATE IN SOUTH CAROLINA REPRESENTING PEOPLE WHO HAVE AN
10 INTEREST IN IT.

11 OKAY. ANYBODY ELSE?

12 MS. HAYES: YOUR HONOR, THE E-MAIL FROM MRS.~BYRD --
13 I READ IT. IT ACTUALLY SAID THAT THEY WEREN'T AUTHORIZED
14 TO ACCEPT ON BEHALF OF THEIR CLIENTS.

15 THE COURT: I KNOW THAT.

16 MS. HAYES: THE OTHER THING, JUST FOR THE RECORD, I
17 KNOW WE'RE LIMITED ON TIME, BUT I JUST WANT TO INCORPORATE
18 BY REFERENCE THE DOCUMENTS AND PLEADINGS THAT WE FILED
19 YESTERDAY, YOUR HONOR, AND RESERVE ALL OF OUR PREVIOUS
20 OBJECTIONS.

21 THE COURT: YES, MA'AM. ALL RIGHT. WITH ALL DUE
22 RESPECT TO THE COURT OF APPEALS AND TO ALL MATTERS IN THIS
23 CASE I FIND THAT UNDER THE RULES THAT I CAN CONTINUE. I
24 THINK JUDICIAL ECONOMY AND EFFICIENCY REQUIRES IT. I
25 THINK THAT THE PRESERVATION OF THE ESTATE REQUIRES IT.

1 SO, I AM GOING TO CONTINUE TO TAKE WHATEVER TESTIMONY
2 THE SETTLING PARTIES DEEM NECESSARY FOR ME TO MAKE A
3 DECISION. I WILL DECIDE WHEN I WRITE MY ORDER AS TO WHAT
4 EFFECT, IF ANY, I GIVE TO MR. BAUKNIGHT.

5 SO, WHERE WE ENDED UP AT THE LAST POINT IN TIME WAS
6 MRS. POPE HAD TESTIFIED AND I THINK YOU CALLED HER,
7 MR. LEVENSON, AS YOUR WITNESS.

8 MR. LEVENSON: I DID, JUDGE. MAY I -- I'D LIKE TO
9 REQUEST THE ADOPTION OF THE PROCEDURE THAT, HOPEFULLY,
10 WILL MOVE THIS. AS TO EACH MATTER THAT YOUR HONOR RULES
11 ON WE'VE PREPARED DRAFT ORDERS AND WE'VE BROUGHT A
12 COMPUTER WITH THE ORDER AND THE ABILITY TO PRINT ANY
13 CHANGES TO THE ORDER. WITH RESPECT TO THE ORDER THAT YOUR
14 HONOR JUST ANNOUNCED ORALLY FROM THE BENCH WE HAVE A
15 PROPOSED ORDER.

16 THE COURT: I'LL LOOK AT IT, BUT IT IS GOING TO BE
17 VERY SUCCINCT.

18 MR. LEVENSON: IT IS VERY SUCCINCT. I MEAN, I'LL BE
19 HAPPY -- MAY I JUST READ IT FOR THE RECORD?

20 THE COURT: NO, SIR. I'LL LOOK AT IT. IF I DECIDE
21 TO SIGN IT, I WILL.

22 MR. LEVENSON: YES, SIR.

23 THE COURT: IF I DON'T, I WON'T.

24 MR. LEVENSON: WE'VE BEEN GETTING DOWN A HOLE HERE
25 WHERE PEOPLE SAY ORDERS WEREN'T SIGNED WHICH CREATES OTHER

1 PROCEDURAL PROBLEMS.

2 MR. BAILEY: DO YOU HAVE ANY COPIES?

3 MR. LEVENSON: I DON'T HAVE A COPY, BUT I WASN'T
4 PREPARED TO PRESENT IT TO THE COURT UNTIL I HAD SHOWN IT
5 TO EVERYONE.

6 THE COURT: PASS IT AROUND. IT IS PRETTY BENIGN AND
7 SUCCINCT.

8 MR. ROSEN: YOUR HONOR, IN THAT REGARD, I DON'T KNOW
9 IF MR. LEVENSON IS REFERRING TO ME OR NOT, BUT I DID GET
10 THE ORDER REGARDING THE RECUSAL OUT YESTERDAY.

11 THE COURT: I GOT IT.

12 MR. ROSEN: AND I SENT IT TO EVERYBODY. I DIDN'T
13 KNOW IF YOU CHANGED YOUR MIND ON IT.

14 THE COURT: I GOT IT. I'LL CONSIDER IT. I HAVE NOT
15 GOTTEN -- I DON'T GUESS I'VE GOTTEN MR. MEDLIN'S ORDER
16 THAT HE WAS COMPLAINING ABOUT YESTERDAY SOMETHING HE DID
17 THREE YEARS AGO.

18 MR. ROSEN: I APOLOGIZE, YOUR HONOR. I HAD DIRECTED
19 DAVID MICHEL TO DO IT AND SOMEHOW IT DIDN'T GET DONE.

20 MR. MICHEL: NO, NO.

21 THE COURT: MR. ROSEN, RAISE YOUR RIGHT HAND.

22 ALL RIGHT, SETTLING PARTIES, I AM AVAILABLE TO HEAR
23 WHATEVER YOU WANT TO PRESENT TO MAKE YOUR RECORD.

24 MR. LEVENSON: WITH THE COURT'S PERMISSION, I'D LIKE
25 TO DEFER TO MR. MEDLIN TO CONTINUE THE EXAMINATION OF

1 MRS. POPE AND I'LL HAVE ANY OTHER QUESTIONS WHEN HE IS
2 CONCLUDED.

3 THE COURT: MRS. POPE, PLEASE COME BACK. GOOD
4 MORNING, AND I REMIND YOU THAT YOU'RE STILL UNDER OATH.

5 MR. MEDLIN: YOUR HONOR, IF I MAY SO YOUR HONOR IS
6 AWARE OF WHERE THE SETTLING PARTIES ARE, WE HAVE AN
7 UNDERSTANDING IN PRINCIPAL AS WE DISCLOSED TO YOU ON
8 JANUARY 30 WHICH IS ENCOMPASSED IN PRINCIPAL IN THE
9 SETTLEMENT AGREEMENT WHICH WAS SIGNED ON AUGUST 10, 2008
10 WHICH THE COURT HAS SEEN AMONG ALL THE PARTIES EXCEPT
11 TERRY BROWN. MR. BELL INTRODUCED LETTERS FROM HIMSELF TO
12 MR. JONES AND THEN BACK FROM MR. JONES TO HIMSELF AS PART
13 OF THE PRINCIPALS OF THE AGREEMENT WHERE WE INCLUDED TERRY
14 BROWN.

15 BECAUSE TRANSACTIONAL LAWYERS LIKE MYSELF ARE
16 INVOLVED AND BECAUSE OF THE SHORT TIMEFRAME WE DON'T HAVE
17 COMPLETED DETAILED DOCUMENTS, BUT WE ARE CONTINUING TO
18 WORK ON THOSE, AND WE WOULD ASK THE COURT TO ALLOW US TO
19 CONTINUE BECAUSE WE'RE SIMPLY ASKING YOU TO APPROVE THE
20 PRINCIPALS INVOLVED AND THEN WE WILL GET THOSE FINAL
21 DOCUMENTS TO YOU AS SOON AS WE CAN. I THINK MR. BELL CAN
22 AGREE WITH THAT.

23 THE COURT: I THINK BEFORE I CAN APPROVE ANYTHING,
24 OBVIOUSLY, I AM GOING TO HAVE TO SEE THE FINAL WRITTEN
25 INSTRUMENT, BUT I UNDERSTAND WHERE YOU'RE --

1 MR. BELL: THAT'S CORRECT, YOUR HONOR.

2 THE COURT: -- WHERE YOU'RE COMING FROM.

3 ADELE J. POPE, AFTER BEING PREVIOUSLY DULY
4 SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. MEDLIN:

7 Q MRS. POPE, JUST TO CLARIFY YOU ARE INVOLVED IN
8 REPRESENTING THE ESTATE AS A FIDUCIARY AND NOT AS AN
9 ATTORNEY?

10 A I AM THE PERSONAL REPRESENTATIVE OF THE ESTATE AND
11 THE TRUSTEE OF THE JAMES BROWN 2000 TRUST.

12 Q AND I HEAR THAT ANSWER TO SAY THAT YOU ARE A
13 FIDUCIARY AND YOU'RE NOT ACTING AS AN ATTORNEY?

14 A I BELIEVE THAT IS CORRECT AS STATED, BUT, IF I COULD
15 EXPLAIN, AS YOU MAY RECALL WE HAVE AT TIMES ACTED PRO SE
16 ON CERTAIN MATTERS. IF YOU'LL RECALL BACK IN JANUARY OF
17 2008 AND TOWARDS THE END OF 2007 WE DID NOT HAVE COUNSEL,
18 AND WE HAD HOPED NOT TO HAVE TO USE COUNSEL ON WHAT WE
19 CALLED GENERAL ADMINISTRATIVE MATTERS, AND, SO, THERE WILL
20 BE TIMES WHEN WE HAVE -- DO NOT HAVE COUNSEL.

21 Q AND I DO RECALL THOSE, MRS. POPE, AND --

22 A I --

23 Q -- I APPRECIATE THAT MR. BUCHANAN CANNOT BE HERE
24 TODAY. HE HAS OTHER DUTIES THAT WE UNDERSTAND ARE
25 IMPORTANT, AND TO THE EXTENT THAT I ASK YOU QUESTIONS

1 ABOUT HIM, I DON'T MEAN TO PUT YOU IN A BAD POSITION, BUT
2 TO THE EXTENT I THINK SOME OF THESE ANSWERS ARE OBVIOUS I
3 AM GOING TO ASK. MR. BUCHANAN WOULD TAKE THE SAME
4 POSITION AS FAR AS YOU KNOW AS FAR AS YOUR ROLES IN THIS
5 CASE?

6 A I CAN'T ANSWER THAT UNTIL I HEAR THE QUESTION, AND I
7 WANT TO SAY SPECIFICALLY THAT HE IS HOLDING FEDERAL COURT
8 AND WE ASKED THAT THIS HEARING NOT BE HEARD TODAY, BUT
9 IT'S CONTINUING.

10 Q ARE YOU A PROFESSIONAL FIDUCIARY?

11 A NO.

12 Q IS BOB BUCHANAN A PROFESSIONAL FIDUCIARY, TO YOUR
13 KNOWLEDGE?

14 A TO THE EXTENT THAT WE HAVE BECOME PROFESSIONAL
15 FIDUCIARIES WITH THIS ASSIGNMENT, HE WOULD HAVE TO ANSWER
16 THE QUESTION. IT IS -- I HAVE NEVER SOUGHT THE POSITION
17 OF A PROFESSIONAL FIDUCIARY BEFORE, NOR DID I SEEK THIS.

18 Q THANK YOU. AND YOU AND BOB HAVE SIGNED A NUMBER OF
19 AFFIDAVITS, AND YOU HAVE PRESENTED A NUMBER OF PLEADINGS
20 TO THIS COURT. I ASSUME THAT ON ALL OF THOSE YOU AND BOB
21 ARE A UNITED FRONT -- THAT HE AGREES WITH YOU ON ALL OF
22 THOSE? IF THAT'S NOT CORRECT, WOULD YOU TELL US WHERE BOB
23 DISAGREES WITH YOU ON THOSE POSITIONS?

24 THE COURT: I DON'T KNOW HOW SHE CAN TESTIFY ABOUT
25 WHAT MR. BUCHANAN KNOWS OR DOESN'T KNOW.

1 MR. MEDLIN: WELL, YOUR HONOR, THAT'S FINE. WE CAN
2 CERTAINLY HOLD THAT UNTIL FRIDAY. I WAS JUST TRYING TO
3 SEE IF WE CAN MAKE THIS MORE EFFICIENT.

4 THE COURT: WELL, TO THE EXTENT THAT YOU KNOW, BUT
5 THAT'S PUTTING HER IN AN AWFUL POSITION.

6 MR. MEDLIN: I UNDERSTAND, YOUR HONOR, AND I'LL
7 WITHDRAW THAT.

8 Q HAVE YOU ENGAGED A PROFESSIONAL FIDUCIARY TO HELP
9 YOU?

10 A HAVE WE ENGAGED A PROFESSIONAL FIDUCIARY TO HELP US
11 WITH OUR SERVICE AS PERSONAL REPRESENTATIVES AND TRUSTEES?

12 Q YES.

13 A WE HAVE NOT -- UNTIL LAST FRIDAY WE DID ASK THE COURT
14 TO APPOINT A SPECIAL ADMINISTRATOR AND SPECIAL TRUSTEE FOR
15 THE MANAGEMENT OF THE ESTATE BECAUSE IT'S BECOME
16 IMPOSSIBLE THROUGH YOUR ACTIONS AND THOSE OF OTHERS.

17 Q BUT IF I RECALL YOUR POSITION HAS BEEN THAT
18 MR. BAUKNIGHT WAS SOMEHOW DEFICIENT IN HIS ROLE BECAUSE HE
19 DIDN'T HIRE AN EXPERT INTELLECTUAL PROPERTY HELP OR EXPERT
20 TAX HELP?

21 A HUH-UH.

22 Q WELL, THEN I AM MISTAKEN ABOUT THAT, BUT HAVE YOU
23 HIRED A PROFESSIONAL INTELLECTUAL PROPERTY ADVISER OR ANY
24 OTHER KIND OF PROFESSIONAL FIDUCIARY TO ASSIST YOU?

25 A DID YOU MEAN A PROFESSIONAL FIDUCIARY OR AN ATTORNEY?

1 Q WELL, I AM ASKING BOTH NOW AT THIS POINT. HAVE
2 YOU --

3 A WELL, I CAN'T TELL. YOU GOT TO LET ME KNOW WHAT THE
4 QUESTION IS SO I'LL KNOW WHAT THE ANSWER IS.

5 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, PLEASE.
6 ASK THE QUESTION AGAIN.

7 Q HAVE YOU ENGAGED A PROFESSIONAL FIDUCIARY TO HELP
8 YOU? I BELIEVE THE ANSWER WAS NOT UNTIL THIS LAST FRIDAY
9 UNTIL YOU ASKED THE COURT --

10 A YEA, BUT IF YOU MEANT A LAWYER -- DID YOU MEAN A
11 LAWYER OR PROFESSIONAL FIDUCIARY?

12 Q NO, I AM DEFINING THE QUESTION FOR YOU --

13 THE COURT: PLEASE DEFINE PROFESSIONAL FIDUCIARY.

14 Q SOMEONE WHO IS NOT SERVING AS AN ATTORNEY WHO IS
15 SERVING IN THE ROLE OF FIDUCIARY, PERSONAL REPRESENTATIVE,
16 OR TRUSTEE WHO WOULD ADVISE YOU FROM THAT EXPERIENCE ABOUT
17 YOUR SERVICES AS PERSONAL REPRESENTATIVE OR TRUSTEE.

18 A WELL, WE HAVE ENTERTAINMENT COUNSEL.

19 Q THAT'LL BE --

20 A I CAN'T TELL WHETHER YOU MEAN THAT THAT SHOULD BE THE
21 ANSWER OR NOT.

22 Q THAT WILL BE THE SECOND PART.

23 A WE ENGAGED ENTERTAINMENT COUNSEL, AND WE'VE ENGAGED
24 ALAN ROTHSCHILD WHO IS A CHARITABLE EXPERT.

25 Q OKAY.

1 A FUNDS ARE SO LIMITED WE'VE BEEN VERY LIMITED IN OUR
2 USE OF THEM, BUT WE HAVE ENGAGED BOTH.

3 Q HAVE YOU OBTAINED A PRIVATE LETTER RULING ABOUT THE
4 TAX ISSUES ON THE TRUST OR ESTATE?

5 A WHICH -- WHAT DO YOU MEAN BY THAT?

6 Q HAVE YOU OBTAINED ANY PRIVATE LETTER RULING PERIOD
7 ABOUT TAX MATTERS INVOLVING THE TRUST AND THE ESTATE?

8 A WELL, WE DID THE APPLICATION FOR RECOGNITION OF THE
9 CHARITY. WE DIDN'T SEEK A SEPARATE PRIVATE LETTER RULING,
10 BUT WE HAVEN'T -- UNTIL THE POSSIBILITY OF THE SETTLEMENT
11 CAME UP THERE WAS NOT A NEED TO HAVE ONE THAT WE'RE AWARE
12 OF SO FAR. THE SETTLEMENT, OF COURSE, RAISED HUGE
13 QUESTIONS, ALL OF WHICH NEED TAX RESOLUTION.

14 Q AND I UNDERSTAND THAT TO BE YOUR POSITION, BUT YOU
15 DIDN'T FEEL THE NEED TO GET ONE BEFORE THE ISSUES OF THE
16 SETTLEMENT?

17 A WELL, NO, WE HAVEN'T SEEN THE SETTLEMENT YET. IT
18 HADN'T BEEN SIGNED YET.

19 Q WELL, I THINK WE'LL SHOW YOU THAT IT HAS BEEN SIGNED,
20 MRS. POPE, BUT YOUR --

21 A WELL, EXCUSE ME, MR. MEDLIN. I UNDERSTAND THAT NOT A
22 SINGLE GRANDCHILD HAS SIGNED IT.

23 Q WE CAN TALK ABOUT THAT LATER ON.

24 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN. PLEASE,
25 LET'S CONDUCT THIS QUESTION AND ANSWER.

1 MR. MEDLIN: WELL, ALL I AM TRYING TO ASK, YOUR
2 HONOR -- AND THANK YOU -- IS WHETHER THERE HAS BEEN A
3 PRIVATE LETTER RULING OBTAINED AND I THINK YOUR ANSWER IS
4 NO?

5 THE WITNESS: WE HAVE NOT HAD A NEED TO SEEK A
6 PRIVATE LETTER RULING, BUT IF I MAY EXPLAIN. IN SEPTEMBER
7 BEFORE WE FILED THE ESTATE TAX RETURN I CONTACTED YOU AND
8 ASKED FOR YOUR ASSISTANCE IN THE PREPARATION OF THE ESTATE
9 TAX RETURN KNOWING THEN THAT THIS PROPOSED SETTLEMENT
10 RAISED HUGE TAX ISSUES. YOU REFUSED TO WORK WITH US ON
11 THE PREPARING OF THE ESTATE TAX RETURN. THAT MIGHT HAVE
12 BEEN AN APPROPRIATE TIME TO SEEK ONE OR A RULING OF SOME
13 SORT, BUT YOU WOULDN'T WORK WITH US.

14 Q LET'S TALK ABOUT THAT A LITTLE BIT.

15 A YES.

16 Q YOU'RE THE FIDUCIARY.

17 A UH-HUH.

18 Q WE CLAIM WE'RE THE BENEFICIARIES. ARE YOU SAYING
19 THAT IT'S THE BENEFICIARIES' RESPONSIBILITY TO PREPARE AN
20 ESTATE TAX RETURN?

21 A WELL, FOR STARTERS I DON'T THINK THAT YOU'RE THE
22 BENEFICIARY. I SAID --

23 Q I SAID WE CLAIM.

24 A THE IRREVOCABLE TRUST IS THE BENEFICIARY, BUT, THAT
25 SAID, UNDER NORMAL CIRCUMSTANCES, NO. HOWEVER, ON THE

1 13TH OF AUGUST WE WERE NOTIFIED BY MR. ROSEN THAT WE WERE
2 TO STAND DOWN AND TAKE NO FURTHER ACTION AS PERSONAL
3 REPRESENTATIVES -- THAT WE WERE ESSENTIALLY OUT AND A
4 SETTLEMENT HAD BEEN REACHED, AND, SO, WE IMMEDIATELY BEGAN
5 TO SAY, HEY, GUYS, THERE ARE A LOT OF THINGS THAT NEED TO
6 BE THOUGHT ABOUT AND THE FIRST ONE, OF COURSE, WAS THE
7 ESTATE TAX RETURN WHICH WAS DUE ON THE 25TH OF SEPTEMBER
8 AND COULD NOT BE EXTENDED AGAIN UNLESS THE FIDUCIARY WAS
9 OUT OF THE COUNTRY.

10 SO, WE IMMEDIATELY CONTACTED Y'ALL AND SAID THIS IS
11 HUGE BECAUSE WE HAVE ALMOST 100 PERCENT ESTATE TAX
12 DEDUCTION UNDER THE OLD -- UNDER MR. BROWN'S ESTATE PLAN,
13 NO ESTATE TAXES. UNDER THIS JUST ROUGHEST OUTLINE -- AND
14 WE DIDN'T KNOW EXACTLY WHAT IT WAS THEN. WE WERE HEARING
15 25 AND 25, BUT WE LATER HEARD THAT ROUGHLY HALF OF THE
16 ESTATE WAS NOT GOING THE WAY MR. BROWN INTENDED, AND WE
17 SAID, GOSH, LET'S GET TOGETHER, AND THE SPECIFIC PROPOSAL
18 TO YOU WAS WE DON'T -- WE MAY NOT FILE IT THE WAY YOU WANT
19 IT, BUT WE WANT TO HEAR WHAT YOU HAVE TO SAY SO WE CAN
20 PRESENT IT TO THE I.R.S. EVEN IF WE DON'T AGREE WITH YOU
21 AND YOU WOULDN'T HELP US.

22 Q MRS. POPE, DIDN'T YOU TELL ME THAT YOU DIDN'T WANT TO
23 KNOW THE TERMS OF THE SETTLEMENT AGREEMENT BEFORE YOUR
24 TESTIMONY IN NOVEMBER IN THE FEDERAL LAWSUIT?

25 A WE DID NOT WANT -- THAT'S NOT CORRECT. WE WANTED --

1 Q CORRECT ME, PLEASE.

2 A WE WANTED IT TO BE ON THE RECORD. WE DID NOT WANT TO
3 GO AND HAVE A BACK-ROOM CONVERSATION. WE DID WANT TO
4 HEAR, BUT WE WANTED IT ON THE RECORD, AND YOU WOULDN'T PUT
5 IT ON THE RECORD. NO, NO, WE ALWAYS WANTED TO HEAR. WE
6 JUST DIDN'T WANT IT SAID IN THE BACK ROOM AND THEN WE
7 COULDN'T TELL ABOUT IT IN OUR UPCOMING DEPOSITIONS.

8 Q BUT SINCE --

9 A NO, NO, WE'VE ALWAYS WANTED TO KNOW.

10 Q SURE. I UNDERSTAND, BUT SINCE IT WASN'T ON THE
11 RECORD AT THAT TIME BASED ON THE FACTS AND CIRCUMSTANCES
12 THAT EXISTED AT THAT TIME YOU DID NOT WANT TO HEAR ABOUT
13 THE TERMS OF THE SETTLEMENT AGREEMENT; CORRECT?

14 A WE WANTED TO KNOW EVERYTHING WE COULD FIND OUT TO
15 FILE THAT ESTATE TAX RETURN AND YOU KNOW THAT.

16 Q NO. MRS. POPE, ACTUALLY --

17 A WE TALKED ABOUT IT.

18 Q ACTUALLY, MY SENSE WAS THE OPPOSITE -- THAT ALTHOUGH
19 YOU TRIED TO COMMUNICATE --

20 THE COURT: PROFESSOR MEDLIN, THIS IS A QUESTION AND
21 ANSWER EXERCISE, NOT A CONVERSATION BETWEEN THE TWO OF
22 Y'ALL.

23 MR. MEDLIN: THANK YOU, YOUR HONOR. I APOLOGIZE, AND
24 I WILL MOVE ON.

25 THE COURT: THANK YOU.

1 Q YOU DID ASK MR. CARTER, ALSO, TO HELP?

2 A YOU KNOW, I COULD LOOK. I CAN'T REMEMBER WHETHER IT
3 WAS DIRECTED TO YOU AND HEYWARD. I KNOW LATER WE ASKED
4 HEYWARD TO HELP US. I FEEL LIKE -- I MEAN, IT SHOULD HAVE
5 BEEN BECAUSE HEYWARD WOULD HAVE BEEN THE ONE. I THINK
6 MAYBE THE LETTER WENT TO THE TWO OF YOU. I COULD LOOK AND
7 LET YOU KNOW AFTER THE BREAK OR SOMETHING.

8 Q AND YOU HAVE NO DOUBT THAT MR. CARTER IS A VERY
9 QUALIFIED TAX EXPERT?

10 A I BELIEVE HE IS, AND THAT'S WHY I WANTED HIM TO WORK
11 WITH US TO TRY TO GET THE ESTATE TAX RETURN AS CLOSE TO
12 RIGHT AS WE COULD UNDER THE CIRCUMSTANCES.

13 Q NOW, SINCE YOU TAKE THE POSITION THAT HIS CLIENT IS
14 NOT EVEN THE BENEFICIARY, WHY WOULD HE DO THAT?

15 A WELL, BECAUSE YOU WERE SAYING THAT IT WAS YOUR
16 POSITION PRIOR TO THE FILING OF THE ESTATE TAX RETURN THAT
17 SHE HAD BECOME A BENEFICIARY, AND WE WANTED TO MAKE FULL
18 DISCLOSURE TO THE APPROPRIATE TAXING AUTHORITIES IN A WAY
19 THAT WOULDN'T DAMAGE ANY OF US BUT WAS CONSISTENT WITH OUR
20 DUTY TO TELL THE TRUTH UNDER PENALTIES OF PERJURY, AND,
21 SO, WE SOUGHT YOUR HELP BECAUSE WE DID NOT -- AND IF
22 YOU'LL RECALL THE LUKICH CASE WAS JUST COMING OUT AT THAT
23 TIME AND IT WAS NOT OUR INTENTION IN ANY WAY EVER TO
24 DAMAGE MR. BROWN'S ESTATE NO MATTER WHAT THE OUTCOME.

25 THAT WAS A VERY SENSITIVE ISSUE, AND WE PARTICULARLY

1 WANTED TO WORK WITH YOU TO TRY TO NOT HURT MR. BROWN'S
2 ESTATE PLAN, HOWEVER IT ENDED UP, EVEN THOUGH OUR POSITION
3 WAS AND IS THAT MS. HYNIE BROWN HAS NOT SHOWN HERSELF TO
4 BE THE SPOUSE.

5 Q BUT YOU WOULD AGREE THAT THE RESPONSIBILITY FOR
6 FILING AN ESTATE TAX RETURN IS WITH THE PERSONAL
7 REPRESENTATIVE UNDER THE LAW?

8 A CERTAINLY, THAT IS THE GENERAL RULE AS THE PERSONAL
9 REPRESENTATIVE IS DEFINED UNDER THE CODE AND YOU KNOW HOW
10 THAT IS. IT'S NOT ALWAYS THE EXACT APPOINTED PERSON, BUT
11 IN OUR CASE, YES, BUT WE HAD THE VERY, VERY UNUSUAL
12 SITUATION OF THE -- OF THIS PURPORTED SETTLEMENT AND, YOU
13 KNOW, I HAVE BEEN PRACTICING 35 YEARS. I HADN'T SEEN
14 ANYTHING EXACTLY LIKE THAT.

15 Q DO YOU INTEND TO APPEAL THE APPROVAL OF THE
16 SETTLEMENT IF IT IS APPROVED?

17 A IF IT IS APPROVED TODAY?

18 Q YES.

19 A YES. UH-HUH. AND I THINK ABSOLUTELY AM REQUIRED TO
20 DO SO TO PROTECT MR. BROWN'S ESTATE PLAN, AND MAY I
21 EXPLAIN WHY?

22 Q CERTAINLY.

23 A RIGHT. THERE ARE HUNDREDS OF REASONS, BUT I'LL JUST
24 SAY A FEW. THE FIRST IS THAT THIS -- THE SETTLEMENT --
25 EVERYBODY'S TALKED ABOUT A SETTLEMENT AND WHO ARE THE

1 PARTIES. I AM 100 PERCENT CONVINCED THAT THIS COURT
2 SHOULD NOT PROCEED WITH A SETTLEMENT UNTIL ALL OF THE
3 FOLLOWING PEOPLE ARE JOINED -- THE TRUSTEES OF MR. BROWN'S
4 IRREVOCABLE TRUST WHICH WAS IN EXISTENCE FOR MORE THAN SIX
5 YEARS BEFORE HIS DEATH CHALLENGES TO WHICH I BELIEVE ARE
6 BARRED BY THE STATUTES OF LIMITATIONS AND WHICH IS NOT A
7 TESTAMENTARY TRUST AS CONTEMPLATED IN THE SECTION WE'VE
8 TALKED ABOUT. THE OTHER HEIRS OF MR. BROWN AND I BELIEVE
9 THAT THOSE COULD BE AS MANY AS 13 AND THE ONES WHO ARE
10 LEFT OUT INCLUDE, FOR EXAMPLE, HIS DAUGHTER LISA BROWN
11 WHOM HE ACKNOWLEDGED IN HIS DIVORCE FROM VELMA IN A
12 DOCUMENT SIGNED BY MR. BROWN. IF ANYTHING IS GOING TO BE
13 GIVEN TO HEIRS, HOW DO YOU FOLKS GET TO DECIDE WHO THEY
14 ARE? YOU DON'T.

15 NEXT, THERE ARE TWO, IN MY OPINION, VALID ESTATE
16 PLANS OF JAMES BROWN. THIS SETTLEMENT WILL DO NOTHING BUT
17 START A SECOND ROUND OF LITIGATION. LET'S TALK ABOUT
18 JAMES BROWN, II, THE ONE WHO REALLY NEEDS PROTECTING. IF
19 HE IS -- IF JAMES BROWN, II, IS THE CHILD OF JAMES
20 BROWN -- AND WE'VE ALREADY PAID FOR THE LITTLE OLD \$300
21 TEST SO IT SHOULDN'T BE HARD TO FIND OUT. IF HE IS THE
22 CHILD HE IS THE ONE THAT THIS COURT NEEDS TO PROTECT AND
23 IT IS EGREGIOUS THAT THAT SETTLEMENT DOES NOT PROTECT HIM;
24 THAT HE IS THE ONE -- THE ONE WHO HAS RIGHTS HIGHER THAN
25 ANYONE ELSE IN THIS -- IF THIS COURT WOULD APPROVE A

1 SETTLEMENT AND PEOPLE DARE NOT TO GIVE HIM A DIME AND NOT
2 TO GET A GUARDIAN FOR HIM. IT IS DISGRACEFUL.

3 THE COURT: WAIT A MINUTE. MRS. POPE, DON'T I HAVE A
4 GUARDIAN FOR HIM?

5 THE WITNESS: NO, NOT A GUARDIAN. YOU HAVE A
6 GUARDIAN AD LITEM, YOUR HONOR. THAT'S VERY DIFFERENT, AND
7 HE IS NOT GIVEN A DIME UNDER THIS SETTLEMENT, AND YOU
8 CAN'T WINK AND SAY I GAVE IT TO HIS MAMA. YOU CAN'T DO
9 THAT TO A MINOR. WE GOT ANOTHER SUIT COMING NEXT YEAR
10 FROM HIS NEXT LAWYER IF HE IS THE CHILD AND IT'S EASY TO
11 SETTLE. THAT'S JUST ONE OF THE MANY PROBLEMS.

12 THERE IS NO -- THERE IS NO GUARDIAN AD LITEM FOR THE
13 DOE DEFENDANTS. THE DOE DEFENDANTS, IN FACT, AREN'T MADE
14 PARTIES. JEANETTE MITCHELL HAS HIGHER STANDING THAN SOME
15 OF THE PEOPLE WHO CALL THEMSELVES HEIRS BECAUSE SHE'S BEEN
16 PROVEN TO BE AN HEIR AND ON AND ON. SO, I DO INTEND -- I
17 COULD NOT FACE MYSELF IN THE MIRROR IF I DESERTED JAMES
18 BROWN AND LET THIS SETTLEMENT GO THROUGH.

19 IF YOU WILL JUST SIMPLY READ RUSSELL VERSUS WACHOVIA
20 AND SEE THAT OUR STATE OF SOUTH CAROLINA GIVES RESPECT TO
21 TESTATORS WHO KNOW THAT THEIR FAMILIES ARE LITIGIOUS AND
22 DON'T MIND SUING THEM AND TRY IN EVERY WAY THEY CAN TO
23 MAKE SURE THAT THEIR ESTATE PLANS ARE CARRIED OUT. JAMES
24 BROWN SHOULD BE ACCORDED THE SAME RESPECT THAT JUDGE
25 RUSSELL WAS ACCORDED IN RUSSELL VERSUS WACHOVIA, AND I AM

1 GOING TO DO IT UNTIL A COURT TELLS ME NOT TO.

2 Q AND, SO, I TAKE THAT AS A YES?

3 A YEA, THAT WOULD BE A YES.

4 Q THANK YOU. MRS. POPE, YOU HAVE STATED IN AFFIDAVITS
5 AND IN PLEADINGS THAT THE ATTORNEY GENERAL IS ESSENTIALLY
6 GIVING AWAY \$50 MILLION. HOW DID YOU COME UP WITH THAT
7 NUMBER?

8 A WELL, THE WAY I CAME UP WITH IT, MR. MEDLIN, AND
9 WE'VE PREPARED SOME CHARTS FOR THE COURT. YOU KNOW, WE
10 CAN DO THEM HERE OR WE CAN DO THEM WHEN MY LAWYER CALLS
11 ME, BUT WHAT I'VE TRIED TO MAKE THE COURT UNDERSTAND
12 BECAUSE IT'S SO IMPORTANT TO MR. BROWN IS THAT THIS
13 SETTLEMENT TAKES AWAY FROM MR. BROWN'S INTENDED
14 BENEFICIARIES IN TWO SEPARATE VALID WILLS ABOUT -- OR MORE
15 THAN 51 PERCENT OF THE PIE AND THE PIE HAS GENERALLY AND
16 ROUGHLY BEEN DESCRIBED AS 100 MILLION.

17 NOW, IF I AM WRONG ABOUT THAT, THE PIE WILL REMAIN
18 PRETTY CLOSE.

19 Q THAT'S MY QUESTION. I'M SORRY TO INTERRUPT YOU, BUT
20 THAT'S MY QUESTION.

21 A PLEASE DON'T INTERRUPT ME. IF I COULD FINISH --

22 Q WELL, SURE, BUT --

23 THE COURT: NO, SIR. NOW, PLEASE. SHE'S NOT GOING
24 TO INTERRUPT YOU AND YOU'RE NOT GOING TO INTERRUPT HER.

25 MR. MEDLIN: I APOLOGIZE.

1 THE WITNESS: THE PIE, AGAIN, WE CAN LOOK AT IT AS
2 PERCENTAGES OR OTHERWISE. THE PIE WILL REMAIN THE SAME
3 WHETHER IT'S 85 MILLION OR 200 MILLION OR 150 MILLION OR
4 50 MILLION EXCEPT FOR ONE COMPONENT AND THAT WOULD BE WHAT
5 WOULD BE NECESSARY TO PAY OFF THE TIAA DEBT. OF COURSE,
6 IT WOULD BE A LARGER PERCENTAGE OF A SMALLER PIE AND A
7 SMALLER PERCENTAGE OF A LARGER PIE.

8 Q BUT IF I AM CORRECT YOU STATED UNDER OATH THEN
9 ESSENTIALLY THAT YOU BELIEVE THE ESTATE IS WORTH ABOUT
10 \$100 MILLION IF MR. JONES ON BEHALF OF THE ATTORNEY
11 GENERAL IS GIVING AWAY \$50 MILLION?

12 A I DON'T CHARACTERIZE IT AS MR. JONES GIVING AWAY. I
13 CHARACTERIZE IT AS A MISTAKE ON THE PART OF THE ATTORNEY
14 GENERAL TO CONSENT TO THIS AGREEMENT. I DO, BUT I'M NOT
15 ATTACKING MR. JONES, AND I'M CERTAINLY NOT ATTACKING THE
16 OFFICE OF THE ATTORNEY GENERAL FOR WHICH I HAVE HIGH
17 RESPECT.

18 THE COURT: MRS. POPE, LET ME ASK YOU A QUESTION.
19 ASSUME THE ESTATE IS 100 MILLION. ASSUME THAT TOMI RAE
20 BROWN WINS HER SUIT. HOW WOULD THAT AFFECT THE CHARITABLE
21 TRUST?

22 THE WITNESS: WELL...

23 THE COURT: ASSUME THOSE TWO TO BE CORRECT.

24 THE WITNESS: LET'S SEE. IF I COULD JUST SHOW YOU
25 THE LITTLE CHART I MADE.

1 THE COURT: YES, MA'AM.

2 THE WITNESS: IT DOESN'T ASSUME 100 MILLION.

3 THE COURT: WELL, ASSUME IT IS WHATEVER IT IS.

4 THE WITNESS: ASSUME IT IS WHATEVER IT IS.

5 THE COURT: I AM JUST ASKING IF SHE WINS.

6 THE WITNESS: IF SHE WINS, THERE'S A LOT TO THINK

7 ABOUT. IF BY SHE WINS YOU MEAN SHE IS DETERMINED TO BE

8 THE SPOUSE.

9 THE COURT: IF SHE IS DETERMINED TO BE THE SPOUSE.

10 THE WITNESS: THEN WE WILL GO TO THE ISSUE OF WHAT

11 PORTION OF THE ESTATE SHE'S ENTITLED TO AND WE'LL HAVE A

12 FAIR AMOUNT OF LITIGATION OVER THAT BECAUSE -- OR NOT

13 NECESSARILY LITIGATION, NEGOTIATION, YOUR HONOR, BECAUSE

14 ALL OF THE SETTLING PARTIES HAVE STIPULATED THAT

15 EVERYTHING IS IN THE ESTATE. SOME OF THE TRUSTEES

16 STIPULATED THAT EVERYTHING WAS IN THE TRUST. WHAT WE KNOW

17 FOR SURE IS THAT BEECH ISLAND IS IN THE TRUST AND SHE

18 WOULD HAVE NO PART OF THAT WHICH IS NOT A LARGE ASSET.

19 WHAT WE ARE STILL NOT SURE ABOUT AND THE ATTORNEY

20 GENERAL USED TO FEEL VERY STRONGLY ABOUT THAT JAMES BROWN

21 ENTERPRISES WHICH MAY OR MAY NOT OWN OR CONTROL VARIOUS OF

22 MR. BROWN'S ROYALTIES -- THEY ARE IN HIS INDIVIDUAL NAME,

23 BUT THEY COULD CONTROL THEM IN SOME WAY MAYBE IN THE

24 TRUST. THERE IS A POSSIBILITY THAT IF SHE -- IF SHE WON

25 HER SUIT AT EVERY LEVEL AND WERE DETERMINED TO BE THE WIFE

1 THAT SHE WOULD BE ENTITLED TO A THIRD.

2 THE COURT: THANK YOU.

3 THE WITNESS: AFTER -- WELL...

4 THE COURT: GO AHEAD.

5 THE WITNESS: WELL, I HAVE TO SAY SOMETHING ELSE.

6 THE COURT: GO AHEAD.

7 THE WITNESS: BECAUSE WHEN YOU SAY WIN DO YOU MEAN

8 WIN BY SHE SETS ASIDE THE ESTATE PLAN OR SHE JUST WINS A

9 SPOUSAL SHARE BECAUSE IF SHE SETS ASIDE THE ESTATE PLAN

10 AND IT'S A \$100 MILLION ESTATE, FIRST THERE WILL BE A

11 BUNCH OF ESTATE TAXES AND THEN WE'LL HAVE TO FIGURE OUT

12 WHO THE HEIRS ARE BECAUSE IT WON'T NECESSARILY BE THE

13 PEOPLE SITTING OVER HERE. IT WILL BE UP TO 13 OR MORE

14 OTHER PEOPLE. SO, WE DON'T REALLY -- YOU KNOW, THAT --

15 HER FIRST ATTEMPT IS TO SET ASIDE THE WILL AND CLAIM SHE'S

16 THE SPOUSE AND THAT'S THE SUIT WE NEED TO HAVE FIRST AND

17 IF SHE'S THE SPOUSE AND THE WILL IS SET ASIDE, THEN

18 WHATEVER IS IN THE ESTATE SHE'LL HAVE HALF.

19 IT, YOU KNOW -- IT IS COMPLEX, BUT, YOU KNOW, THAT'S

20 WHAT -- THAT'S WHY PEOPLE GET PAST THE MOTIONS TO DISMISS

21 BEFORE THEY SETTLE THINGS AND CERTAINLY OFTEN PAST SUMMARY

22 JUDGMENT ON CRITICAL ISSUES.

23 Q MRS. POPE, THE ESTATE TAX RETURN VALUE FOR THE ESTATE

24 WAS HOW MUCH?

25 A YOUR HONOR, DO WE HAVE TO TALK ABOUT THESE THINGS IN

1 A PUBLIC COURTROOM?

2 THE COURT: MA'AM, I DON'T SEE WHY NOT.

3 THE WITNESS: OKAY. IT WAS -- I'M SORRY. I DIDN'T
4 BRING THE RETURN -- ROUGHLY 86 MILLION.

5 Q IS THE ESTATE WORTH 86 MILLION OR 100 MILLION?

6 A WELL, AS AS YOU KNOW, MR. MEDLIN, THAT IS THE DATE OF
7 DEATH VALUE AND WE -- WITH SO LITTLE INFORMATION AND NO
8 HELP FROM ANY OF YOU GUYS OR ANYBODY ELSE WE --AND NO
9 ABILITY TO FURTHER DELAY THE FILING OF THE RETURN WE MADE
10 A BEST GUESS THAT THE NET VALUE OF THE BIG BUNDLE OF
11 ASSETS WAS THAT. IN THE BIG BUNDLE OF ASSETS WE HAD TO
12 CONSIDER A LOT OF THINGS THAT WE JUST COULDN'T KNOW THE
13 ANSWER TO, AND AS YOU KNOW WE NOT ONLY HAD TO DO IT
14 KNOWING WHAT WE KNEW WHEN WE FILED THE RETURN, BUT WE HAD
15 TO MAKE IT RELATE BACK TO THE DATE OF DEATH, AND, SO, FOR
16 EXAMPLE, WHAT'S THE VALUE OF OUR CLAIM AGAINST MR. DALLAS,
17 CANNON, AND BRADLEY? WHAT IS -- WHAT, IF ANY, IS THE
18 VALUE OF THE TERMINATION RIGHTS OF HEIRS?

19 SO, THAT -- THE TOTAL OF ABOUT 86 MILLION -- ABOUT 84
20 OF WHICH WAS A BIG BUNDLE OF RIGHTS CONSISTING OF THE NET
21 VALUE OF THESE BUNDLES OF RIGHTS, THE COPYRIGHT STUFF, THE
22 ROYALTY STUFF, THE IMAGE STUFF, THE PERSONA STUFF, AND WE
23 DID THE BEST WE COULD ON THAT, AND I THINK BASED ON THE
24 MANY, MANY THINGS THAT WERE AVAILABLE TO US WE WERE
25 PROBABLY FAIRLY -- I MEAN, WE WERE ACCURATE. WE DID IT

1 UNDER PENALTIES OF PERJURY. WE WERE ACCURATE.

2 Q WHAT INFORMATION SINCE YOU REFERRED TO THIS A COUPLE
3 OF TIMES ABOUT VALUE DID YOU THINK THAT MRS. BROWN OR THE
4 BROWN CHILDREN WOULD HAVE? DO THEY THINK THEY HAD
5 APPRAISALS?

6 A WELL, I THOUGHT ALL OF HER GENIUS LAWYERS -- THE 11
7 OF YOU OVER THERE -- MIGHT HAVE SOMETHING TO ADD.

8 THE COURT: MRS. POPE, PLEASE. YOU KNOW, I KNOW
9 EVERYBODY HAS FEELINGS IN THIS CASE, BUT LET'S BE --
10 GENIUS LAWYERS? THAT'S NOT CALLED FOR.

11 THE WITNESS: I KNEW THAT THERE WERE VERY COMPETENT
12 ESTATE PLANNING AND TAX LAWYERS ON ALL SIDES, AND I SOUGHT
13 THE HELP FROM AS MANY OF THEM AS I COULD GET -- WE COULD
14 GET -- BUT I WAS DOING MOST OF THE ESTATE TAX STUFF.

15 Q SO, TO REFINE YOUR COMMENT YOU WERE LOOKING MORE TO
16 THE LAWYERS FOR HELP, BUT YOU DIDN'T UNDERSTAND THAT THE
17 BENEFICIARIES WOULD HAVE INFORMATION ABOUT THE VALUE?

18 A OH, NO, MR. MEDLIN, EXCEPT THAT AS YOU KNOW THE FIRST
19 THING WE DID WHEN WE GOT APPOINTED AND ONE OF THE
20 ESSENTIAL THINGS THAT WE HAD TO DO WAS TO FIND OUT IF
21 THERE HAD BEEN GIFTS, AND, OF COURSE, THE PEOPLE RATHER
22 THAN THE LAWYERS HAD A BETTER FEEL FOR THAT, AND AS YOU
23 RECALL THE VARIOUS PARTIES AND THE FORMER P.R. TRUSTEES
24 WERE ASKED TO AND DID PROVIDE GIFT AFFIDAVITS. SO, IN
25 THAT SENSE THEY DID HAVE INFORMATION TO ADD.

1 Q RIGHT, BUT OTHER THAN THAT YOU DIDN'T EXPECT THEM TO
2 HAVE APPRAISALS AS TO WHAT COPYRIGHTS MIGHT BE WORTH OR
3 THE BEECH ISLAND PROPERTY MIGHT BE WORTH OR NORMAL TYPE OF
4 THINGS THAT GO INTO VALUING AN ESTATE?

5 A WELL, ACTUALLY, FORLANDO WAS PART OF -- FORLANDO
6 BROWN WAS PART OF A TEAM ATTEMPTING TO FIND A PURCHASER
7 FOR THE ASSETS OF MR. BROWN'S ESTATE. SO, IN THAT SENSE
8 HE AND THE GRAHAM WINDSOR GROUP AS YOU'VE SEEN PUT
9 TOGETHER SOME FIGURES ABOUT WHAT THE ESTATE WAS WORTH, AND
10 WE CERTAINLY DID LOOK AT THAT, AND, SO, WE GOT THAT FROM A
11 BENEFICIARY -- FORLANDO BROWN -- AND HIS BUSINESS
12 PARTNERS.

13 Q SO, THAT INFORMATION YOU DID GET?

14 A OH, YES.

15 Q SO, THERE IS NO OTHER INFORMATION THAT YOU REALLY
16 THOUGHT THAT MR. LEVENSON'S CLIENTS HAD OR THAT MY CLIENT
17 HAD THAT WOULD GO TO THE VALUE OF THE ESTATE?

18 A LET ME -- WELL, I MEAN, I CAN'T SAY NOTHING BECAUSE
19 THERE HAVE BEEN NUMEROUS INTERVIEWS WITH COUNSEL FOR THE
20 VARIOUS PARTIES TALKING ABOUT WHAT THE ESTATE IS WORTH,
21 AND, SO, BUT OTHER THAN ANECDOTAL THINGS AND THE GRAHAM
22 WINDSOR GROUP'S WORK, I CAN'T RIGHT THIS MINUTE THINK OF
23 ANYTHING. IF I DO, I'LL LET YOU KNOW.

24 Q AND ANECDOTAL WOULD NOT BE THE SORT OF EVIDENCE THAT
25 THE I.R.S. TYPICALLY SMILES UPON?

1 A WELL, MR. MEDLIN, IN THIS UNUSUAL SITUATION SOMETIMES
2 ANECDOTAL IS THE BEST YOU CAN GET, AND WE TRIED TO EXPLAIN
3 THAT TO THE I.R.S. THAT WE WERE DOING THE BEST WE COULD
4 WITH WHAT WE COULD GET AT THAT TIME.

5 Q NOW, IF THE ESTATE RETURN -- THE TAX RETURN RETURNED
6 THE VALUE WITH 84 MILLION AND NOW IT'S 100 MILLION, HAS IT
7 GONE UP IN VALUE \$16 MILLION SINCE THE DATE OF DEATH?

8 A MR. MEDLIN, WE HAVE NOT BEEN ABLE TO DO ANY DUE
9 DILIGENCE ON THAT AND IF I COULD EXPLAIN. WE RECENTLY
10 ATTEMPTED TO DO SOME DUE DILIGENCE TO DETERMINE WHAT THE
11 VALUE IS, BUT WE WERE THWARTED BY MOTIONS FILED BY YOU --
12 YOUR CLIENTS. WE ARE TRYING NOW. WE DETERMINED THAT 2009
13 SHOULD BE THE YEAR OF DUE DILIGENCE.

14 Q SO, WHAT I AM WONDERING IS IF YOU DECIDED ON
15 SEPTEMBER 25, 2008 THAT THE ESTATE WAS WORTH APPROXIMATELY
16 84 MILLION, WHY WOULD YOU PUT IN THE AFFIDAVITS THAT IT'S
17 WORTH 100 MILLION A FEW MONTHS LATER?

18 A NO, NO, NO, NO. MR. MEDLIN, WE DECIDED ON SEPTEMBER
19 25 THAT THE VALUE AS OF MR. BROWN'S DEATH WHICH WAS
20 DECEMBER 25, 2006 WAS 80 -- THE NET VALUE CONSIDERING SOME
21 REALLY QUESTIONABLE VARIABLES WHICH WERE EVEN MORE
22 QUESTIONABLE ON DECEMBER 25, 2006 WAS 86 MILLION.

23 Q OKAY. AND SO --

24 A YES.

25 Q -- DO YOU THINK THAT THE VALUE HAS INCREASED FROM

1 DATE OF DEATH TO TODAY?

2 A AGAIN, BASED ON THE GRAHAM WINDSOR ISSUES, A LETTER
3 OF INTENT WE RECEIVED IN MARCH OF '08 SAYING 90 TO
4 100 MILLION FOR THE ROYALTIES, IMAGE, AND PERSONA -- YOU
5 KNOW, I CANNOT SAY WITH CERTAINTY. I THINK IT'S A VERY
6 IMPORTANT QUESTION. I DEFINITELY WOULDN'T REACH A
7 SETTLEMENT IF I DID NOT HAVE A BETTER HANDLE ON THAT.

8 Q SO --

9 THE COURT: HOW DO WE GET A BETTER HANDLE ON IT?

10 THE WITNESS: WELL, WE'RE TRYING THIS YEAR BY GIVING
11 A RIGHT OF FIRST OFFER WHICH IS A VERY, VERY GOOD TOOL FOR
12 DOING EXACTLY THAT, YOUR HONOR. A RIGHT OF FIRST REFUSAL
13 IS A VERY DAMAGING SORT OF THING TO ASSETS SUCH AS THE
14 ROYALTIES, IMAGE, AND PERSONA BECAUSE ESSENTIALLY NOBODY
15 IS GOING TO SPEND A LOT OF MONEY DOING THE DUE DILIGENCE
16 NECESSARY TO COME TO THIS DETERMINATION THAT YOU'VE TALKED
17 ABOUT IF THEY KNOW THEY'RE DOING IT TO SET A PRICE FOR
18 SOMEBODY ELSE. SO, A RIGHT OF FIRST REFUSAL IS DAMAGING
19 AND TERRIBLE TO AN ESTATE.

20 HOWEVER, A RIGHT OF FIRST OFFER WHICH WE PROPOSED TO
21 GIVE AND HAVE ASKED THE COURT'S PERMISSION TO GIVE HAS
22 EXACTLY THE OPPOSITE EFFECT. IT ALLOWS -- IT HAS ALL THE
23 GOOD COMPONENTS OF A RIGHT OF FIRST REFUSAL AND NONE OF
24 THE BAD COMPONENTS. IT ALLOWS A SERIOUS CONTENDER FOR THE
25 PURCHASE OF THESE VERY VALUABLE ASSETS TO COME IN AND

1 CONDUCT THE NECESSARY DUE DILIGENCE TO DETERMINE WHETHER
2 TO MAKE AN OFFER. WHEN THEY MAKE THAT OFFER AND IT GIVES
3 THEM -- AND THE BENEFIT TO THEM -- AND IN THIS CASE IT
4 WOULD HAVE BEEN THE GRAHAM WINDSOR GROUP -- IT WOULD HAVE
5 GIVEN THEM A SIX MONTHS PERIOD TO CONDUCT DUE DILIGENCE,
6 AND AS WE SAID IN OUR PROPOSAL IT WOULD HAVE HAVE ALSO
7 GIVEN US AN IN TANDEM DUE DILIGENCE PERIOD.

8 WE ARE WORKING WITH OUR COUNSEL AND WITH THE VERY
9 LIMITED ASSETS OF THE ESTATE TO BEGIN TO CONDUCT THE DUE
10 DILIGENCE TO DETERMINE WHETHER A SALE IS APPROPRIATE AND,
11 IF SO, WHAT THE PRICE WOULD BE AND 2009 WAS OUR YEAR TO DO
12 THAT. WE'VE ENGAGED A LAW STUDENT INTERN WHO HAS SOME
13 EXPERIENCE IN THE ENTERTAINMENT BUSINESS WHO IS HELPING US
14 WITH THE TECHNICAL PART OF THAT, AND OUR ENTERTAINMENT
15 LAWYER RAY GONZALES WITH THE VERY LIMITED FUNDS WE HAVE
16 HAS TRIED TO HELP US DO SOME OF THE BASIC GUIDANCE TO GET
17 READY FOR THAT, AND, SO, IF WE ALLOWED THIS OUTSIDE
18 PURCHASER, THE GRAHAM WINDSOR GROUP, TO COME IN AND IN
19 TANDEM WITH US BE DOING THE SAME SORT OF DUE DILIGENCE TO
20 DETERMINE IF THEY WANTED TO MAKE AN OFFER FOR THE
21 PURCHASE, THEN THE BEAUTY OF IT IS LET'S SAY WE GIVE THEM
22 THAT SIX-MONTH PERIOD. WE HAVE NOTHING TO LOSE. WE'RE
23 NOT GOING ANYWHERE.

24 SO, LET'S SAY AT THE END OF THE SIX MONTHS PERIOD OR
25 AT ANY POINT DURING THE PERIOD THEY MAKE AN OFFER AND

1 LET'S SAY THE OFFER IS 75 MILLION, THEN WHAT DO WE HAVE TO
2 DO? WHAT IS OUR OBLIGATION? OUR ONLY OBLIGATION UNDER
3 THAT OFFER IS NOT TO ACCEPT A LOWER OFFER WITHIN SIX
4 MONTHS. PERFECT. WE KNOW WE'VE GOT A 75 MILLION-DOLLAR
5 OFFER AND WE GOT IT IN HAND. WE CAN AFFORD TO FINISH
6 WHATEVER DUE DILIGENCE WE NEED TO DO, SO WE CAN SAY TO THEM
7 ONE OF THREE THINGS: NO, WE GOT A BETTER OFFER; YES,
8 WE'LL TAKE YOUR OFFER; OR WHY DON'T WE KEEP NEGOTIATING?

9 IT IS A PERFECT SITUATION. IT DOES EXACTLY WHAT
10 MR. MEDLIN IS SUGGESTING THAT WE SHOULD DO WHICH IS FIND
11 OUT THE VALUE OF THESE ASSETS. WE COULD HAVE HAD IT DONE
12 BY AUGUST OF THIS YEAR, BUT WE WERE ACCUSED OF TRYING TO
13 SELL THE ESTATE WHEN WE ASKED THIS COURT TO APPROVE SUCH A
14 PROCEDURE.

15 Q IN OTHER WORDS, MRS. POPE, WE'RE NOT SURE WHAT THE
16 ESTATE IS WORTH. IT COULD BE 100 MILLION, 86 MILLION,
17 75 MILLION BECAUSE WE DON'T HAVE ANY APPRAISALS. WE DON'T
18 HAVE ANY CERTAINTY THAT YOU'VE SAID. SO, WHAT YOU REALLY
19 MEAN TO SAY -- NOT TO PUT WORDS IN YOUR MOUTH -- WHEN YOU
20 SAY THE ATTORNEY GENERAL IS MAKING A MISTAKE OR
21 TRANSFERRING \$50 MILLION, HE IS TRANSFERRING 50 PERCENT OF
22 WHATEVER THE VALUE OF THE ESTATE IS? THAT'S WHAT YOU MEAN
23 TO SAY, I THINK?

24 A NO, NO, IT'S MORE THAN 65 PERCENT WE BELIEVE.

25 Q OKAY. 65 PERCENT?

1 A AND WE BELIEVE THERE IS A SOUND, SOUND BASIS FOR
2 THINKING IT'S AROUND 100 MILLION. THE 90 MILLION -- 90 TO
3 100 MILLION-DOLLAR LETTER OF INTENT AND OTHER INFORMATION
4 LEAD US TO BELIEVE THAT THAT IS THE RANGE.

5 Q BUT YOU DID SAY YOU WEREN'T --

6 A WE WOULDN'T REACH A SETTLEMENT. NO, NO, NO. WE
7 COULD GET IT DONE. WE WOULD DO JUST WHAT WE ASKED THE
8 COURT TO APPROVE TWO WEEKS AGO.

9 Q AND, SO, MY QUESTION IS WHATEVER THE VALUE OF THE
10 ESTATE IS IS THE STARTING NUMBER AND THEN THE ATTORNEY
11 GENERAL IS TRANSFERRING AWAY IMPROPERLY WHATEVER PERCENT
12 YOU THINK HE'S TRANSFERRING AWAY OF THAT NUMBER?

13 A MR. MEDLIN, I AM NOT GOING TO ALLOW YOU TO
14 CHARACTERIZE MY RELATIONSHIP WITH THE ATTORNEY GENERAL.
15 WE HOPE THAT THE ATTORNEY GENERAL WILL UNDERSTAND THAT
16 THIS IS NOT IN THE BEST INTEREST OF MR. BROWN'S ESTATE.
17 WE WANT TO BE ON THE ATTORNEY GENERAL'S SIDE, AND I
18 REQUEST THAT YOU NOT MISCHARACTERIZE OUR RELATIONSHIP WITH
19 THE ATTORNEY GENERAL.

20 THE COURT: WHAT IS YOUR RELATIONSHIP? HOW ABOUT
21 THAT?

22 THE WITNESS: OUR RELATIONSHIP AT THIS POINT IS THAT
23 WE DO NOT BELIEVE THE SETTLEMENT IS APPROPRIATE, AND WE DO
24 NOT BELIEVE THERE WAS ADEQUATE DUE DILIGENCE, AND WE
25 SIMPLY BELIEVE THAT IT SHOULD NOT BE APPROVED -- THAT WE

1 SHOULD -- THE VERY FIRST OF ALL WE SHOULD HAVE MOTIONS TO
2 DISMISS AND OR SUMMARY JUDGMENT ON THE CRITICAL ISSUES.
3 MOST IMPORTANTLY, IS THERE ANY BASIS WHATSOEVER FOR
4 CHALLENGING THIS SIX-YEAR-OLD IRREVOCABLE TRUST THAT HAS
5 BEEN A MATTER OF PUBLIC RECORD FOR MORE THAN SIX YEARS
6 BEFORE ANY SUIT WAS BROUGHT TO DECLARE IT VOID? THE HEART
7 OF MR. BROWN'S ESTATE PLAN -- IS THERE ANY BASIS
8 WHATSOEVER TO SAY THAT THAT TRUST IS NOT VALID? THAT IS
9 THE HEART OF THIS WHOLE ISSUE. IT SHOULD NOT HAPPEN.

10 Q MRS. POPE, JUST TO CLARIFY, I WAS NOT CHARACTERIZING
11 OR ATTEMPTING TO CHARACTERIZE YOUR RELATIONSHIP WITH THE
12 ATTORNEY GENERAL. I AM ASKING THIS QUESTION.

13 A OKAY.

14 Q YOU HAVE STATED IN AFFIDAVITS AND PLEADINGS, HAVE YOU
15 NOT, THAT THE ATTORNEY GENERAL BY AGREEING TO THE
16 SETTLEMENT AGREEMENT IS GIVING AWAY \$50 MILLION FROM THE
17 CHARITY?

18 A OUR POSITION IS THAT HE CAN'T GIVE IT AWAY -- THAT HE
19 CAN'T GIVE IT AWAY WITHOUT OUR PERMISSION. SO, I AM NOT
20 SAYING HE'S GIVING IT AWAY. I AM SAYING I DON'T THINK HE
21 HAS THE RIGHT TO GIVE IT AWAY. I THINK WE'RE THE ONES WHO
22 HAVE THE RIGHT TO SAY NO TO THAT. WE DO. HE HAS THE
23 RIGHT TO ENFORCE IT. IF WE WERE TRYING TO GIVE IT AWAY HE
24 COULD STOP US. IF HE IS TRYING TO GIVE IT AWAY, I THINK
25 IT'S US. WE HAVE A RIGHT TO ENFORCE THAT CHARITY AND THE

1 NON-CHARITY AND THE ESTATE.

2 Q MRS. POPE, RATHER THAN GET INTO A REVIEW OF WHAT
3 YOU'VE SAID UNDER OATH AT THIS POINT, LET ME JUST TRY TO
4 QUESTION A DIFFERENT WAY?

5 A SURE.

6 Q IT IS YOUR BELIEF AND YOU HAVE MADE ASSERTIONS THAT
7 IF THE SETTLEMENT AGREEMENT AS STANDS IS APPROVED THAT THE
8 EFFECT WOULD BE THAT \$50 MILLION WILL BE TAKEN AWAY FROM
9 CHARITIES?

10 A I BELIEVE THAT IT WILL RESULT IN A SHIFTING OF
11 APPROXIMATELY 65 PERCENT OF MR. BROWN'S ASSETS. WE HAVE
12 TRIED TO BE CLEARER ABOUT THAT NUMBER BECAUSE WE THINK
13 ABOUT 12 MILLION IS YOUR ATTORNEY'S FEES AND NOBODY WILL
14 TELL US WHAT THEY ARE. WE'VE TRIED TO GET THAT NUMBER TO
15 BE CLEARER BECAUSE WE DON'T THINK THAT THAT'S -- THAT
16 SHOULD HAPPEN, BUT WE'VE TRIED TO GET CLEAR NUMBERS. YOU
17 WON'T GIVE THEM TO US, BUT THAT'S WHAT WE THINK
18 APPROXIMATELY 65 PERCENT OF MR. BROWN'S ASSETS WILL GO
19 AWAY FROM WHAT HE INTENDED.

20 Q ARE YOU DENYING THAT YOU HAVE FILED AFFIDAVITS AND
21 PLEADINGS WITH THIS COURT THAT INDICATE THAT IF THE
22 SETTLEMENT IS APPROVED \$50 MILLION IN VALUE WILL PASS TO
23 SOMEWHERE --

24 A WE THINK --

25 Q -- OTHER THAN CHARITIES?

1 A WE THINK -- WE THINK WE ARE IN JEOPARDY OF SHIFTING
2 MORE THAN 50 MILLION AWAY FROM MR. BROWN'S INTENDED
3 BENEFICIARIES, YES.

4 Q WHICH WOULD BE THE CHARITY ACCORDING TO YOU?

5 A WELL, NO, NO. IT'S THE CHARITY AND THE EDUCATION
6 BENEFITS.

7 Q WHICH IS THE 2 MILLION-DOLLAR TRUST?

8 A USED TO BE 2 MILLION. YOU KNOW, YOU DO GET INTEREST
9 ON THOSE THINGS.

10 Q APPROXIMATELY \$2 MILLION?

11 THE COURT: MRS. POPE, IF I DO NOT APPROVE THIS
12 SETTLEMENT IN YOUR OPINION AS P.R. TRUSTEE AND YOUR
13 KNOWLEDGE OF THE ESTATE, HOW MUCH LITIGATION WILL IT
14 SPAWN? YOU JUST SAID A WHILE AGO THAT LITIGATING OVER
15 WHAT WAS IN THE ESTATE AS OPPOSED TO WHAT WAS IN THE
16 TRUST, WHAT MRS. BROWN SHOULD GET OR NOT GET. HOW MUCH
17 LITIGATION WILL IT CONTINUE TO SPAWN IF IT IS NOT
18 APPROVED?

19 THE WITNESS: YOUR HONOR --

20 THE COURT: I MEAN, YOU HAVE -- I'VE LISTENED TO YOU
21 ALL MORNING, AND IT IS JUST QUESTION AFTER QUESTION AFTER
22 QUESTION AFTER QUESTION ABOUT WHAT WILL HAPPEN AND WHAT'S
23 REQUIRED IF A SETTLEMENT IS NOT REACHED. I MEAN, IT
24 SOUNDS LIKE WE'RE GOING TO BE IN IT UNTIL MY CAREER IS
25 OVER.

1 THE WITNESS: WELL, YOUR HONOR, MINE IS OVER NOW --

2 THE COURT: I UNDERSTAND THAT.

3 THE WITNESS: -- ALMOST.

4 THE COURT: BUT PLEASE GIVE ME SOME OPINION.

5 THE WITNESS: I WOULD LIKE TO TALK ABOUT THAT IF I
6 COULD.

7 THE COURT: WELL, I AM ASKING YOU.

8 THE WITNESS: I WOULD LIKE TO SPEAK. IT'S NOT AN
9 EASY ANSWER, YOUR HONOR, BUT I WOULD LIKE TO SPEAK ABOUT
10 WHY -- THAT RELATES TO WHY I THINK THE WAY THIS HAS BEEN
11 PUT TOGETHER IS EGREGIOUS. THIS SETTLEMENT IF APPROVED BY
12 YOUR HONOR WILL NOT STOP LITIGATION. IT WILL JUST START
13 IT BECAUSE IT IS SO IMPROVIDENTLY PUT TOGETHER.

14 THE COURT: WELL, GIVE ME SOME EXAMPLES OF WHAT KIND
15 OF LITIGATION.

16 THE WITNESS: OKAY. I WILL GIVE YOU EXAMPLES. I
17 WILL GIVE YOU EXAMPLES. THE PARTIES ARE NOT EVEN PROPERLY
18 JOINED. NOW, EVERYBODY THINKS THAT I'M A STICKLER FOR
19 DETAILS, BUT I HAVE IN MY 35 YEARS -- AND I AM VERY GOOD
20 AT SETTLING THINGS. IN MY 35 YEARS I HAVE NEVER SEEN AN
21 ESTATE AND TRUST LITIGATION IN SUCH DISARRAY ASKING THE
22 COURT TO APPROVE A SETTLEMENT. I HAVE BEEN WITH LITTLE
23 OLD \$200,000 ESTATES, SMALLER THAN THAT, LARGER THAN THAT,
24 AND ALWAYS THE FIRST THING EVERYBODY DOES IS JOIN THE
25 PARTIES.

1 THE COURT: WELL, WITH ALL DUE RESPECT, PLEASE TELL
2 ME WHAT LITIGATION WILL --

3 THE WITNESS: OKAY.

4 THE COURT: -- HAPPEN IF I APPROVE IT --

5 THE WITNESS: ALL RIGHT.

6 THE COURT: AND WHAT LITIGATION WILL HAPPEN IN YOUR
7 OPINION IF I DON'T APPROVE IT.

8 THE WITNESS: OKAY. WELL, I THINK THE MOST CRITICAL
9 THING IS THAT THE COURT -- WELL, LET ME JUST USE THE
10 RUSSELL CASE, FOR EXAMPLE. JUDGE RUSSELL DIED IN 1998.
11 IN THE FINAL SUPREME COURT DECISION IN HIS CASE WHICH HELD
12 THAT MEM RUSSELL, HIS DAUGHTER, HAD NO PROBABLE CAUSE TO
13 CONTEST HIS WILL WAS ISSUED IN 2006. THAT WAS A SUMMARY
14 JUDGMENT WHICH TELLS ME THAT THEY HAD THE DISCOVERY OF
15 WHICH WE'VE BEEN DEPRIVED, BUT, SO, I CAN'T -- I CAN'T
16 MAKE THINGS MOVE FAST, AND, YOUR HONOR, MR. BROWN --
17 MR. BROWN'S ESTATE PLAN DESERVES THE ADEQUATE RESPECT NOT
18 TO THINK IT'S IMPORTANT TO MOVE FAST.

19 HE SET UP THESE TRUSTS IN PERPETUITY. SO, MY
20 SUGGESTION IS THIS. THE CASE 872 WHICH IS THE
21 WILL-TRUST-HEIRS CASE COULD BE MANAGED CAREFULLY AND
22 EFFICIENTLY AND WITH THE DISCOVERY PERIOD OF SIX MONTHS.
23 THE FIRST THING WHICH ANYBODY WOULD KNOW WITH A STROKE OF
24 A PEN YOU'VE GOT TO DO IF YOU CLAIM YOU'RE AN HEIR -- HEIR
25 UNDER THE LAW OF SOUTH CAROLINA MEANS I WILL TAKE IF THERE

1 IS NO WILL -- YOU WILL HAVE TO EITHER HAVE A D.N.A. TEST,
2 BE BORN OF A VALID MARRIAGE, OR HAVE OTHER PROOF. SO,
3 STEP ONE, LET'S FIND OUT WHO THE HEIRS ARE. EASY.
4 RELATIVELY EASY TO DO. IT'S DONE ALL THE TIME.

5 MR. MEDLIN: YOUR HONOR, CAN I ASK THAT SHE BE
6 RESPONSIVE TO YOUR QUESTION WHICH WAS WHAT WOULD ENSUE IF
7 THERE WAS SETTLEMENT?

8 THE COURT: I AM JUST TYING TO SEE WHAT KIND OF
9 LITIGATION YOU THINK THERE WOULD BE IF IT IS SETTLED OR
10 NOT SETTLED.

11 THE WITNESS: NEXT, YOUR HONOR, AFTER YOU PROPERLY
12 JOIN THE PARTIES, THEN YOU GO THROUGH AND DECIDE BASIC
13 LEGAL ISSUES, LUKICH, JAMES II D.N.A.

14 THE COURT: YOU AGREE WITH ME THAT LUKICH IS A BIG
15 CONTROVERSY IN THIS CASE?

16 THE WITNESS: JUDGE --

17 THE COURT: OR IS IT?

18 THE WITNESS: JUDGE --

19 THE COURT: YES, MA'AM.

20 THE WITNESS: -- I BELIEVE THAT LUKICH IS LARGELY A
21 LEGAL QUESTION. IT MAY REQUIRE SOME DISCOVERY, BUT, YOU
22 KNOW, I'VE GOT A LAWYER HERE. I'D RATHER LET MY LAWYER
23 SPEAK FOR ME, BUT IT'S IMPORTANT. IT'S IMPORTANT, AND
24 MOST IMPORTANT, JUDGE, ARE ALL OF THE CLAIMS AGAINST THIS
25 TRUST THAT MR. JAMES BROWN CREATED IN THE YEAR 2000, MADE

1 A MATTER OF PUBLIC RECORD IN GEORGIA MORE THAN SIX YEARS
2 BEFORE THIS SUIT -- ANY SUIT WAS FILED -- MADE A PUBLIC
3 RECORD IN SOUTH CAROLINA MORE THAN SIX YEARS BEFORE ANY
4 SUIT WAS FILED, TOLD HIS GRANDCHILD ABOUT, TOLD HIS
5 CHILDREN ABOUT -- HIS DAUGHTER BECAME -- SIGNED ON TO BE A
6 TRUSTEE. HIS OTHER DAUGHTER SIGNED ON TO BE EXECUTIVE
7 ASSISTANT TO THE TRUST. THOSE ARE SUMMARY JUDGMENT
8 ISSUES, YOUR HONOR. THOSE ARE SUMMARY JUDGMENT ISSUES AND
9 FOR US --

10 THE COURT: AS TO THE STATUTE OF LIMITATIONS?

11 THE WITNESS: ABSOLUTELY, YOUR HONOR.

12 THE COURT: WELL, BUT IF THERE IS ANY FACTUAL DISPUTE
13 AT ALL I CAN'T GRANT SUMMARY JUDGMENT. YOU KNOW THAT.

14 THE WITNESS: THEN HOW CAN YOU FORCE A SETTLEMENT,
15 YOUR HONOR? THAT'S THE -- I'M SORRY, YOUR HONOR, BUT
16 THAT'S --

17 THE COURT: BECAUSE THERE IS A COMPROMISE. GO AHEAD.

18 THE WITNESS: WE ARE THE PRINCIPAL BENEFICIARY OF THE
19 TRUST -- OF THE ESTATE AS TRUSTEES AND THAT STATUTE THAT
20 EVERYBODY HAS BEEN TALKING ABOUT TALKS ABOUT TESTAMENTARY
21 TRUSTEES. IT DOESN'T EVEN TALK ABOUT IRREVOCABLE TRUSTS
22 THAT HAVE BEEN IN EXISTENCE FOREVER. WE ARE --
23 MR. BUCHANAN AND I ARE THE REPRESENTATIVES OF THE PRIMARY
24 BENEFICIARY OF THIS ESTATE. WE ARE ESSENTIAL TO THIS
25 SETTLEMENT. OUR OPINION IS IMPORTANT. WE ARE THE PEOPLE

1 WHO ARE CHARGED UNDER THE DOCUMENTS AND THE LAW WITH
2 DEFENDING MR. BROWN'S ESTATE PLAN, AND TO SUGGEST THAT WE
3 DON'T HAVE A RIGHT TO DO THAT UNTIL WE -- UNTIL WE BELIEVE
4 THAT THERE IS AN APPROPRIATE SETTLEMENT, YOUR HONOR, I
5 RESPECTFULLY BELIEVE IS NOT CORRECT.

6 MR. MEDLIN: IF I MAY, YOUR HONOR.

7 MRS. POPE, DO YOU BELIEVE THAT THE CONTINUED FIGHTING
8 DIMINISHES THE VALUE OF THE ESTATE?

9 THE WITNESS: MR. MEDLIN, THERE ARE 11 LAWYERS
10 SITTING OVER THERE. THERE ARE ABOUT FOUR THAT COME FOR
11 YOUR CLIENT EVERYTIME THERE IS A MEETING. WE HAVE TWO
12 LAWYERS HANDLING ABOUT 18 CASES. I DO NOT BELIEVE THAT IT
13 WILL SUBSTANTIALLY DIMINISH MR. BROWN'S ESTATE PLAN TO
14 CONTINUE TO DEFEND HIS ESTATE PLAN TO A POINT. WHEN IT
15 BECOMES TIME TO SETTLE, I THINK WE WILL KNOW. IT IS NOT
16 NOW. I DON'T BELIEVE THAT ANY OF YOU SHOULD BE PAID FROM
17 MR. BROWN'S --

18 MR. MEDLIN: YOUR HONOR, IF I MAY.

19 THE WITNESS: -- ESTATE.

20 THE COURT: JUST --

21 THE WITNESS: NO. NO. WE MIGHT COMPROMISE AT SOME
22 POINT, BUT I DON'T BELIEVE THAT NOW. SO, I DON'T BELIEVE
23 IT WILL DIMINISH HIS ESTATE AS BALANCED AGAINST THIS
24 SETTLEMENT AT ALL -- PARTICULARLY, IF THE COURT WILL NOT
25 ALLOW YOU TO PARALYZE US IN THE MANAGEMENT OF THE ESTATE

1 AND WILL TURN THE MANAGEMENT OF THE ESTATE OVER TO AN
2 INDEPENDENT MANAGER SO THAT WE CAN DEFEND THE ESTATE PLAN,
3 YOU CAN HAVE YOUR POSITION, MR. INDEPENDENT MANAGER
4 CONSULTING WITH ALL OF Y'ALL DOING IT THE WAY YOU WANT
5 WITH NO INTERFERENCE FROM US CAN MANAGE AND MAKE SURE THAT
6 THE ASSETS AREN'T DIMINISHED.

7 Q MRS. POPE, LET ME CLARIFY WHAT I MEAN BY MY QUESTION.

8 A SURE.

9 Q IF I CAN DEFINE ESTATE AS THE ASSETS OWNED BY
10 MR. BROWN THAT ARE IN PLAY HERE AND THE ESTATE PLAN IS THE
11 DOCUMENTS THAT YOU HAVE VIGOROUSLY DEFENDED, I'M NOT
12 TALKING ABOUT THE ESTATE PLAN. I'M TALKING ABOUT THE
13 VALUE OF THE ESTATE, REGARDLESS OF WHETHER THE WILL AND
14 TRUST ARE VALID, REGARDLESS OF WHETHER THERE IS INTESTACY.
15 DOES THE CONTINUED FIGHTING DIMINISH THE VALUE OF ESTATE?

16 A NOT IF TODAY JUDGE EARLY DO WILL DO WHAT WE'VE ASKED
17 HIM TO DO ON AN EMERGENCY BASIS. TURN THE MANAGEMENT OF
18 THE ESTATE OVER TO WHOEVER THE ATTORNEY GENERAL WANTS AND
19 LET THEM MANAGE IT AND WE WON'T INTERFERE. SO, THE ANSWER
20 IS NO.

21 Q ALL RIGHT. AND HAVE YOU CONSIDERED THE POSSIBILITY
22 THAT THE DELAY OF GETTING ANY ASSETS TO THE CHARITABLE
23 TRUST HAS A DIMINUTION BECAUSE OF PRESENT VALUE -- FOR
24 EXAMPLE, IF WE APPEAL THIS THING FOR FIVE YEARS SO THAT WE
25 DON'T GET THE TRUST FUNDED FOR FIVE MORE YEARS, HAVE YOU

1 TAKEN THAT INTO CONSIDERATION OF THE LOSS OF THE PRESENT
2 VALUE, THE USE OF THE FUNDS IN THE MEANTIME?

3 A THE ANSWER IS THAT I HAVE NOT MADE THE SPECIFIC
4 CALCULATIONS, BUT WHAT I HAVE CALCULATED IS THAT IF YOU
5 TAKE \$50 MILLION AWAY IT TAKES A LONG TIME TO MAKE IT BACK
6 UP, AND THAT IS -- OR IF YOU TAKE JUST THE 12 TO
7 14 MILLION WE ESTIMATE TO BE YOUR ATTORNEY'S FEES, IT
8 TAKES A LONG TIME TO MAKE THAT UP. I DO NOT BELIEVE -- I
9 BELIEVE PARTICULARLY IF THE JUDGE WILL HEAR OUR PLEA AND
10 APPOINT ANYBODY THE ATTORNEY GENERAL WANTS TO MANAGE THIS
11 ESTATE, TAKE IT AWAY FROM US BECAUSE YOU'RE JUST ATTACKING
12 US AT EVERY TURN BECAUSE WE'VE LEARNED THAT YOU DON'T MIND
13 ATTACKING THE ESTATE SO YOU CAN BLAME IT ON US, AND, SO,
14 THAT HASN'T BEEN GOOD FOR THE ESTATE. I AGREE. THAT IS
15 NOT GOOD AT ALL.

16 THE JUDGE NEEDS TO RELIEVE US OF THE MANAGEMENT
17 DUTIES AND LEAVE US WITH THE DUTY TO DEFEND MR. BROWN'S
18 ESTATE PLAN AND THAT, AS YOU KNOW, MR. MEDLIN, IS WHAT A
19 SPECIAL ADMINISTRATOR TYPICALLY DOES. THERE IS A WILL
20 CONTEST. THERE IS A TRUST CONTEST, AND WHILE THAT'S GOING
21 ON A SPECIAL ADMINISTRATOR MANAGES THE ASSETS. USUALLY,
22 THE PERSONAL REPRESENTATIVES ARE NOT AS GENEROUS AS
23 MR. BUCHANAN AND I ARE ABOUT SUGGESTING THAT THAT HAPPEN.
24 USUALLY, THEY'RE TRYING TO HOLD ON.

25 WE DON'T WANT TO HOLD ON. WE WANT THIS ESTATE TO

1 FLOURISH -- TO FLOURISH WHILE WE'RE DEFENDING MR. BROWN'S
2 ESTATE PLAN AND WE EVEN COULD NOT POSSIBLY MIND SOME EARLY
3 -- SOME EARLY FUNDING OF THE CHARITY. WHO WOULD COMPLAIN
4 ABOUT THAT? NOBODY. WE CERTAINLY WOULDN'T. WE WOULD BE
5 DELIGHTED WITH IT. WE WOULD LOVE FOR THE FAMILY TO BUY
6 THE HOUSE. WE WOULD NOT IN ANY WAY WHILE DEFENDING
7 MR. BROWN'S ESTATE PLAN STAND IN THE WAY OF THIS ENTIRE
8 TRUST AND ESTATE FLOURISHING.

9 JUST GIVE US A NAME. WE ARE DYING TO TURN OVER THE
10 MANAGEMENT TO SOMEONE WHO WILL MAKE IT FLOURISH BECAUSE
11 THE SETTLING PARTIES ARE CHOKING US BY INTERFERING WITH
12 CONTRACTS, BY INTERFERING WITH SETTLEMENTS, BY INTERFERING
13 WITH EVERYTHING. THAT'S NOT FAIR TO MR. BROWN TO TRY TO
14 MAKE IT SO HARD ON US THAT WE ARE FORCED NOT TO DEFEND HIS
15 ESTATE PLAN. IT MAKES NO SENSE WHATSOEVER. IT'S NOT
16 RIGHT.

17 Q MRS. POPE, YOU RECOGNIZE -- AND WE APPRECIATE YOUR
18 GENEROSITY, BELIEVE ME -- THAT SOMEONE OTHER THAN YOU AND
19 BOB CAN MANAGE THE ASSETS OF THE ESTATE. ARE YOU SAYING
20 THAT NO ONE OTHER THAN YOU AND BOB CAN HANDLE THE DEFENSE
21 OF THE ESTATE PLAN?

22 A I AM SAYING THAT SO LOUD I HOPE YOU CAN HEAR IT ALL
23 THE WAY TO BEECH ISLAND. NO ONE BUT BOB BUCHANAN AND I
24 TOGETHER CAN DEFEND MR. BROWN'S ESTATE PLAN. WE HAVE
25 INVESTED TOO MUCH TIME. WE KNOW TOO MUCH. WE UNDERSTAND

1 IT. WE CARE ABOUT DEFENDING IT. NOBODY BUT BOB BUCHANAN
2 AND ADELE POPE CAN DO THAT. LOTS OF PEOPLE CAN MANAGE THE
3 ASSETS, AND I HOPE THEY FLOURISH.

4 Q SO, GOD FORBID, MRS. POPE, IF YOU AND MR. BUCHANAN
5 ARE HIT BY A MACK TRUCK THIS AFTERNOON THE ESTATE PLAN
6 IS --

7 A IT WOULD BE TERRIBLE. IT WOULD BE TERRIBLE.

8 THE COURT: I AGREE.

9 Q YOUR UNDERSTANDING OF THE \$50 MILLION BEING SHIFTED
10 ASSUMES THAT THE ATTORNEY GENERAL PREVAILS IN EVERY ASPECT
11 OF THIS CASE, THAT THE WILL AND TRUST CONTEST ARE
12 PREVAILED UPON BY THE DEFENDERS OF THE WILL AND THE
13 TRUST -- THE ESTATE PLAN -- YOU AND MR. BUCHANAN, THE
14 ELECTIVE SHARE AND THE OMITTED SPOUSE'S SHARE DON'T
15 PREVAIL, THE OMITTED CHILD'S SHARE DOESN'T PREVAIL --
16 ALTHOUGH, I HEAR YOU SAY THAT LITTLE MAN IS SOMEBODY WHO
17 REALLY HAS SOMETHING HE OUGHT TO GET HERE. YOUR PIE CHART
18 IS BASED ON THE ASSUMPTION THAT THE ATTORNEY GENERAL WILL
19 PREVAIL IN ALL OF THOSE CASES, THAT YOU AND MR. BUCHANAN
20 WILL PREVAIL IN ALL OF THOSE CASES. IF, IN FACT, YOU
21 DIDN'T AS THE JUDGE ASKED BEFORE -- I AM NOT SURE THAT I
22 HEARD THE ANSWER THAT I'M LOOKING FOR HERE, BUT IF YOU
23 DIDN'T -- IF YOU LOST THE WILL AND TRUST CONTEST OR IF YOU
24 LOST THE ELECTIVE SHARE CONTEST OR YOU LOST THE OMITTED
25 SPOUSE CONTEST OR THE OMITTED CHILD CONTEST, THEN IT'S NOT

1 AS STARK A DISTINCTION AS WE SEEM TO HAVE PAINTED HERE SO
2 FAR AS TO WHAT IS BEING IMPROPERLY SHIFTED. IN FACT, THE
3 ATTORNEY GENERAL COULD END UP WITH NOTHING IN THE WORST
4 CASE SCENARIO; CORRECT? IF THE WILL AND THE TRUST CONTEST
5 PREVAIL, WHAT DOES THE ATTORNEY GENERAL GET?

6 A WELL, YOU MEAN WHAT DO MR. BROWN'S CHARITIES GET?
7 HIS CHARITABLE AND NON-CHARITABLE BENEFICIARIES?

8 Q YES.

9 A IS THAT WHAT YOU MEAN?

10 Q WHAT DO THEY GET?

11 A WELL, THAT IS POSSIBLE, BUT THAT MAKES A WRONG
12 ASSUMPTION AND THAT IS BECAUSE THAT IS THAT WE DON'T --
13 WE'VE GOT TO SETTLE TODAY WHEN WE DON'T HAVE A LEGAL
14 DECISION ABOUT WHETHER THERE IS EVEN A RIGHT TO CONTEST
15 THE TRUST. WE DON'T HAVE A LEGAL DECISION ABOUT A NUMBER
16 OF OTHER CRITICAL ISSUES, AND WE DON'T EVEN KNOW WHO THE
17 HEIRS ARE. SO, THE SUGGESTION THAT IT MUST BE TODAY OR
18 NEVER IS, TO PUT IT MILDLY, RIDICULOUS BECAUSE --

19 THE COURT: MRS. POPE --

20 THE WITNESS: -- THERE IS ALWAYS A POSSIBILITY OF
21 SETTLEMENT.

22 THE COURT: BUT IF THEY PREVAILED ON THE CONTEST,
23 WITH ALL OF THAT SET ASIDE WOULD NOT BE TRUST END UP WITH
24 NOTHING? IF THAT ULTIMATELY WAS THE OUTCOME?

25 THE WITNESS: WE MADE A LITTLE CHART OF THAT, YOUR

1 HONOR. THEY CAN TAKE IT ALL AWAY FROM THE TRUST, BUT WHEN
2 YOU THINK OF A SETTLEMENT YOU THINK OF BOTH SIDES AND WHAT
3 WILL HAPPEN --

4 THE COURT: WELL --

5 THE WITNESS: WAIT -- THIS -- WHAT WILL HAPPEN IS
6 THEY WILL GET LESS THAN THEY'RE GETTING UNDER THE
7 SETTLEMENT. THEY WILL GET LESS IF THEY WIN THAN THEY'RE
8 GETTING UNDER THE SETTLEMENT. NOW, WHEN YOU THINK ABOUT A
9 SETTLEMENT YOU THINK ABOUT IT FROM BOTH SIDES.

10 THE COURT: I UNDERSTAND THAT. A SETTLEMENT IS A
11 COMPROMISE. MY SIMPLE QUESTION, IF THEY PREVAILED ON THE
12 WILL AND TRUST CONTEST WHAT DOES THE TRUST GET?

13 THE WITNESS: IF THEY ARE ABLE TO SET ASIDE A TRUST
14 THAT'S BEEN IN EXISTENCE FOR SIX YEARS AND IF THEY ARE
15 ABLE TO BRING BEECH ISLAND BACK INTO THE ESTATE SETTING
16 ASIDE A DEED THAT'S BEEN IN EXISTENCE FOR SEVEN YEARS AND
17 SETTING ASIDE A WILL, THEN NOTHING WILL GO TO CHARITY, BUT
18 I THINK THAT THAT IS AN IF THAT IS JUST NOT REASONABLE TO
19 MAKE.

20 THE COURT: HOW MUCH IS THE BEECH ISLAND PROPERTY
21 VALUED AT?

22 THE WITNESS: THE BEECH ISLAND PROPERTY, YOUR HONOR,
23 WE HAVE WAS VALUED AT A MILLION THREE. WE'VE ASKED THE
24 COURT TO PLEASE ALLOW THE FAMILY TO PURCHASE IT WITH THE
25 REMAINING CONTENTS FOR \$900,000. THE REASON IS THAT IT IS

1 IN TERRIBLE DETERIORATION. IT REALLY MATTERS TO THE
2 FAMILY. IF THEY CAN TAKE IT -- THEY'VE ACTUALLY MADE AN
3 OFFER BEFORE OF \$900,000. IT WOULD BE A LITTLE LOSS TO
4 THE ESTATE, BUT IT IS -- IT COSTS 70,000 A YEAR TO
5 MAINTAIN JUST FOR MINIMUM MAINTENANCE AND NOT KEEPING --
6 NOT KEEPING IT UP. IT IS AN ALBATROSS. IT NEEDS TO BE
7 SOLD.

8 WE -- OUR HANDS ARE TIED IN EVERY RESPECT. WHEN WE
9 TRY TO SELL IT EVEN THOUGH YOUR HONOR SIGNED AN ORDER A
10 YEAR AND TWO WEEKS AGO GIVING US FULL AUTHORITY TO SELL
11 IT, WE ARE UNDER SUCH SIEGE AND THAT'S WHY WE WANT TO TURN
12 OVER THE MANAGEMENT TO SOMEONE ELSE, BUT BEECH ISLAND --
13 BEECH ISLAND NEEDS TO BE SOLD BECAUSE THE ESTATE UNDER THE
14 CURRENT CONDITIONS CAN'T MANAGE IT AND UNDER THE
15 SETTLEMENT IT IS SUGGESTED THAT THE ESTATE BE STRAPPED
16 WITH THAT CONTINUING COST AND THEN SELL IT AT BELOW MARKET
17 VALUE. SO, IT WOULD BE BETTER FOR THE TRUST TO JUST GET
18 RID OF IT NOW.

19 MR. MEDLIN: YOUR HONOR, IF I MAY CONTINUE.

20 MRS. POPE, YOU POINTED OUT TO US IN YOUR TESTIMONY ON
21 JANUARY 30 THAT THE SETTLING PARTIES WERE INCORRECT ABOUT
22 THE TRANSMISSION OF THE COPYRIGHT TERMINATION RIGHTS AT
23 DEATH, BUT DID YOU HEAR MR. BAUKNIGHT TESTIFY THAT THE
24 TERMINATION RIGHTS DID NOT MAKE A DIFFERENCE IN HIS
25 OPINION OF THE SETTLEMENT?

1 THE WITNESS: I'M NOT SURE I HEARD THAT, BUT MY
2 CONCERN WAS THAT THE SETTLEMENT AGREEMENT CONTAINED A VERY
3 STRONG STATEMENT SUGGESTING THAT THESE PEOPLE HAD VERY,
4 VERY VALUABLE RIGHTS THAT COULD BE AS VALUABLE AS THE --
5 MR. BROWN'S ESTATE AND TRUST ITSELF AND THAT WAS WHAT WAS
6 CONCERNING ME. I JUST THOUGHT THAT STATEMENT WAS JUST NOT
7 CLOSE TO ACCURATE. I WASN'T CONCERNED ABOUT WHAT
8 MR. BAUKNIGHT SAID.

9 Q OKAY. BUT, IN FACT, YOU FOUND IT A DEAL-STOPPER, BUT
10 MY QUESTION IS WHEN MR. BAUKNIGHT MADE HIS RECOMMENDATION
11 TO THE COURT, IF WE WERE WRONG ABOUT THE TERMINATION
12 RIGHTS IT SHOULDN'T MATTER BECAUSE HE SAID IT DIDN'T MAKE
13 A DIFFERENCE?

14 A I'M NOT SURE I AGREE WITH YOU, MR. MEDLIN. I JUST --
15 I JUST FELT LIKE WHEN MR. BAUKNIGHT SAID HE DIDN'T LOOK
16 INTO ANY LEGAL ISSUE THAT HE WAS MISSING THE WHOLE POINT.
17 SO, I REALLY, YOU KNOW, DIDN'T FOCUS TOO MUCH ON HIS
18 TESTIMONY.

19 Q MRS. POPE, LET'S LOOK AT THE LANGUAGE THAT I THINK
20 YOU'RE CONCERNED ABOUT, AND IF I MAY BE PRESUMPTUOUS
21 ENOUGH, IF YOU WANT TO READ IT OR I'LL READ IT --

22 A NO, NO.

23 Q WELL, YOU TELL ME WHAT YOU PREFER, BUT MAKE SURE
24 THAT'S THE LANGUAGE?

25 A WELL, YOU'LL HAVE TO HAND ME ALL OF THE DOCUMENTS TO

1 TELL ME THIS IS THE ONLY LANGUAGE. I THINK THAT YOU'LL
2 AGREE THERE WAS AN ASSUMPTION MADE THAT THESE HEIRS AS
3 THEY WERE DEFINED WHO ARE NOT ALL OF THE HEIRS OWNED VERY
4 VALUABLE ROYALTY RIGHTS AND THAT WAS -- I CAN'T -- I MEAN,
5 YOU CAN'T HAND ME SOMETHING AND SAY, IS THIS THE ONLY
6 SENTENCE.

7 Q THAT'S FINE.

8 A IF YOU'LL HAND ME EVERYTHING, I'LL GO THROUGH IT.

9 Q I'M SORRY, MRS. POPE, FOR INTERRUPTING ME. LET ME
10 JUST DO THIS. LET ME READ YOU THIS LANGUAGE AND SEE IF
11 THIS IS THE SENSE OF WHAT YOU HAVE A CONCERN ABOUT. I AM
12 READING YOU FROM THE PARTIES' DOCUMENTS, THE CONTRIBUTION
13 AGREEMENT. THIS IS NUMBER FOUR. THE PARTIES HEREUNDER
14 RECOGNIZE THAT IT MAY BE DIFFICULT AT THIS TIME TO VALUE
15 ACCURATELY THE INTEREST AND RIGHTS BEING CONTRIBUTED
16 HEREUNDER TO THE LEGACY TRUST WHICH WOULD BE THE TRUST
17 THAT THE SETTLEMENT ENTITY WOULD BE COMPOSED OF. HOWEVER,
18 THE PARTIES ARE REASONABLY INFORMED THAT A LARGE PORTION
19 OF THE VALUE OF THE ASSETS AND INTERESTS CONTRIBUTED
20 HEREUNDER RESIDES IN THE RIGHTS GRANTED TO HEIRS UNDER THE
21 FEDERAL COPYRIGHT LAWS. ACCORDINGLY, THE PARTIES
22 RECOGNIZE THAT THE BENEFICIAL INTEREST RECEIVED HEREUNDER
23 BY TOMI RAE BROWN AND OR BY THE LEVENSON CLIENTS MAY BE OF
24 A LESSER VALUE THAN THE INTEREST THEY ARE CONTRIBUTING TO
25 THE LEGACY TRUST PURSUANT TO THIS AGREEMENT. IS THAT --

1 A THAT WAS VERY TROUBLING LANGUAGE TO ME. YES, IT WAS.
2 IT WAS VERY TROUBLING.

3 Q MRS. POPE, WOULD THERE NOT ALSO BE TAX REASONS TO DO
4 THAT TO TRY TO SAVE SOME TAX? IN OTHER WORDS, SO THAT
5 WE'RE TRYING TO PREVENT THE I.R.S. COMING BACK AND HAVING
6 A PROBLEM? WE ALL AGREE, I THINK, THAT WE DON'T WANT TO
7 PAY ANY MORE TAX THAN WE HAVE TO. WOULD THERE BE A TAX
8 REASON FOR THAT LANGUAGE?

9 A MR. MEDLIN, YOU DON'T SAY THAT PEOPLE ARE PUTTING
10 SOMETHING WORTH 85 MILLION IN A TRUST IF THEY AREN'T.
11 THAT IS NOT A TAX REASON.

12 Q ARE THERE TERMINATION RIGHTS WORTH 85 MILLION?

13 A THE SUGGESTION THERE IS THAT THEY'RE WORTH THE SAME
14 THING YOU'RE TAKING FROM MR. BROWN --

15 Q NO --

16 A -- WITH WHICH I STRONGLY DISAGREE.

17 Q I DON'T THINK THAT WAS A SUGGESTION.

18 A WELL, THAT IS CERTAINLY WHAT THE DOCUMENT SAYS.

19 Q THOSE RIGHTS -- I ASSUME THAT YOU BELIEVE THOSE
20 RIGHTS ARE VALUABLE?

21 A I THINK THEY HAVE SOME VALUE, BUT I DON'T BELIEVE
22 THEY BELONG TO THE HEIRS, AND YOU -- IN THAT DOCUMENT, NOT
23 YOU, THAT DOCUMENT, WHOEVER DID THAT DOCUMENT MAKES AN
24 ASSUMPTION THAT, A, THESE PEOPLE ARE THE HEIRS, B, THEY
25 OWN THESE RIGHTS, AND, C, THESE RIGHTS COULD BE AS

1 VALUABLE AS MR. BROWN'S ESTATE. THAT IS VERY TROUBLING.

2 Q ALL RIGHT. THE TERMINATION RIGHTS IF I UNDERSTAND
3 CORRECTLY THOSE ARE THE RIGHTS THAT EITHER THE AUTHOR OR
4 HIS SUCCESSORS -- I AM NOT SAYING -- I HEARD WHAT YOU
5 SAID. SO, I DON'T WANT TO TREAD BACK DOWN THAT BATH PATH
6 RIGHT NOW, BUT HIS SUCCESSORS HAVE TO TERMINATE AN
7 ASSIGNMENT OR A LICENSING OF A COPYRIGHT. FOR EXAMPLE, IF
8 AN AUTHOR ASSIGNED HIS COPYRIGHT TO A PUBLISHER, THEN THE
9 AUTHOR HAS THE RIGHT TO TERMINATE IT LATER. IS THAT YOUR
10 UNDERSTANDING?

11 A IF THE AUTHOR IS ALIVE, IT IS EASY. HE DOES. YES,
12 THE ARTIST, LET'S SAY.

13 Q LET'S AGREE ON THAT.

14 A IF HE WERE ALIVE THAT WOULD BE HIS RIGHT TO TERMINATE
15 THE IRREVOCABLY ASSIGNED -- WHAT HE THOUGHT BEFORE WERE
16 IRREVOCABLY ASSIGNED ROYALTIES, YES.

17 Q SO, MR. BROWN HAD THE RIGHT TO TERMINATE THESE
18 ASSIGNMENTS DURING THINGS LIFETIME?

19 A NO.

20 Q HE DIDN'T?

21 A NO, BECAUSE NONE HAD COME DUE DURING HIS LIFETIME.

22 Q OKAY. THEN HIS BENEFICIARIES UNDER HIS WILL HAD THAT
23 RIGHT?

24 A AS THEY MATURE HE WILL, AND TO EXPLAIN WHAT I MEAN BY
25 THAT, AGAIN, IT IS FAIRLY CLEAR TO ME AND I'VE TRIED TO

1 HAVE DIALOGUE WITH Y'ALL, BUT YOU WON'T TALK TO ME, BUT IT
2 IS FAIRLY CLEAR TO ME THAT THE RIGHT -- AND, AGAIN,
3 SUBJECT TO FURTHER DISCUSSION, BUT THAT EVEN IF THE HEIRS
4 HAD THE RIGHT THEY COULDN'T ASSIGN IT BECAUSE THE
5 DEFINITION OF HEIRS MEANS THE PEOPLE WHO ARE STANDING
6 THERE AS FEDERAL STATUTORY HEIRS AT THE TIME THAT THE
7 RIGHTS ACCRUE.

8 SO, FOR EXAMPLE, AS I READ THE STATUTE IT'S
9 IMPOSSIBLE FOR THE PEOPLE WHO ARE CLAIMING TO BE HEIRS TO
10 ASSIGN THEIR RIGHT NOW. I THINK THEIR RIGHT IS NOT
11 ASSIGNABLE IF THEY EVEN -- EVEN IF THEY HAD IT. THEY HAVE
12 TO WAIT UNTIL IT ACCRUES. SO, I THINK THERE ARE TWO
13 DIFFERENT REASONS WHY THE HEIRS ARE NOT ADDING ANYTHING TO
14 THE POT.

15 Q BUT, UNDER YOUR SCENARIO THE CHARITABLE TRUST WOULD
16 HAVE THE RIGHT TO TERMINATE THOSE ASSIGNMENTS ONCE THOSE
17 TERMINATION RIGHTS ACCRUE?

18 A AS THEY ACCRUE. AND, AGAIN, YOU KNOW, AS YOU KNOW,
19 MR. MEDLIN, THAT LAW WAS CHANGED IN 2002. THERE ARE
20 ALMOST NO -- THERE ARE NO CASES UP INTERPRETING THOSE
21 ISSUES YET. OUR ENTERTAINMENT LAWYER HAS SAID; YOU KNOW,
22 READ THE STATUTE, READ WHAT THIS THERE IS, KEEP AN EYE ON
23 IT. THE FIRST ONE WILL COME UP IN A COUPLE OF YEARS, AND,
24 YOU KNOW, IT'S TO BE WATCHED, BUT WE BELIEVE IT'S OWNED BY
25 THE ESTATE OR AT LEAST THE VAST MAJORITY OWNED BY THE

1 ESTATE.

2 Q AND THE RIGHT WOULD BE TO TERMINATE THE ASSIGNMENTS
3 TO THE PUBLISHER SUCH AS BMI AND WARNER CHAPPELL WHERE I
4 ASSUME MANY OF MR. BROWN'S SONGS ARE BEING PUBLISHED BY
5 THOSE PUBLISHING HOUSES?

6 A WELL, MR. MEDLIN, PARTIALLY. AS I READ THE STATUTE
7 THE PURPOSE OF IT IS NOT NECESSARILY TO TERMINATE BECAUSE
8 USUALLY ARTISTS WANT TO STAY WITH A PUBLISHING COMPANY BUT
9 RATHER TO STRIKE A BETTER DEAL, AND, SO, MR. BROWN'S -- IF
10 HE WERE -- IF IT WERE BEING MANAGED NOW BY SOMEBODY WHO
11 WASN'T BEING INTERFERED WITH RIGHT NOW MR. BROWN COULD GO
12 TO WARNER CHAPPELL OR MR. BROWN'S SUCCESSORS UNDER HIS
13 WILL COULD GO TO WARNER CHAPPELL AND STRIKE A BETTER DEAL
14 AND EXTEND. SO, I GOT THE IDEA THAT IT WAS NOT
15 NECESSARILY JUST TO TERMINATE BUT TO GIVE -- TO SHIFT THE
16 BALANCE OF POWER BETWEEN ARTISTS WHO HAD VIRTUALLY NO
17 POWER WHEN THEY ENTER INTO INTO THESE CONTRACTS AND WHO 35
18 OR 56 YEARS LATER SHOULD HAVE A RIGHT TO RENEGOTIATE WITH
19 SOME MORE POWER.

20 Q WELL, AND, AGAIN, MRS. POPE, YOU'VE SAID THAT MORE
21 ARTFULLY THAN I DID, BUT IF I MAY PARAPHRASE IT IS THE
22 FEAR OF EXERCISING THE TERMINATION RIGHT THAT IN AND OF
23 ITSELF MIGHT ALSO CAUSE THE PUBLISHING HOUSE TO STRIKE A
24 BETTER DEAL WITHOUT ACTUALLY EXERCISING THE RIGHT?

25 A I AGREE, AND THAT COULD BE EXERCISED BY MR. BROWN

1 EVEN NOW.

2 Q CORRECT.

3 A YES, BY HIS ESTATE.

4 Q AND MOST OF HIS SONGS HAVE BEEN ASSIGNED TO
5 PUBLISHERS?

6 A YES, AND THEN THERE IS -- I MEAN, NOT TRYING TO MAKE
7 IT OVERLY COMPLICATED, BUT THEN THERE IS THE ADDITIONAL
8 ASSIGNMENT OF THE PRIMARY 800 TO THE TIAA.

9 Q BUT THAT WAS FOR SECURITY PURPOSES?

10 A YES, THAT'S A CONDITIONAL ASSIGNMENT, BUT JUST
11 TALKING ABOUT ASSIGNMENTS I JUST DIDN'T WANT TO FORGET
12 THAT.

13 THE COURT: WE'VE BEEN GOING TWO HOURS. I'M SURE
14 THAT SOME PEOPLE NEED A BATHROOM BREAK. LET'S TAKE 15
15 MINUTES. I AM GOING TO GO UNTIL ABOUT 1 O'CLOCK, AND
16 WE'LL TAKE OUR LUNCH BREAK UNLESS THAT'S A PROBLEM WITH
17 ANYBODY. IS THAT OKAY WITH EVERYBODY? LET'S TAKE 15
18 MINUTES. IT IS 12 O'CLOCK.

19 (WHEREUPON, A BREAK WAS TAKEN.)

20 THE COURT: MR. MEDLIN?

21 MR. MEDLIN: THANK YOU, YOUR HONOR.

22 Q MRS. POPE, THANK YOU. WE WERE TALKING EARLIER ABOUT
23 THE TERMINATION RIGHT AND YOU SAID THAT YOU HAD VALUED THE
24 ESTATE AT \$84 MILLION APPROXIMATELY. THE TERMINATION
25 RIGHTS, I ASSUME, ARE INCLUDED IN THAT VALUE?

1 A WE BUNDLED IT ALL TOGETHER.

2 Q SO, RIGHTS THAT PASS UNDER THE WILL YOU ASSUME WOULD
3 BE PROBATE ASSETS?

4 A NO. WE DID NOT MAKE THAT ASSUMPTION. WE NOW BELIEVE
5 HAVING LOOKED MORE CLOSELY AT IT, BUT WE DID NOT MAKE THAT
6 ASSUMPTION IN THE ESTATE TAX RETURN.

7 Q OKAY. SO, DID YOU -- ACTUALLY, WHAT HAD ME CONFUSED
8 BY YOUR TESTIMONY IS YOU TOLD ME ABOUT A YEAR AGO AS I
9 RECALL THAT THE TERMINATION RIGHTS BELONG TO THE STATUTORY
10 HEIRS AND THEN YOU FOUND THIS ARTICLE AND YOU FOUND THAT
11 THE LAW CHANGED IN 2002. THAT HAPPENED AFTER THE ESTATE
12 TAX RETURN?

13 A MR. MEDLIN, I DON'T RECALL TELLING -- I CERTAINLY A
14 YEAR AGO WOULD NOT HAVE TRIED TO SCHOOL YOU ON THE
15 TERMINATION RIGHTS, YOU KNOW. I HAD JUST BARELY HEARD OF
16 THEM A YEAR AGO.

17 Q DID YOU KNOW ABOUT THE TERMINATION RIGHTS BELONGING
18 TO THE ESTATE BEFORE OR AFTER YOU FILED THE ESTATE TAX
19 RETURN?

20 A WE KNEW ABOUT THEM. WE KNEW ABOUT THEM -- SOMETHING
21 ABOUT THEM.

22 Q DID THAT SOMETHING INCLUDE KNOWING THAT THE RIGHTS --
23 THE TERMINATION RIGHTS -- PASSED UNDER THE WILL?

24 A WE WERE NOT THAT SPECIFIC. I MEAN, WE JUST DIDN'T --
25 I'M SORRY, WE DIDN'T THINK OF IT THAT WAY. WE LOOKED AT

1 THE INFORMATION WE HAD AVAILABLE WHICH WAS THE GRAHAM
2 WINDSOR STUFF AND THE VALUATION BY THE FORMER P.R.
3 TRUSTEES AND THE OTHER SORT OF THINGS WE KNEW ABOUT. I'LL
4 JUST HAVE TO TELL YOU WE WEREN'T THAT SPECIFIC. AS I HAVE
5 BEEN LEARNING ABOUT COPYRIGHT MATTERS ALL ALONG I CAN'T
6 TELL YOU WHAT I KNEW ON SEPTEMBER 25. I MEAN, I MIGHT
7 COULD GO BACK AND FIGURE IT, BUT I CAN'T SAY FOR SURE.

8 Q FAIR ENOUGH. THANK YOU. YOU ARE EXPLORING MARKETING
9 THE ESTATE, IF THAT'S A CORRECT WORD?

10 A EXPLORING IS CORRECT. MARKETING THE ESTATE IS NOT
11 CORRECT.

12 Q HAVE YOU SUGGESTED A RIGHT -- THE POSSIBILITY OF A
13 RIGHT OF FIRST OFFER WITH THE GRAHAM WINDSOR GROUP?

14 A YEA, AND IF I COULD EXPLAIN THAT TO YOU.

15 Q WELL, THAT WAS JUST A PREDICATE TO MY QUESTION, BUT
16 IF YOU FEEL YOU NEED TO EXPLAIN IT, MRS. POPE --

17 A WELL...

18 Q -- I'LL GET TO THE QUESTION WHEN YOU'RE THROUGH
19 EXPLAINING.

20 A OKAY.

21 THE COURT: ASK YOUR QUESTION.

22 Q THE TERMINATION RIGHTS ARE INCLUDED IN THAT MARKETING
23 AS WELL. WE'RE TALKING ABOUT A ROLL-UP POSSIBLY OF THE
24 ESTATE -- ALL OF THE RIGHTS BEING MARKETED?

25 A WELL, LET ME JUST SORT OF TELL YOU WHAT WE'RE

1 THINKING ABOUT. AS YOU WILL RECALL IN APPROXIMATELY MARCH
2 OR APRIL OF 2008 LIKE THREE DAYS BEFORE A HEARING -- I
3 THINK IT MIGHT HAVE BEEN MARCH 27 OF 2008 -- WE RECEIVED
4 FROM THE GRAHAM WINDSOR GROUP A LETTER OF INTENT. AT THE
5 SAME TIME WE RECEIVED -- WELL, NOT -- YES, TWO LETTERS OF
6 INTENT. ONE WAS TO BUY SOME TANGIBLE PERSONAL PROPERTY.
7 THE SECOND ONE WAS TO BUY THE ROYALTIES, IMAGE, AND
8 PERSONA, SHALL WE CALL IT.

9 THOSE LETTERS OF INTENT WERE NOT BINDING ON ANYBODY,
10 BUT THEY ASKED THAT THE ESTATE BE BOUND UNDER CERTAIN
11 CONDITIONS. THEY -- THEY HAD LIKE A FOUR-DAY EXPIRATION
12 DATE, AND WE AT THAT TIME RESPONDED THAT, YOU KNOW, A, WE
13 DIDN'T HAVE TIME TO THINK ABOUT IT AND LOTS OF OTHER
14 THINGS. THROUGHOUT 2008 BECAUSE OF THE PENDING PULLMAN
15 LITIGATION WHICH IS STILL PENDING AND WE CAN TALK ABOUT
16 THAT IF YOU WANT TO AND FOR OTHER REASONS WE FELT THAT IT
17 WAS IMPROVIDENT TO EVEN CONSIDER THE POSSIBILITY OF A SALE
18 OF WHAT WE'LL CALL THE MAJOR ASSETS, THE ROYALTIES, IMAGE,
19 AND PERSONA AND THAT THE ESTATE WAS -- THE ESTATE AND
20 TRUST WERE ENTIRELY UNSTABLE. THE WILL -- THE FOUR
21 SEPARATE WILL AND TRUST CONTESTS HAD BEEN FILED. OUR
22 AUTHORITY WAS BEING CHALLENGED BY MR. CANNON AND DALLAS
23 AND BRADLEY.

24 IN MAY THE COURT WAS ISSUING ORDERS ABOUT THAT PEOPLE
25 THOUGHT AFFECTED THE CHRISTIE'S SALE. WE WERE OUT OF

1 MONEY. THERE WERE JUST ALL SORTS OF REASONS -- LARGELY,
2 THE PULLMAN THING THAT MADE US THINK THAT THAT WAS NOT THE
3 TIME TO CONSIDER A SALE AND PLUS THE ONLY OFFER OR EVEN
4 LIKE CLOSE TO OFFER THAT CAME ALONG WAS THIS LETTER OF
5 INTENT FROM THE GRAHAM WINDSOR GROUP.

6 SO, WHEN WE MET ON JANUARY 2 EVEN MR. BUCHANAN AND I
7 DETERMINED FOR A NUMBER OF REASONS THAT IN THE YEAR 2009
8 IT WOULD BE APPROPRIATE TO BEGIN TO EXPLORE THE ISSUE --
9 TWO IMPORTANT ISSUES. IS IT IN THE BEST INTEREST OF
10 MR. BROWN'S ESTATE AND TRUST TO CONSIDER A SALE, ONE, AND,
11 TWO, IF SO, WHAT IS THE PRICE, AND OUR DECISION THAT 2009
12 WAS THE APPROPRIATE YEAR TO DO THAT RESTED ON A NUMBER OF
13 FACTORS INCLUDING THAT WE HAD AN INTERN TO HELP US -- A
14 FREE INTERN -- THAT PART OF THE PULLMAN MATTER HAD BEEN
15 RESOLVED IN THE COURT HERE AND THE OTHER PART OF THE
16 PULLMAN MATTER WAS GOING FAIRLY WELL IN THE NEW YORK
17 COURTS AND THAT WAS HUGE.

18 SO, WE WERE AT A POINT THAT IF A SALE WERE TO BE THE
19 BEST ROUTE TO FOLLOW THAT WE WOULD BE AT A POINT WHERE WE
20 MIGHT COULD NEGOTIATE WITH PULLMAN ON A MUCH MORE
21 FAVORABLE BASIS THAN WE HAD IN THE PAST BECAUSE OF THE
22 SUCCESSES WE HAD IN BOTH COURTS, AND THE PULLMAN THING
23 THAT CAUSED THE ORIGINAL GREENBERG TRAUIG LAWSUIT HAD
24 BEEN A HUGE FACTOR. IT WAS SO MUCH LESS OF A FACTOR IN
25 EARLY 2009.

1 SO, OUR INTENTION -- OUR LAST CONVERSATIONS WITH
2 MR. COX HAD BEEN TO THE EFFECT THAT, YOU KNOW, SORT OF LET
3 US KNOW IF YOU'RE EVER INTERESTED. SO, THAT WAS THE
4 REASON FOR RE-UPING -- I MEAN, IT WAS JUST A PASSING
5 CONVERSATION TO SEE IF HE REMAINED INTERESTED, AND FROM
6 THAT CONVERSATION THAT HE DID REMAIN INTERESTED WE WORKED
7 ON THE NOTION OF A RIGHT OF FIRST OFFER WHICH, AGAIN, WE
8 THOUGHT HAD TREMENDOUS BENEFITS FOR THE ESTATE AND TRUST
9 AND NO DOWNSIDE, AND, SO, THAT WAS -- 2009 WAS THE YEAR OF
10 DUE DILIGENCE TO DETERMINE WITH A CHARITABLE REGIME OR AT
11 LEAST A LARGELY CHARITABLE REGIME WHETHER THAT WAS BEST.

12 Q MRS. POPE, WHEN YOU STATED THAT YOU CONSIDERED A
13 NUMBER OF FACTORS TO DECIDE IN 2009, WAS IT JUST TO
14 CONSIDER WHAT YOU'RE CONSIDERING?

15 A RIGHT.

16 Q DID YOU TAKE THE GENERAL STATE OF THE ECONOMY INTO
17 ACCOUNT AS ONE OF THE FACTORS?

18 A I WOULD SAY LESS SO FOR THIS REASON. IT WAS TIME TO
19 DO SOME DUE DILIGENCE. OF COURSE, THE ECONOMY WOULD BE A
20 FACTOR. I MEAN, EVERYBODY WAS DOWN 34 TO 40 PERCENT FROM
21 THE YEAR BEFORE. SO, OF COURSE, IT WAS A FACTOR, BUT FOR
22 US IT WAS TIME FOR DUE DILIGENCE ANYWAY. IT MIGHT NOT BE
23 TIME FOR A SALE AND THAT'S WHY WE DIDN'T WANT TO WRITE A
24 FIRST OFFER, BUT IT WAS CERTAINLY TIME FOR DUE DILIGENCE.

25 Q WOULD YOU SELL THE ESTATE IN WHATEVER FORM BECAUSE I

1 AM NOT SURE I GOT AN ANSWER TO MY PREVIOUS QUESTION BUT IN
2 WHATEVER FORM YOU WANT TO SELL IT WITHOUT THE APPROVAL OF
3 THE ATTORNEY GENERAL?

4 A ABSOLUTELY NOT. NO, NO, NO. IN FACT, WE WANT --
5 THAT'S WHY WE WANT SOMEBODY ELSE TO MANAGE THIS BECAUSE
6 EVERY MOVE WE MAKE IS SO MISUNDERSTOOD.

7 Q WOULD --

8 A NO, NO. WE WANT TO BE THERE TO HELP IN ANY WAY WE
9 CAN. WE WOULDN'T DARE. I MEAN, IT WOULD BE RECKLESS TO
10 ATTEMPT TO HAVE A SALE WHERE THERE WERE ANY REASONABLE --
11 ANY REASONABLE OBJECTIONS AND THAT HAD NOT BEEN WELL
12 VETTED WITH THE COURTS. NO, NO, NO. I MEAN, YOU KNOW, IF
13 HE OBJECTED AND IT WERE UNREASONABLE, MAYBE, BUT THAT'S
14 NOT -- THAT'S NOT SOMETHING WE THOUGHT ABOUT. WE
15 CERTAINLY WANTED EVERYBODY INVOLVED.

16 Q AND --

17 A AND THE CORBUS ISSUE THAT I'D LIKE TO TALK ABOUT IN
18 PRIVATE BECAUSE I HAVE TO.

19 Q AND I ASSUME A SIMILAR ANSWER WITH RESPECT TO THE
20 CHILDREN?

21 A I DON'T -- I DON'T KNOW -- I DON'T -- I THINK IF
22 THERE WERE A RIGHT OF FIRST OFFER WITHIN THE PERIOD OF
23 THAT WE WOULD HAVE SOME MORE ANSWERS.

24 Q BUT IF THE CHILDREN OBJECTED TO THE SALE OF THE
25 ESTATE --

1 A I CAN'T SAY THAT I WOULD -- WE ARE IN AN ENVIRONMENT
2 THAT THE COURT IS PROBABLY GOING TO HAVE TO APPROVE EVERY
3 MAJOR THING. SO, OF COURSE, IF THEY OBJECT YOU'D CONSIDER
4 IT. I'M NOT SAYING IT WOULD BE A STOPPER. I WOULD SAY IF
5 THE ATTORNEY GENERAL WERE FURIOUSLY OPPOSED TO A SALE AND
6 THERE WERE GOOD REASON, THEN THAT WOULD BE -- THAT WOULD
7 BE -- YOU JUST WOULD BE HARD TO MESS WITH THAT. I DON'T
8 FEEL THAT SAME WAY ABOUT OTHERS. I AM NOT SAYING THAT IT
9 WOULDN'T BE IMPORTANT. I MEAN, CONSENSUS IS IMPORTANT IF
10 YOU CAN GET IT.

11 Q AND TO TRACK BACK A LITTLE BIT TO ONE OF MY PREVIOUS
12 QUESTIONS, WOULD THE TERMINATION RIGHTS BE PART OF WHAT
13 WAS SOLD IF THERE WERE A SALE UNDER ALL OF THESE PRUDENT
14 TERMS THAT YOU'VE DESCRIBED?

15 A WELL, YOU KNOW, MR. MEDLIN, I DO THINK THAT THAT IS
16 SOMETHING THAT WOULD BE GOOD TO CONSIDER TO COMPLETELY VET
17 ALL OF THOSE ROYALTIES DURING THIS PERIOD AND DETERMINE IF
18 THERE ARE SOME WHERE THERE ARE TERMINATION RIGHTS THAT
19 MIGHT BE AFFECTED BY THE HEIRS AND IF THERE ARE, TRY TO
20 PUT THEM IN ON THE DEAL. I WOULD THINK THAT WOULD BE
21 APPROPRIATE. SURE.

22 Q BUT THE ONES THAT PASSED TO THE TRUST UNDER THE WILL
23 COULD BE MARKETED NOW?

24 A I'M SORRY?

25 Q THE TERMINATION RIGHTS THAT PASSED UNDER THE WILL TO

1 THE TRUST COULD BE MARKETED NOW. THE TRUST OWNS IT;
2 RIGHT?

3 A WELL, MR. MEDLIN, I WOULDN'T GIVE THAT LEGAL OPINION.
4 I WOULD NOT BE THE ONE WRITING THE OPINION ON THAT. YOU'D
5 NEED ONE. YOU'D NEED AN OPINION, A LEGAL OPINION ON THAT.
6 THAT WOULD BE PART OF THE DUE DILIGENCE PROCESS. I WOULD
7 NOT SIT HERE TODAY AND RENDER A LEGAL OPINION THAT
8 ABSOLUTELY THE ESTATE IS 100 PERCENT OWNED. AS I'VE TOLD
9 YOU, WE'RE ALL WORKING ON IT. WE'RE TRYING TO HAVE A
10 DIALOGUE WITH Y'ALL ABOUT IT.

11 Q WELL, BUT YOU POINTED OUT IN YOUR PREVIOUS TESTIMONY
12 THAT A REAL DEAL-STOPPER TO OUR SETTLEMENT WAS OUR
13 MISUNDERSTANDING ABOUT THE LAW THAT CHANGED IN 2002. SO,
14 THAT RATHER THAN THE RIGHTS PASSED TO THE STATUTORY HEIRS
15 THEY PASSED INSTEAD TO THE CHARITABLE TRUST?

16 A IF YOU WOULD SHOW ME THE CONTEXT IN WHICH I SAID THAT
17 IT MIGHT BE HELPFUL TO ME. I DON'T -- I DON'T MIND -- I
18 MEAN, I DON'T DENY THAT I SAID IT WOULD BE A DEAL-STOPPER.
19 I JUST CAN'T QUITE REMEMBER THE CONTEXT. IT WAS VERY,
20 VERY IMPORTANT TO ME THAT THERE WAS AN INAPPROPRIATE
21 ASSUMPTION OF THE VALUE, BUT I CAN'T -- I CAN'T EXACTLY
22 REMEMBER HOW I SAID IT.

23 Q IF YOU'D LOOK AT PAGE 171 OF THE TRANSCRIPT.

24 A SURE, SURE. YEA, THAT MIGHT HELP ME REMEMBER.

25 Q IF WE COULD WHEN WE GET THROUGH WITH MRS. POPE WE'LL

1 MARKET THAT FOR IDENTIFICATIONS PURPOSES, PLEASE.

2 A 171. LET'S SEE. I WILL TELL YOU THAT WHAT REALLY
3 SPURRED MY INVESTIGATION WAS A SENTENCE IN THE PURPORTED
4 SETTLEMENT THAT SUGGESTS THAT THE FEDERAL COPYRIGHT LAWS
5 OF THE HEIRS, WHOEVER THEY MAY BE, COULD BE AS LARGE AS
6 MR. BROWN'S ESTATE. I THINK THAT STATEMENT IS SO FAR OFF
7 THE MARK AS TO BE A DEAL-STOPPER. YES, I MEAN, I DON'T
8 DISAGREE WITH THAT STATEMENT. YES, I AGREE.

9 THE ASSUMPTION THAT THOSE RIGHTS AS OWNED BY THE
10 PEOPLE WHO WERE THE PARTIES TO THE AGREEMENT HAD A VALUE
11 CLOSE TO MR. BROWN'S ESTATE AND TRUST, I THINK, YOU KNOW
12 -- I THINK THAT WOULD NOT -- THAT IS NOT WITHIN THE RANGE
13 OF REASONABLE ASSUMPTIONS.

14 Q BUT WE WERE WRONG ABOUT THE TERMINATION RIGHTS
15 PASSING TO THE STATUTORY HEIRS AS AS A BASIC MATTER
16 ACCORDING TO YOU?

17 A I'M SORRY?

18 Q WE WERE WRONG IN OUR ASSUMPTION THAT THE STATUTORY
19 HEIRS TOOK THE TERMINATION RIGHTS?

20 A NO, NO.

21 Q INSTEAD THEY PASSED --

22 A NO. I AM NOT SAYING THAT YOU'RE 100 PERCENT WRONG
23 ABOUT THAT. I'M NOT SAYING YOU'RE 100 PERCENT WRONG ABOUT
24 THAT. MR. MEDLIN --

25 Q YOU SAID THAT THE LAW CHANGED IN 2002.

1 A WELL, OF COURSE, IT CHANGED IN 2002.

2 Q WELL, LET'S LOOK AT THAT LAW.

3 A WELL...

4 Q THIS IS THE WESTLAW PRINTOUT OF THE US CODE ANNOTATED
5 17 USCA SECTION 203. IT IS ONE OF THE KINDS OF
6 TERMINATION RIGHTS AND YOU SAY THAT THE TERMINATION RIGHTS
7 PASSED BY WILL BECAUSE OF A CHANGE IN THE LAW IN 2002. I
8 ASSUME, MRS. POPE, YOU'RE REFERRING TO THE LANGUAGE IN
9 LINE THREE OF PARAGRAPH A THAT SAYS, OTHERWISE THAN BY
10 WILL?

11 A WELL, WHAT I AM REALLY REFERRING TO IS PROFESSOR
12 TRITT'S ARTICLE -- LEE-FORD TRITT'S ARTICLE -- AND THAT'S
13 WHERE I LEARNED ABOUT THIS. MR. MEDLIN, I BELIEVE BASED
14 ON HIS ARTICLE THAT THE -- AND, BY THE WAY, I'VE CONFERRED
15 WITH OUR COUNSEL ABOUT THIS, AND I BELIEVE THAT THE
16 TERMINATION RIGHTS OWNED BY MR. BROWN AT HIS DEATH CAN
17 PASS UNDER HIS WILL. YES.

18 Q ALL RIGHT. AND LET ME ASSUME -- IF YOU WOULD, LOOK
19 AT PROFESSOR TRITT'S ARTICLE THAT YOU WERE REFERRING TO
20 THE TEXT AT FOOTNOTE 280 IN THE ARTICLE.

21 A LET'S SEE.

22 MR. MEDLIN: YOUR HONOR, WOULD YOU LIKE A COPY OF ANY
23 OF THIS?

24 THE WITNESS: WELL, YOU KNOW, I CAN'T SAY THAT I WAS
25 REFERRING TO 280, BUT LET'S LOOK AT IT AND SEE.

1 Q FOOTNOTE 280.

2 A YEA. UH-HUH.

3 Q WOULD YOU LIKE FOR ME TO HELP?

4 A NO, NO. IT SAYS 17-203(A). OKAY. SO, LET'S LOOK AT
5 17 --

6 Q I'M LOOKING AT PROFESSOR TRITT'S ARTICLE.

7 A YES, I AM, TOO, AND IT IS SAYING -- ALL RIGHT. I SEE
8 FOOTNOTE 280, BUT LET'S SEE WHERE IT IS IN THE TEXT. JUST
9 GIVE ME A MINUTE, AND WE'LL SEE IF WE CAN FIND IT. BY THE
10 WAY, I TRIED TO CALL HIM AND DIDN'T REACH HIM.

11 Q LAW PROFESSORS MAY HAVE BEEN AT LUNCH.

12 A YEA, THEY'RE HARD TO GET. LET'S SEE. WHERE IS 280?
13 AND I HAVE DISCUSSED THIS WITH RAY GONZALES, OUR ATTORNEY,
14 ALSO. TO ANYONE BY WILL --

15 Q THAT'S THE PARAGRAPH.

16 A RIGHT. WELL, WHAT --

17 THE COURT: HOLD ON. ONE AT THE TIME.

18 A I'M SORRY. ON PAGE 24 PROFESSOR TRITT SAYS, UNIQUE
19 TO THE TERMINATION RIGHTS IS THE ABILITY OF THE AUTHOR TO
20 PASS COPYRIGHT INTEREST TO ANYONE BY WILL WITHOUT THE
21 POSSIBILITY OF HAVING THE BEQUEST BUMPED BY STATUTORY
22 HEIRS. SO, THAT WAS WHAT I WAS RELYING ON MORE THAN THE
23 FOOTNOTE.

24 Q WOULD YOU KEEP READING THE NEXT SENTENCE OF THE NEXT
25 PARAGRAPH?

1 A IN OTHER WORDS, UNLIKE THE RENEWAL SYSTEM THE
2 TERMINATION RIGHTS DO NOT APPLY TO -- ALL RIGHT. IN OTHER
3 WORDS, UNLIKE THE RENEWAL SYSTEM DO NOT APPLY TO TRANSFERS
4 BY WILL. THE ONLY TYPE OF COPYRIGHT TRANSFER THAT CANNOT
5 BE TERMINATED IS ONE THAT DECEASED OR AUTHOR EXECUTED --
6 THE ONLY TYPE OF COPYRIGHT TRANSFER THAT CANNOT BE
7 TERMINATED BY THE AUTHORS IS ONE THAT A DECEASED AUTHOR
8 EXECUTED BY WILL.

9 Q WOULD YOU READ THE NEXT PARAGRAPH?

10 A SIMILAR TO THE RENEWAL RIGHTS THE AUTHOR CANNOT STRIP
11 MEMBERS OF THE STATUTORY CLASS OR ALTER THE SIZE OF THE
12 INTEREST THAT VESTS. IN OTHER WORDS, AUTHOR CANNOT
13 REDISTRIBUTE TERMINATION INTEREST AMONG HER STATUTORY
14 HEIRS. YEA, I THINK WHAT -- I THINK WHAT HE --

15 Q WOULD YOU READ THE NEXT SENTENCE, PLEASE, MRS. POPE?

16 A YEA. AS A RESULT AN INTERVIVOS ASSIGNMENT EVEN A
17 DONATIVE ASSIGNMENT THAT AN AUTHOR MAKES CAN BE TERMINATED
18 BY HER STATUTORY HEIRS IF THE AUTHOR DOES NOT LIVE LONG
19 ENOUGH TO EXERCISE OR IGNORE THE TERMINATION RIGHTS. YES.

20 Q THAT SEEMS TO NOT EXACTLY COMPLY WITH WHAT YOU
21 TESTIFIED TO.

22 A WELL, THAT -- WELL, IT DOES. IT SEEMS TO ME TO BE
23 CORRECT. I MEAN, THAT'S MY UNDERSTANDING OF WHAT HE IS
24 SAYING, AND I DID DISCUSS IT WITH MR. GONZALES, AND HE
25 JUST SAID, YOU KNOW, JUST KEEP LOOKING. THESE ARE NEW.

1 THERE ARE NO -- THERE AREN'T CASES. SEE WHAT YOU THINK.

2 Q BECAUSE THE LAW CHANGED IN 2002?

3 A WELL, YOU KNOW, AGAIN, PROFESSOR MEDLIN, I BELIEVE
4 THAT MY UNDERSTANDING FROM PROFESSOR LEE-FORD TRITT IS
5 THAT THEY CAN BE PASSED BY WILL. THAT IS MY
6 UNDERSTANDING. IF I AM WRONG, RETURN MY CALL AND LET'S
7 TALK ABOUT IT.

8 Q WELL, LET'S TALK ABOUT IT NOW ACTUALLY --

9 A OKAY. THAT'S FINE.

10 Q -- SINCE YOU SAID THAT WAS A DEAL-STOPPER?

11 A WELL, NO, NO, NO. MR. MEDLIN --

12 Q YES.

13 A NO, NO. THAT WAS THE DEAL-STOPPER BEFORE I DID THE
14 NUMBERS. JUST SO WE'LL BE CLEAR, I HADN'T DONE THE
15 NUMBERS WHEN I PUT ON THE STAND ON THE 30TH. THE NUMBERS
16 ARE THE DEAL-STOPPER. GIVING 65 PERCENT OF THIS ESTATE
17 UNDER THE FACTS AND THE LAW AS THEY EXIST ARE THE
18 DEAL-STOPPERS.

19 Q WELL AND --

20 A SO, THIS IS NOT -- DON'T THINK FOR A MOMENT THAT THE
21 COPYRIGHT TERMINATION RIGHTS ARE THE ONLY MATERIAL ISSUE.
22 THE MATERIAL ISSUE IS GIVING 65 PERCENT OF THIS ESTATE AND
23 NOT EVEN HAVING SUMMARY JUDGMENT ON A SEVEN-YEAR-OLD TRUST
24 THAT WAS NEVER CONTESTED AND THAT MR. BROWN KILLED HIMSELF
25 TO GET EVERYBODY TO FIND OUT ABOUT AND TALKED ABOUT AND

1 TWO VALID WILLS -- THOSE ARE THE DEAL-STOPPERS,
2 MR. MEDLIN. THIS IS A VERY IMPORTANT DETAIL. IT'S NOT A
3 DEAL-STOPPER. THE NOTION --

4 Q THEN WHEN YOU TESTIFIED --

5 THE COURT: WHOA, WHOA.

6 MR. NICHOLSON: I'M SORRY, YOUR HONOR.

7 THE COURT: GO AHEAD, MRS. POPE.

8 Q PLEASE, MRS. POPE, CONTINUE.

9 A I WAS BEING ASKED ABOUT DUE DILIGENCE THAT DAY. DUE
10 DILIGENCE -- NOT THE NUMBERS ON THE SETTLEMENT BECAUSE AS
11 YOU WILL RECALL THERE WAS JUST A NEW SETTLEMENT BEING
12 REACHED THAT VERY MORNING OUT IN THE HALL THAT WE KNEW
13 NOTHING ABOUT. SO, I WASN'T ASKED TO ANALYZE THE NUMBERS.
14 I WAS ASKED TO TALK ABOUT THE LACK OF DUE DILIGENCE, AND
15 MY UNDERSTANDING OF WHAT THIS SAYS WOULD HAVE BEEN A
16 DEAL-STOPPER JUST TO DO DUE DILIGENCE, AND, SO, THAT WAS
17 THE CONTEXT OF THAT STATEMENT.

18 Q I SEE. AND --

19 A RIGHT.

20 Q -- SO --

21 A AND NOW HAVING DONE --

22 Q -- THE EXPLANATION --

23 A -- THE NUMBERS -- HAVING DONE THE NUMBERS AND SEEN
24 HOW BAD IT IS, THIS IS, UNFORTUNATELY, A DETAIL.

25 Q IT'S SHRUNK FROM A DEAL-STOPPER IN YOUR TESTIMONY OF

1 JANUARY 30 TO A DETAIL AT THIS POINT?

2 A WELL, DEAL-STOPPER MEANS STOP AND DO SOME DUE
3 DILIGENCE ABOUT IT. THAT'S WHAT DEAL-STOPPER IN HAVE YOU
4 DONE DUE DILIGENCE MEANS.

5 Q I UNDERSTAND EXACTLY WHAT I BELIEVE YOU'RE SAYING,
6 MRS. POPE --

7 A YES.

8 Q -- AND AS I RECALL THAT'S IN THE CONTEXT OF A RATHER
9 LENGTHY EXPLANATION FROM YOU ABOUT WHY YOU DISAGREED WITH
10 THE SETTLEMENT AS PROPOSED.

11 A BECAUSE THERE WAS NO DUE DILIGENCE ON ANY OF THESE
12 CRITICAL ISSUES.

13 Q WELL --

14 A AND THEN I DIDN'T HAVE THE NUMBERS COMPLETE.

15 Q ALL RIGHT.

16 A THEN.

17 Q LET'S TALK ABOUT THAT DUE DILIGENCE, MRS. POPE. HAVE
18 YOU HEARD OF PROFESSOR ANN BARTOW?

19 A HUH-UH, DON'T KNOW HER.

20 Q IF YOU WANT TO LOOK IN FOOTNOTE 279 IN THE TRITT
21 ARTICLE WHICH IS JUST BEFORE FOOTNOTE 280, SHE --

22 A UH-HUH.

23 Q -- IS THE AUTHOR CITED ACTUALLY SEVERAL TIMES BY
24 PROFESSOR TRITT.

25 A UH-HUH.

1 Q SO, YOU DID NOT KNOW THAT PROFESSOR BARTOW WHO IS A
2 COLLEAGUE OF MINE ON THE FACULTY AND WHO IS
3 INTERNATIONALLY RENOWNED -- SHE SPEAKS AT CONFERENCES IN
4 INDIA AND GERMANY AND FINLAND ON COPYRIGHT ISSUES -- YOU
5 DON'T KNOW ABOUT HER?

6 A NO.

7 Q OKAY. MAY I SHOW YOU AN ARTICLE THAT SHE WROTE WHICH
8 IS PART OF WHAT PROFESSOR TRITT REFERRED TO?

9 A YOU KNOW, YOU'RE WELCOME TO SHOW ME AN ARTICLE. I
10 WISH YOU HAD SHOWN IT TO ME FOUR MONTHS AGO, BUT, SURE.

11 MR. MEDLIN: YOUR HONOR, IF I MAY, WHEN WE GET ALL OF
12 THIS DONE IF I COULD GET THIS MARKED FOR EVIDENCE.

13 THE WITNESS: THIS IS AN ARTICLE FROM THE FALL OF
14 2001?

15 Q CORRECT.

16 A OCTOBER.

17 Q SO, NOW, IF YOU DON'T MIND IF YOU WOULD TURN TO PAGE
18 10.

19 A UH-HUH. OKAY.

20 Q AND IF YOU WILL CONFIRM AS I READ THESE EXAMPLES FROM
21 HER ARTICLE THAT THESE ARE THE WORDS ON THE PAGE.

22 STARTING FROM THE THIRD PARAGRAPH FROM THE BOTTOM, THE
23 ANTEPENULT PARAGRAPH, SHE GIVES SEVERAL EXAMPLES OF HOW
24 TERMINATION RIGHTS OPERATE.

25 A BUT, PROFESSOR, WAS THIS WRITTEN BEFORE THE CHANGES

1 IN THE LAW? I BELIEVE --

2 Q IT WAS, MRS. POPE, BUT --

3 A I THINK THIS SAYS 2001, DOESN'T IT?

4 THE COURT: WAIT A MINUTE, NOW.

5 Q MAY I ASK THE QUESTION AND THEN YOU CAN TELL ME WHAT
6 YOU FIND WRONG WITH MY QUESTION?

7 A I DON'T -- YOU KNOW, AGAIN...

8 Q IF AN AUTHOR OWNS ALL OF HER COPYRIGHTS AND MAKES AN
9 INTERVIVOS GIFT OF THEM TO A FRIEND OR A CHARITABLE
10 INSTITUTION AND THEN PASSED AWAY HER STATUTORY HEIRS CAN
11 TERMINATE THIS GIFT AND TAKE OWNERSHIP OF THE COPYRIGHTS
12 DURING THE FIVE-YEAR TERMINATION WINDOW. HAD THE AUTHOR
13 HELD ON TO HER COPYRIGHTS DURING HER LIFETIME BUT LEFT
14 THEM TO A FRIEND OR CHARITY IN HER WILL, THE STATUTORY
15 HEIRS COULD NOT UNDO THE GIFT. AGAIN, THE DIFFERENCE
16 BETWEEN HAVING ASSIGNED IT DURING LIFETIME AS MR. BROWN
17 DID TO PUBLISHERS WHICH CREATES THE TERMINATION RIGHT AND
18 NEVER HAD ASSIGNED IT.

19 A I DON'T -- I'M SORRY. I THINK YOU SAID AS -- I DON'T
20 THINK --

21 Q BEAR WITH ME, MRS. POPE. WE'LL KEEP READING. IF AN
22 AUTHOR PERMANENTLY LICENSES OR ASSIGNS --

23 MR. BAILEY: YOUR HONOR, I AM GOING TO OBJECT.

24 THE COURT: HOLD ON. WAIT A MINUTE. MR. BAILEY?

25 MR. BAILEY: YOUR HONOR, AT LEAST GIVE MRS. POPE AN

1 OPPORTUNITY --

2 THE COURT: I'VE BEEN TRYING TO DO THAT.

3 MR. BAILEY: -- TO LOOK AT THE ARTICLE.

4 THE COURT: WELL, IF YOU NEED TO LOOK AT IT,
5 MRS. POPE, I'LL LET HER LOOK AT IT BEFORE YOU ANSWER THE
6 QUESTIONS.

7 THE WITNESS: WELL, I MEAN, YOU KNOW, I AM BEING
8 GIVEN A 31-PAGE ARTICLE THAT I HAVE NEVER BEEN GIVEN
9 BEFORE, NEVER SEEN BEFORE THAT'S DATED THE FALL OF 2001.

10 THE COURT: WELL, WHAT DO YOU WANT TO ASK HER,
11 MR. MEDLIN?

12 MR. MEDLIN: WELL, WHAT I AM TRYING TO SHOW, YOUR
13 HONOR, AND I THINK THIS ARTICLE PROVES THAT --

14 THE COURT: WELL, SHE SAYS --

15 MR. BAILEY: -- AS DOES THE STATUTE THAT WE'RE NOT
16 WRONG ABOUT THE TERMINATION RIGHTS. MRS. POPE IS.

17 THE COURT: WELL, IT'S NOT FAIR, THOUGH, TO CROSS
18 EXAMINE MRS. POPE ON AN ARTICLE THAT -- 31 PAGES ON
19 COPYRIGHT LAW? I MEAN, ALL OF US IN HERE WOULD HAVE A
20 DIFFICULT TIME TRYING TO READ IT AND UNDERSTAND IT WITHIN
21 TWO SECONDS.

22 MR. MEDLIN: THERE ARE ONLY A COUPLE OF EXAMPLES I AM
23 TRYING TO GET IN THE RECORD.

24 THE COURT: ASK THE QUESTION, AND IF SHE FEELS
25 COMFORTABLE IN ANSWERING IT, I WILL LET HER. IF NOT, I'LL

1 GIVE HER OVER LUNCH TO LOOK AT IT.

2 THE WITNESS: WELL, TO START WITH I BELIEVE THAT THIS
3 ARTICLE WAS WRITTEN IN 2001. SO, I DON'T KNOW WHAT EFFECT
4 CHANGES ON THE LAW HAVE ON IT. I BELIEVE THAT MS. --
5 WHAT'S HER NAME?

6 Q BARTOW.

7 A MS. BARTOW WOULD BE BETTER ABLE TO TESTIFY THAN I
8 WOULD ABOUT THIS AND I WOULD LOVE TO TALK TO HER OR, YOU
9 KNOW, I WOULD HAVE LOVED TO HAVE TALKED TO HER.

10 Q WOULD YOU LIKE TO SEE AN OPINION AND AFFIDAVIT FROM
11 HER THAT THE LAW DID NOT CHANGE IN 2002 AND THAT YOU ARE
12 WRONG ABOUT YOUR UNDERSTANDING OF TERMINATION?

13 A SURE. I WOULD LOVE TO SEE THAT. I SURE WISH I HAD
14 SEEN IT TWO DAYS AGO AND THEN -- OR TWO YEARS AGO, BUT,
15 YOU KNOW, IT'S SO -- IT DOESN'T AFFECT THESE TERRIBLE
16 NUMBERS, AND, GOSH, WHY DOESN'T SHE COME AND TELL THE
17 COURT WHAT THE VALUE OF THESE RIGHTS ARE AND TELL THEM
18 WHETHER THESE HEIRS CAN ASSIGN THE RIGHTS OF THEIR OWN
19 CHILDREN WHO ARE NOT PARTIES TO THIS AGREEMENT? THAT
20 WOULD BE A GREAT DISCUSSION FOR US TO HAVE ON THE RECORD.

21 MR. MEDLIN: YOUR HONOR --

22 THE WITNESS: OR IN PRIVATE.

23 THE COURT: HOLD ON.

24 MR. MEDLIN: -- MAY WE ASK HER TO REVIEW THE
25 INDICTMENTS SINCE I WON'T BE UNFAIR --

1 THE WITNESS: WELL, YOUR HONOR, I DON'T THINK I
2 SHOULD BE ASKED TO REVIEW AN AFFIDAVIT.

3 THE COURT: PROFESSOR MEDLIN, IF YOU WANT TO CALL
4 THIS PROFESSOR AND ADD TO THE RECORD, I WILL ALLOW YOU TO
5 DO SO, BUT THAT'S JUST NOT FAIR I DON'T THINK. I WOULDN'T
6 DO IT TO YOU ON SOMETHING THIS COMPLICATED TO HAND HER AN
7 AFFIDAVIT AND OR OPINION OR ARTICLE THAT'S 31 PAGES LONG
8 AND ASK HER TO COMMENT ON IT.

9 MR. MEDLIN: YOUR HONOR, ALL I'M TRYING TO DO IS TO
10 REBUT HER TESTIMONY THAT WE WERE DEAD WRONG AND THAT IT
11 WAS A DEAL-STOPPER ABOUT THE TERMINATION RIGHTS, AND, SO,
12 I HAVE PRODUCED EVIDENCE TO DEMONSTRATE THAT. I AM
13 DELIGHTED FOR MRS. POPE TO TAKE A LOOK AT ALL OF THAT AND
14 TO RESPOND TO IT WHEN SHE'S HAD PROPER TIME, BUT I WOULD
15 LIKE TO INTRODUCE ALL OF THOSE DOCUMENTS INTO EVIDENCE.

16 THE COURT: WELL, I AM NOT SURE YOU CAN INTRODUCE AN
17 AFFIDAVIT. WE'LL SEE. IT'S NOT SUBJECT TO CROSS
18 EXAMINATION, IF NOTHING ELSE.

19 MR. MEDLIN: WELL, BUT, YOUR HONOR, I WOULD ASK --
20 MRS. POPE IS A FIDUCIARY. ISN'T SHE INTERESTED IN
21 LEARNING THE PROPER ANSWER?

22 THE COURT: ARE YOU INTERESTED IN LEARNING WHAT HE
23 SAYS IS THE PROPER ANSWER?

24 THE WITNESS: I AM NOT INTERESTED IN LEARNING IT ON
25 THE STAND. I WOULD BE VERY INTERESTED IN HAVING A

1 DIALOGUE ABOUT IT, AND I SEE JUST BY LOOKING AT ONE
2 SENTENCE SHE SAYS, I HAVE NO INFORMATION ABOUT THE ACTUAL
3 COPYRIGHTS AT ISSUE IN THIS DISPUTE -- THE JAMES BROWN
4 MATTER.

5 Q MRS. POPE, WOULD YOU --

6 THE COURT: PROFESSOR MEDLIN, LET'S HOLD IT. I AM
7 NOT GOING TO LET MRS. POPE UP HERE PIT AGAINST YOUR
8 PROFESSOR OR WHOEVER IT MAY BE. IF YOU WANT TO CALL THIS
9 WITNESS TO THE STAND AND INTRODUCE HER OR INTRODUCE HER
10 TESTIMONY AS EVIDENCE AS TO WHETHER OR NOT THIS SETTLEMENT
11 IS FAIR, I'LL ALLOW YOU TO DO THAT, BUT I AM NOT GOING TO
12 PIT WITNESSES AND CATCH MRS. POPE BY AMBUSH THIS MORNING
13 ON SOMETHING SHE'S NEVER SEEN. THAT JUST NOT FAIR TO HER.
14 YOU CAN CROSS EXAMINE HER HOWEVER YOU WANT TO, BUT I AM
15 NOT GOING TO -- I AM NOT GOING TO SUBJECT HER TO QUESTIONS
16 ON SOMETHING THIS COMPLICATED WITH ABSOLUTELY NO TIME TO
17 REVIEW IT. THAT'S JUST NOT FAIR TO HER.

18 MR. MEDLIN: YOUR HONOR, I APPRECIATE THAT, AND,
19 AGAIN, MY ONLY PURPOSE WAS SHE VOLUNTARILY TESTIFIED ABOUT
20 THIS ON JANUARY 30.

21 THE COURT: VERY WELL. MOVE ALONG.

22 MR. MEDLIN: WELL, MAY I ASK IF WE CAN INTRODUCE INTO
23 THE RECORD THE --

24 THE COURT: YOU DON'T HAVE ASK HER. ASK ME.

25 MR. MEDLIN: I AM ASKING YOU, YOUR HONOR. THE

1 STATUTES THAT I'D LIKE TO HAND UP WHICH ARE THE CURRENT
2 APPLICABLE STATUTE 17 USCA SECTIONS 203 AND 304.

3 THE COURT: YOU CERTAINLY MAY INTRODUCE THE STATUTE.

4 MR. MEDLIN: ALSO, THE LAW REVIEW ARTICLES BOTH BY
5 MS. TRITT WHICH MRS. POPE REFERRED TO IN HER TESTIMONY AND
6 MS. BARTOW AND I'D LIKE TO ASK THE JUDGE TO CONSIDER AS
7 INTRODUCTION INTO EVIDENCE EITHER THE AFFIDAVIT OR THE
8 OPINION THAT MS. BARTOW HAS DONE WITH THE UNDERSTANDING
9 THAT WE'RE TALKING WITH FIDUCIARIES HERE AS WITNESSES AND
10 WE REALLY BELIEVE THAT IT IS PART OF THEIR JOB TO GET THE
11 LAW RIGHT WHEN THEY'RE DECIDING WHETHER TO OBJECT TO A
12 SETTLEMENT AND, YOUR HONOR, WITH LEAVE PERHAPS TO CONNECT
13 IT UP IN OTHER WAYS LATER.

14 THE COURT: ANY OBJECTION?

15 MS. HAYES: YOUR HONOR, PRESUMABLY THE SETTLING
16 PARTIES ARE WITHDRAWING THEIR OBJECTIONS TO OUR
17 INTRODUCTION OF AFFIDAVITS, AND, IF NOT, WE DON'T
18 NECESSARILY HAVE AN OBJECTION TO THE AFFIDAVIT ITSELF --

19 THE COURT: MA'AM, ARE YOU OBJECTING TO THIS
20 AFFIDAVIT, TO THIS STATUTE, AND TO THIS OPINION? THAT'S
21 ALL I'M ASKING.

22 MS. HAYES: WE DON'T HAVE AN OBJECTION TO THE
23 INTRODUCTION OF THE AFFIDAVIT, BUT MRS. POPE'S
24 AFFIDAVITS -- SHE'S HERE SUBJECT TO CROSS EXAMINATION.
25 HOWEVER, THE PROFESSOR WHO SUBMITTED THIS AFFIDAVIT IS

1 NOT.

2 THE COURT: ARE YOU OBJECTING, MA'AM?

3 MS. HAYES: TO THIS WITNESS' AFFIDAVIT, YES, YOUR
4 HONOR.

5 THE COURT: WHAT IS YOUR OBJECTION?

6 MS. HAYES: THE FACT THAT THAT WITNESS IS NOT HERE
7 FOR CROSS EXAMINATION, WHEREAS MRS. POPE AND MR. BUCHANAN
8 HAVE BEEN MADE AVAILABLE FOR CROSS EXAMINATION AND THAT'S
9 WHY WE SUBMITTED HER AFFIDAVITS.

10 THE COURT: ALL RIGHT. GET HER HERE TOMORROW OR
11 FRIDAY.

12 MR. MEDLIN: YOUR HONOR, MS. BARTOW IS ATTENDING A
13 CONFERENCE TOMORROW AND FRIDAY IN BALTIMORE.

14 THE COURT: VERY WELL. IS SHE AVAILABLE FOR A
15 DEPOSITION NEXT WEEK OR IF I RECONVENE THE HEARING NEXT
16 WEEK OR A WEEK LATER?

17 MR. MEDLIN: WELL, YOUR HONOR, IF YOU FEEL THAT
18 NECESSARY TO DO SO, BUT WHAT WE'D LIKE TO DO IS --

19 THE COURT: WELL --

20 MR. MEDLIN: -- WITHDRAW THE AFFIDAVIT AT THIS POINT
21 AND THEN WE MAY SEE IF THERE IS SOME OTHER WAY TO GET IT
22 IN --

23 THE COURT: VERY WELL.

24 MR. MEDLIN: -- INCLUDING HAVING MS. BARTOW TESTIFY.

25 THE COURT: THE AFFIDAVIT WILL NOT COME IN AT

1 PRESENT, NEITHER WILL HER OPINION -- HOWEVER, THE STATUTE
2 WILL. MOVE ALONG.

3 Q MRS. POPE, IF YOU ARE WRONG ABOUT THE TERMINATION
4 RIGHTS AND THEY DO, IN FACT, PASS TO THE STATUTORY HEIRS,
5 WHO EVER THEY MAY BE --

6 A UH-HUH.

7 Q -- THEN, IN FACT, TAKING RECEIPTS FROM WHATEVER IS
8 RETURNED FROM THE TERMINATION RIGHTS AND DONATING THEM TO
9 THE SETTLEMENT ENTITY WOULD ACTUALLY BE GIVING THE
10 ATTORNEY GENERAL THE CHARITY -- SOMETHING THAT OTHERWISE
11 IT COULD NOT HAVE?

12 A WELL, I'M NOT SURE I AGREE WITH THAT FOR THIS REASON.
13 FIRST OF ALL, WE HAVEN'T DETERMINED WHO THE HEIRS ARE AND
14 THAT IS VERY IMPORTANT AS YOU KNOW AND THAT IF A SPOUSE IS
15 NOT AN HEIR -- IF THERE IS NO SPOUSE, THEN, IN ORDER --
16 AND I BELIEVE THE PROFESSORS WILL NOT DISPUTE ME ON THIS.
17 YOU MUST HAVE A MAJORITY OF THE HEIRS AND WE KNOW THAT
18 THERE MAY BE 13 OF THOSE OF MR. BROWN'S AND THOSE ARE THE
19 HEIRS THAT HAVE TO BE IN EXISTENCE AT THE TIME THE RIGHTS
20 ACCRUED. THEY CAN'T BE THE HEIRS TODAY OR THE HEIRS THE
21 DAY HE DIED, AND WE CAN DISCUSS THIS WITH MS. BARTOW, BUT
22 MY UNDERSTANDING OF THAT IS -- AND, AGAIN, SUBJECT TO HER
23 ADJUSTMENT -- IS THAT THOSE HEIRS MAY BE UNABLE TO ASSIGN
24 THEIR RIGHTS AHEAD OF TIME.

25 AGAIN, SHE MAY SAY DIFFERENTLY. I'D LIKE TO HEAR

1 FROM HER. MAYBE WE CAN TALK BEFORE THEN BECAUSE I WOULD
2 LOVE TO TALK TO HER, BUT THAT WAS KIND OF MY UNDERSTANDING
3 THAT THEY -- THEY CANNOT -- FOR EXAMPLE, MR. BROWN'S SONGS
4 THAT WILL COME DUE FOR TERMINATION IN 2025 -- THAT IT'S
5 NOT POSSIBLE TO ASSIGN THE RIGHT -- THE RIGHT TO EXERCISE
6 THE TERMINATION RIGHTS. I AM NOT SURE ABOUT THAT. IT ALL
7 BEARS STUDYING, BUT MAYBE YOU KNOW THE ANSWER.

8 Q MRS. POPE, IF THE RIGHTS PASS TO STATUTORY HEIRS, THE
9 ONLY WAY THE CHARITY WILL GET THOSE RIGHTS IS IF SOMEONE
10 DONATES THOSE RIGHTS TO THE CHARITY. IS THAT NOT CORRECT?

11 A AGAIN, I DON'T THINK THE STATUTE SAYS THE RIGHT
12 PASSES TO STATUTORY HEIRS, MR. MEDLIN. I THINK IT SAYS
13 WHEN THOSE RIGHTS ACCRUE YOU DETERMINE WHO THE STATUTORY
14 HEIRS ARE. I DON'T THINK THAT'S WHAT THE STATUTE SAYS,
15 MR. MEDLIN.

16 Q IF YOU ARE WRONG ABOUT THE TERMINATION RIGHTS, WILL
17 THOSE TERMINATION RIGHTS PASS TO THE CHARITY?

18 A WAIT A MINUTE. IF I AM WRONG ABOUT THE TERMINATION
19 RIGHTS -- I'M SORRY. I'M NOT SURE I --

20 Q IF YOU ARE WRONG ABOUT THE TERMINATION RIGHTS PASSING
21 BY WILL, WILL THE CHARITY GETS THOSE TERMINATION RIGHTS?

22 A IN THIS SETTLEMENT?

23 Q NO, MRS. POPE, WITHOUT THE SETTLEMENT BECAUSE THAT'S
24 WHAT YOU WANT -- NO SETTLEMENT. IF THERE IS NO SETTLEMENT
25 AND THE TERMINATION RIGHTS DON'T PASS BY WILL, WILL THE

1 CHARITIES GET ANY OF THE TERMINATION RIGHTS?

2 A IF -- IF MR. BROWN CANNOT PASS ANY OF HIS RIGHTS BY
3 WILL IS YOUR QUESTION WILL THE CHARITY OR THE EDUCATION
4 TRUST GET THEM? NO. NO.

5 Q THANK YOU, MRS. POPE.

6 A BUT, YOU KNOW, THEY WON'T MATURE FOR YEARS AND YEARS
7 AND YEARS, MANY OF THEM.

8 Q MRS. POPE, WITHOUT GETTING INTO THE TIMING OF IT -- I
9 THINK WE CAN HAVE THAT ARGUMENT, TOO, BUT WE WON'T DO THAT
10 FOR THE TIMEBEING BECAUSE I THINK WE'VE MADE THE POINT
11 ABOUT THE TERMINATION --

12 THE COURT: PROFESSOR MEDLIN.

13 MR. MEDLIN: -- RIGHTS --

14 THE COURT: PROFESSOR MEDLIN.

15 MR. MEDLIN: I APOLOGIZE.

16 THE COURT: PLEASE QUIT EDITORIALIZING AND ASK
17 QUESTIONS.

18 MR. MEDLIN: I APOLOGIZE, YOUR HONOR.

19 THE COURT: IT IS FUN BEING ABLE TO TELL A PROFESSOR
20 WHAT TO DO.

21 MR. MEDLIN: YOU HAVE TO UNDERSTAND I AM USED TO
22 EDITORIALIZING AND I APOLOGIZE --

23 THE COURT: I UNDERSTAND.

24 MR. MEDLIN: -- AND I DO NOT MEAN TO INSULT THE
25 COURT.

1 THE COURT: YOU'RE NOT INSULTING ME. I JUST WANT YOU
2 TO MOVE ALONG.

3 Q EVEN UNDER PROFESSOR TRITT'S ANALYSIS AS YOU READ IT
4 IF MR. BROWN TRIED TO ASSIGN THOSE TERMINATION RIGHTS TO
5 SOMETHING OTHER THAN WILL -- SAY, TO AN INTERVIVOS TRUST
6 -- THE STATUTORY HEIRS WOULD BE ENTITLED TO THOSE RIGHTS?

7 A I -- THERE SEEMS TO BE AN IMPEDIMENT TO INTERVIVOS
8 TRANSFERS. THAT IS ALL I WANT TO SAY. I AM NOT AN EXPERT
9 ON THIS. I AM LEARNING ABOUT THIS BECAUSE IT'S MY DUTY.
10 THERE SEEMS TO BE AN IMPEDIMENT TO INTERVIVOS TRANSFERS --
11 CERTAIN INTERVIVOS TRANSFERS, NOT ALL AND I HAVEN'T
12 STUDIED THAT ISSUE.

13 Q MRS. POPE, YOU CAN UNDERSTAND OUR CONCERN THAT YOU
14 VOLUNTEERED FROM THE STAND THAT WE WERE WRONG AND IT WAS A
15 DEAL-STOPPER EVEN THOUGH YOU HAVEN'T STUDIED IT, AND, YET,
16 WE BELIEVE WE HAVE AND THAT WE'RE RIGHT. YOU CAN
17 UNDERSTAND OUR CONCERN, COULDN'T YOU?

18 A WELL, MY QUESTION WOULD BE DID YOU STUDY IT BEFORE
19 AUGUST 10 AND WHAT VALUE DID YOU COME UP THEN AND THEN WHY
20 DID YOU SAY IN OCTOBER THAT NOBODY KNOWS THE VALUE? WHAT
21 HAPPENED EITHER BEFORE AUGUST 10 OR BETWEEN AUGUST 10 AND
22 OCTOBER THAT SOMEBODY DIDN'T TRY TO FIGURE OUT THE VALUE?
23 NO. WHERE IS THE DUE DILIGENCE HERE?

24 Q MRS. POPE, WE'RE TALKING SIMPLY ABOUT BEING CORRECT
25 ABOUT THE LAW AND HOW IT OPERATES.

1 A I BELIEVE YOU ARE DEAD WRONG -- THAT THESE RIGHTS
2 WHETHER THEY TERMINATED AT DEATH OR NOT MIGHT HAVE A VALUE
3 GREATER THAN MR. BROWN'S ESTATE AND YOU WILL NEITHER
4 PROFESSOR BARTOW OR PROFESSOR LEE-FORD TRITT NOR ANYONE
5 ELSE EVEN IF THEY'RE WHOLLY OWNED BY THE HEIRS WOULD
6 CHANGE MY MIND ABOUT THAT UNTIL I SEE THE NUMBERS. THOSE
7 ARE THE NUMBERS PEOPLE SHOULD HAVE LOOKED AT WHEN THE
8 SETTLEMENT WAS REACHED OR CERTAINLY BY OCTOBER.

9 Q AND NORMALLY THESE WOULD BE NUMBERS THAT WOULD BE
10 INCLUDED IN AN ESTATE TAX VALUATION BY A FIDUCIARY?

11 A NO, NOT NECESSARILY. THAT'S NOT TRUE. THAT'S NOT
12 TRUE.

13 Q HOW DOES A FIDUCIARY DETERMINE VALUE FOR ESTATE TAX
14 RETURN PURPOSES?

15 A WILLING BUYER, WILLING SELLER. WHAT WE HAD WAS
16 OFFERS OR NEAR OFFERS OR LETTERS OF INTENT FROM WILLING
17 BUYERS TO BUY THAT WHOLE BUNDLE WHATEVER IT WAS, AND THAT
18 WHOLE BUNDLE, WHATEVER IT WAS, WAS NOT BROKEN DOWN. SO,
19 NO, I AM NOT APOLOGETIC ABOUT THE WAY THE ESTATE TAX
20 RETURN WAS PREPARED -- NOT A BIT AND, PARTICULARLY, SINCE
21 YOU WOULDN'T HELP WITH IT OR MR. CARTER -- NOT APOLOGETIC
22 EVEN SLIGHTLY ABOUT THAT.

23 Q IN FACT, MRS. POPE, WHEN YOU PREPARED THE ESTATE TAX
24 RETURN DIDN'T YOU RELY ON THE ASSERTIONS BY
25 MESSRS. DALLAS, BRADLEY AND CANNON STATING IN A COMMENT TO

1 THE RETURN THAT ALTHOUGH THESE GENTLEMEN CAN'T BE TRUSTED
2 THEY CAN BE TRUSTED FOR THIS ISSUE?

3 A DID -- THE GIST OF THAT WAS THAT THE -- THE FORMER
4 P.R.'S AND TRUSTEES -- PARTICULARLY, MR. CANNON -- HAD
5 BEEN SUBSTANTIALLY DISCREDITED. HOWEVER, TO SUGGEST THAT
6 MR. CANNON KNEW NOTHING ABOUT MR. BROWN'S FINANCES WAS
7 INCORRECT. IN MANY WAYS MR. CANNON WAS A SOURCE OF
8 IMPORTANT INFORMATION TO US, AND YOU DON'T HAVE TO BE
9 CREDIBLE TO BE A SOURCE OF IMPORTANT INFORMATION. SO,
10 AGAIN, WE -- AS YOU KNOW, THOUGH, THE NUMBER ON THE
11 INVENTORY WAS NOT MR. CANNON. IT WAS MR. DALLAS AND
12 MR. BRADLEY. WE LOOKED AT ALL OF THE VARIOUS THINGS THAT
13 THERE WERE TO LOOK AT UNDER THIS TIGHT TIMEFRAME AND
14 INCLUDING THE LETTERS OF INTENT, INCLUDING OTHER PEOPLE'S
15 STATEMENTS, FORLANDO BROWN'S STATEMENT THAT WERE
16 150 MILLION-DOLLAR OFFERS OUT THERE IF WE WOULD JUST
17 SETTLE. SO, WE LISTENED AND LOOKED AT WHAT WAS AVAILABLE
18 ON THE 25TH OF SEPTEMBER --

19 Q FOR EDIFICATION --

20 A -- AND THAT'S THE NUMBER WE CAME UP WITH.

21 Q I'M SORRY, MRS. POPE.

22 A AND IT CAN BE FIXED IF IT'S WRONG AND, HOPEFULLY, BY
23 THE NEW SPECIAL ADMINISTRATOR SPECIAL TRUSTEE. IF WE HAVE
24 NOT GOTTEN IT RIGHT, LET'S GET IT RIGHT.

25 Q WHAT INFORMATION DID MR. CANNON GIVE YOU THAT YOU

1 USED IN COMING UP TO THE VALUE ON THE ESTATE TAXES?

2 A WELL, I THINK MR. CANNON GAVE YOU MAKES IT SEEM THAT
3 I WOULD RELY ON A STATEMENT OF MR. CANNON. THAT'S NOT
4 WHAT I'M SAYING. I'M SAYING HE WAS THE HOLDER OF, YOU
5 KNOW, VARIOUS PIECES OF -- NOT THE STATE TAX NUMBER, BUT
6 OTHER PIECES OF INFORMATION.

7 Q AND WHAT INFORMATION DID HE PROVIDE TO YOU OR DID YOU
8 GET FROM HIM OR THROUGH HIM THAT IMPACTED YOUR VALUATION
9 ON THE ESTATE TAX RETURN?

10 A WELL, I MEAN, FOR EXAMPLE, HE WAS THE KEEPER OF THE
11 OLD ROYALTY RECORDS THAT GOT TURNED OVER TO US, THAT SORT
12 OF THING. I AM NOT RELYING ON MR. CANNON'S STATEMENTS BUT
13 THE DOCUMENTS WHICH WERE UNDER HIS CONTROL.

14 Q SURE. AND SO --

15 A I MEAN, NOT ME CHATTING WITH MR. CANNON.

16 Q SO, WHAT INFORMATION DID YOU GET FROM MR. CANNON THAT
17 HELPED ADVISE YOUR DETERMINATION OF THE VALUE ON THE
18 ESTATE TAX RETURN?

19 A WELL, AGAIN, HE WAS THE CUSTODIAN OF THE ROYALTY
20 RECORDS. THAT IS JUST ONE EXAMPLE. I MEAN, YOU KNOW,
21 THEY TURNED OVER A BUNCH OF RECORDS TO US OF ALL KINDS AND
22 THAT WAS PART OF THE MIX OF THE WHOLE -- YOU KNOW, THE
23 WHOLE STATUS OF THE ESTATE.

24 Q WELL, I AM TRYING TO UNDERSTAND, MRS. POPE. DID HE
25 TELL YOU THINGS?

1 A OH, NO. NO, NO.

2 Q DID HE GIVE YOU THINGS IN WRITING? DID HE GIVE YOU
3 BOXES THAT YOU WENT THROUGH AND GLEANED THE INFORMATION?

4 A WELL, YOU KNOW, I'VE TOLD YOU, MR. MEDLIN, THAT WE
5 BASED IT ON THE LETTER OF INTENT, THE GRAHAM WINDSOR
6 NUMBERS FROM JUNE OF '08, THE INVENTORY AND APPRAISEMENT
7 FILED -- NOT BY MR. CANNON, BUT MR. DALLAS AND
8 MR. BRADLEY, AND JUST SORT OF WHAT WE KNEW ABOUT THE
9 HISTORICAL STORY OF THE ROYALTIES. IT WAS NOT PRECISE.
10 IT WAS NOT WONDERFUL. I FELT COMFORTABLE SIGNING IT, AND,
11 YOU KNOW, SO, I FELT ENTIRELY COMFORTABLE SIGNING IT
12 BECAUSE I FELT THAT WE HAD REALLY MADE A GREAT EFFORT
13 UNDER PRETTY HARDSHIP CIRCUMSTANCES TO GET THE RIGHT
14 NUMBER AND I'VE REALLY -- NOBODY HAS SUGGESTED OTHER THAN
15 YOU IN OPEN COURT THAT THE NUMBER WAS OFF.

16 THE COURT: ALL RIGHT. GENTLEMEN, LADIES, IT IS
17 1 O'CLOCK. AS I SAID WE'RE GOING TO BREAK AT ONE.

18 MR. MEDLIN: YOUR HONOR, MAY I INTRODUCE --

19 THE COURT: YOU CAN WHEN WE GET BACK.

20 MR. MEDLIN: THANK YOU.

21 THE COURT: AT 2:15 WE'LL START BACK.

22 MR. LEVENSON: JUDGE, MAY I BE HEARD ON ONE ISSUE,
23 HOUSEKEEPING MATTER? ITEM NUMBER SEVEN ON YOUR AGENDA
24 ALLOWS SUBPOENAS TO GO TO MRS. POPE AND MR. BUCHANAN FOR
25 FINANCIAL RECORDS. THEY HAVE OBJECTED SAYING THAT THE

1 SUBPOENA IS IMPROPER BECAUSE IT'S LESS THAN 10 DAYS AND I
2 HAVEN'T TENDERED THE FEES. CAN I GET AN ORDER FROM THE
3 COURT TO REQUIRE THE FINANCIAL RECORDS TO BE PRODUCED HERE
4 SO THAT I CAN CROSS EXAMINE THEM? I THINK THAT YOUR HONOR
5 WILL SEE THAT THE ISSUE OF ATTORNEY'S FEES AND AMOUNTS
6 PAID OUT BEAR DIRECTLY ON THE QUESTIONS THAT YOUR HONOR
7 WAS ASKING MRS. POPE WITH RESPECT TO THE EXPENSES THAT
8 WILL BE TENDERED UPON THIS ESTATE IF IT'S NOT SETTLED.

9 THE WITNESS: YOUR HONOR, MAY I CORRECT? WE DID NOT
10 SAY WHAT HE SAID WE SAID.

11 THE COURT: I'LL LISTEN TO IT AT 2 O'CLOCK.

12 MR. LEVENSON: THANK YOU.

13 THE COURT: 2:15.

14 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

15 MR. MEDLIN: YOUR HONOR, IF I MAY DIGRESS FOR JUST A
16 MINUTE. TYPICALLY WE HAVE A ROLL CALL TO SEE WHO IS HERE
17 AND WHO IS REPRESENTED BY THE PARTIES. I DIDN'T KNOW IF
18 YOU WANTED TO DO THAT TODAY OR NOT. I DIDN'T ASK. IT'S
19 FINE WITH ME IF YOU DON'T, BUT THAT'S SOMETHING THAT YOU
20 USUALLY THE P.R.'S AND TRUSTEES HAVE ASKED FOR.

21 THE COURT: MR. BAILEY, DO YOU NEED THAT?

22 MR. BAILEY: YES, SIR. I THINK THAT'S A GREAT IDEA.

23 JAMES BAILEY FOR THE PERSONAL REPRESENTATIVES AND TRUSTEES
24 ADELE POPE AND ROBERT BUCHANAN. TRESSA HAYES, CO-COUNSEL.

25 THE COURT: LET'S START WITH MR. ~BYRD, MY FRIEND.

1 MR. BYRD: YES, SIR, YOUR HONOR. WAYNE BYRD ON
2 BEHALF OF MR. BAIL -- EXCUSE ME, JIM -- ON BEHALF OF
3 MR. BRADLEY AND MR. DALLAS.

4 MS. WEST: KAY WEST, YOUR HONOR, FOR GREENBERG
5 TRAURIG AND JOEL KATZ.

6 MR. PICKELSIMER: MAX PICKELSIMER, YOUR HONOR, FOR
7 DAVID CANNON.

8 THE COURT: WHERE IS MR. WARNER?

9 MR. PICKELSIMER: TODAY IS A CHEMO DAY FOR
10 MR. WARNER.

11 THE COURT: TELL HIM I ASKED ABOUT HIM.

12 MR. PICKELSIMER: YES, SIR.

13 MR. BELL: YOUR HONOR, DAVID BELL AND MATT BODMAN FOR
14 TERRY BROWN.

15 THE COURT: MR. WATSON?

16 MR. WATSON: I AM CAL WATSON HERE FOR BOB BUCHANAN IN
17 AN UNRELATED CASE.

18 THE COURT: MR. WILLIAMS?

19 MR. WILLIAMS: DARYL WILLIAMS. I REPRESENT MRS. POPE
20 IN A COLLATERAL MATTER.

21 THE COURT: THANK YOU. PROFESSOR?

22 MR. MEDLIN: ALAN MEDLIN REPRESENTING MS. BROWN.

23 MR. JONES: YOUR HONOR, SONNY JONES WITH THE ATTORNEY
24 GENERAL'S OFFICE. ALSO, I HAVE WITH ME MARY FRANCES
25 JOWERS AND JASON NICHOLSON.

1 MR. SHAHID: GOOD AFTERNOON, YOUR HONOR. PETER
2 SHAHID FOR THE GUARDIAN AD LITEM STEVEN SLOTCHIVER.

3 MR. LEVENSON: LOUIS LEVENSON FOR THE CHILDREN OF
4 JAMES BROWN OTHER THAN TERRY BROWN.

5 MR. ROSEN: ROBERT ROSEN AND DAVID MICHEL ASSISTING
6 LEAD COUNSEL ALAN MEDLIN.

7 MR. KINGSMORE: FRED KINGSMORE REPRESENTING THE
8 COURT-APPOINTED SPECIAL ADMINISTRATOR AND SPECIAL TRUSTEE
9 RUSSELL BAUKNIGHT.

10 MR. MEDLIN: AND YOUR HONOR --

11 THE COURT: WHO ELSE I GOT? ARE YOU A LAWYER BACK
12 THERE? I ASSUME NOT.

13 THE COURT: MR. KINGSMORE?

14 MR. KINGSMORE: YES, SIR?

15 THE COURT: MY LAW CLERK WANTS TO KNOW ARE YOU
16 RECEIVING OUR E-MAILS?

17 MR. KINGSMORE: I AM. THANK YOU VERY MUCH.

18 THE COURT: THAT JUST MAKES MY DAY.

19 MR. KINGSMORE: MINE, TOO, YOUR HONOR.

20 THE COURT: PROFESSOR?

21 MR. MEDLIN: YOUR HONOR, IF I MAY, MR. LEVENSON, DID
22 YOU WANT TO RAISE THE ISSUE BEFORE WE CONTINUE THE CROSS?

23 MR. LEVENSON: IF YOUR HONOR WILL ALLOW ME.

24 THE COURT: MR. LEVENSON, I HAVE NEVER NOT ALLOWED
25 YOU TO DO ANYTHING.

1 MR. LEVENSON: THANK YOU. JUDGE, PURSUANT TO THE
2 SCHEDULE AND AGENDA YOUR HONOR SET WE SENT SUBPOENAS TO
3 MRS. POPE AND MR. BUCHANAN FOR FINANCIAL RECORDS --
4 SPECIFICALLY, CHECKBOOKS, BANK STATEMENTS, AND CHECKS
5 CONSISTENT WITH THE TYPE OF DOCUMENTATION THAT MRS. POPE
6 HAD PROVIDED SHOWING A BALANCE IN THE ACCOUNT AS OF
7 SEPTEMBER 21, 2007 WHICH IS THE LAST SHEET I HAVE AND WE
8 SIMPLY WANTED THAT FOR PURPOSES OF THE VARIOUS EVIDENTIARY
9 HEARINGS TODAY, AND I THINK IT BEARS ON THE QUESTIONS THAT
10 YOUR HONOR AND MR. MEDLIN SO FAR HAVE ASKED REGARDING
11 COSTS TO DATE AND ESTIMATED COSTS HEREAFTER SHOULD THE
12 COURT APPROVE OR DISAPPROVE THE SETTLEMENT AGREEMENT.

13 MRS. POPE HAS OBJECTED IN HER LETTER TO MR. --
14 MRS. POPE WROTE TO ME INDICATING SHE OBJECTED INDICATING
15 THAT SUBPOENAS WERE NOT PROPERLY SERVED AND DON'T COMPLY
16 WITH THE RULES. I ASSUME SHE'S REFERRING TO RULE 45, AND
17 THERE WAS NO PAYMENT ENCLOSED MEANING, I GUESS, THE
18 SUBPOENA FEE AND INDICATING THAT -- HOPING THAT I WOULD
19 NOT ATTEMPT TO FORCE THE TRUST ESTATE TO THE UNNECESSARY
20 EXPENSE OF MOVING TO QUASH THE TWO SUBPOENAS.

21 RULE 45 HAS A PROVISION THAT YOUR HONOR CAN ISSUE AN
22 ORDER TO PROVIDE COMPLIANCE. I DON'T WANT ALL OF THE
23 FINANCIAL RECORDS. I SIMPLY WANT BANK STATEMENTS,
24 CANCELLED CHECKS, AND OR A LEDGER WHICH WOULD BE
25 CONSISTENT WITH THE LEDGER THAT MRS. POPE PROVIDED -- AND

1 I WILL BE HAPPY TO SHOW YOUR HONOR WHAT I'M REFERRING
2 TO -- AND THIS IS ONE OF THE ITEMS THAT YOUR HONOR PUT ON
3 THE AGENDA.

4 MRS. POPE: YOUR HONOR, MAY I PLEASE SPEAK TO THAT
5 BECAUSE MY LAWYER DID NOT --

6 THE COURT: HOLD ON A SECOND. YOU WANT YOUR LAWYER
7 TO SPEAK TO IT OR YOU?

8 MRS. POPE: NO, I WOULD LIKE TO.

9 THE COURT: AS SOON AS MR. LEVENSON FINISHES.

10 MR. LEVENSON: THIS IS WHAT ADELE PROVIDED TO US.
11 THIS IS WHAT WAS PROVIDED TO US ABOUT TRANSACTIONS IN THE
12 ACCOUNT UP TO SEPTEMBER 21, 2007. I'D LIKE TO MARK THIS.

13 THE COURT: I ASSUME THAT YOU JUST WANT IT UPDATED
14 THROUGH TODAY?

15 MR. LEVENSON: YES, SIR, AND, YOU KNOW, I REALIZE SHE
16 WON'T BE ABLE TO COMPLY WITH IT TODAY, BUT WE CAN
17 CERTAINLY DEAL WITH IT TOMORROW OR FRIDAY.

18 MRS. POPE: YOUR HONOR --

19 THE COURT: MA'AM, MRS. POPE?

20 MRS. POPE: -- COULD WE MAKE OUR LETTER AN EXHIBIT,
21 PLEASE, YOUR HONOR, BECAUSE I DON'T THINK THAT
22 MR. LEVENSON FAIRLY STATED --

23 THE COURT: THAT'S FINE. THE LETTER SAYS WHAT IT
24 SAYS. I'LL LOOK AT IT.

25 THE WITNESS: PLEASE ADMIT IT. I WOULD LIKE TO SAY

1 THAT MR. BUCHANAN RECEIVED THIS I BELIEVE DAY BEFORE
2 YESTERDAY AND IS HOLDING FEDERAL COURT. WHAT MR. LEVENSON
3 DIDN'T SAY IS THAT I SAID, NEVERTHELESS, I WILL BRING THE
4 CHECK REGISTER WITH ME WHICH I HAVE RIGHT HERE -- I MEAN
5 THE CHECKBOOK. I WANT TO SAY BECAUSE IT'S IMPORTANT TO ME
6 IT DID NOT ASK -- THE SUBPOENA DID NOT ASK FOR BANK
7 STATEMENTS AND I AM CLARIFYING THAT BECAUSE I WOULD HAVE
8 BEEN GLAD TO BRING THEM, BUT THERE'S BEEN A DISCOVERY
9 GOING ON AND WE COULDN'T PUT OUR HANDS ON THEM. SO, IT
10 SPECIFICALLY DID NOT CONTAIN BANK STATEMENTS.

11 I ALSO WROTE MR. LEVENSON AND REMINDED HIM THAT WE
12 FILED AN ACCOUNTING LAST JUNE COVERING ALL OF THE
13 TRANSACTIONS AND I DO HAVE THE CHECKBOOK WITH ME TODAY AND
14 COPIES OF ALL CHECKS WHICH WERE ASKED FOR, BUT I DON'T
15 HAVE THE STATEMENTS BECAUSE I JUST COULDN'T PUT MY HANDS
16 ON THEM AT THE LATE DATE YESTERDAY AND HE DIDN'T WRITE ME
17 BACK AND SUGGEST THAT WE WOULD HAVE TO FILE A SUBPOENA TO
18 QUASH.

19 THE COURT: OKAY. SO, YOU'VE GOT --

20 MRS. POPE: IT IS RIGHT OVER THERE, YOUR HONOR.

21 THE COURT: I ASSUME YOU'RE TELLING ME THAT YOU DON'T
22 MIND EVERYBODY GETTING A COPY?

23 MRS. POPE: WELL, YOUR HONOR, WE HAVE -- MY LETTER
24 ALSO SAYS AND I BELIEVE IT TO BE CORRECT THAT THERE IS
25 CONFIDENTIAL INFORMATION IN THE BANK STATEMENTS, AND WHEN

1 WE'VE DONE AN ACCOUNTING WE'VE REDACTED NAMES SUCH AS
2 SMALL THINGS SUCH AS THE WHERE THE SECURED STORAGE IS AND
3 THINGS SUCH AS THAT, BUT OTHER THAN THAT, THERE IS, OF
4 COURSE, NO PROBLEM.

5 THE COURT: ALL RIGHT. WHEN WE TAKE A BREAK,
6 MR. LEVENSON, TAKE A LOOK AT WHAT SHE'S GOT OVER THERE,
7 AND IF YOU FEEL THAT YOU NEED MORE, LET ME MOW.

8 MR. LEVENSON: YES, SIR.

9 THE COURT: PLEASE, MA'AM, COURT REPORTER, MARK THIS
10 AS HOWEVER YOU WANT TO MARK IT.

11 THE COURT REPORTER: HOW DO YOU WANT IT MARKED?
12 AS --

13 MRS. POPE: NO, NO. I HAVEN'T SEEN THAT STATEMENT.
14 I WANT MY LETTER MARKED, PLEASE.

15 THE COURT: I'M SORRY.

16 THE COURT REPORTER: LEVENSON'S 1.

17 THE COURT: HOLD ON. MR. LEVENSON INTRODUCED THE
18 STATEMENT. GIVE IT WHATEVER NUMBER IT IS. MRS. POPE
19 INTRODUCED THE LETTER. MAKE THOSE TWO EXHIBITS, PLEASE,
20 MA'AM.

21 (WHEREUPON, LEVENSON'S EXHIBIT NO. 1 WAS MARKED FOR
22 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

23 (WHEREUPON, POPE'S EXHIBIT NO. 1 WAS MARKED FOR
24 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

25 THE COURT: OKAY. THOSE TWO ARE IN. AT THE BREAK,

1 MR. LEVENSON -- OR YOU SAID YOU HAD COPIES FOR EVERYBODY.
2 I AM GOING TO LET YOU LOOK AT IT, BUT IT IS GOING TO BE
3 UNDER AN ORDER NOT TO DISSEMINATE IT. YOU WANT TO TAKE A
4 LOOK WHILE SHE'S TESTIFYING?

5 MR. LEVENSON: I'LL GO TO THE BACK AND STAY OUT OF
6 THE WAY IF I CAN LOOK AT IT BACK THERE.

7 THE COURT: WELL, NO, OR YOU CAN DO IT WHEN WE TAKE A
8 BREAK, WHATEVER IS YOUR PLEASURE.

9 MR. LEVENSON: I CAN DO BOTH. THAT WILL BE FINE.

10 THE COURT: MR. BAILEY, HELP GIVE HIM ONE COPY OF IT,
11 PLEASE.

12 MR. BAILEY: I'M SORRY, JUDGE?

13 THE COURT: GIVE HIM ONE OF THE COPIES THAT MRS. POPE
14 HAD MADE AVAILABLE.

15 MRS. POPE: I'M SORRY, YOUR HONOR. I BROUGHT THE
16 ORIGINAL.

17 THE COURT: OH, I'M SORRY.

18 MRS. POPE: THERE IS THE CHECKBOOK.

19 THE COURT: I THOUGHT YOU HAD COPIES.

20 MRS. POPE: I'M SORRY, YOUR HONOR. I DIDN'T HEAR BACK
21 FROM HIM. I SAID IN MY LETTER I WOULD BRING THE ORIGINAL
22 CHECKBOOK, AND I DID, AND I BROUGHT COPIES OF CHECKS, BUT
23 THESE ARE MY DOCUMENTS.

24 THE COURT: MR. LEVENSON, THOSE ARE MRS. POPE'S
25 DOCUMENTS. JUST LOOK AT THEM. DON'T SECRET ANY, MODIFY

1 ANY, ALTER ANY. YOU KNOW THE RULES.

2 MR. LEVENSON: YES, SIR.

3 MR. BAILEY: MAY I HAVE MRS. POPE COME DOWN AND PICK
4 OUT THE THINGS THAT NEED TO --

5 THE COURT: YOU MAY.

6 MRS. POPE: WELL, THERE MAY BE SOMETHING ELSE IN THE
7 BOX, YOUR HONOR.

8 THE COURT: GO LOOK.

9 MR. BAILEY: YEA, I DON'T WANT TO -- YOU DO IT.

10 THE COURT: JUST GO AHEAD AND LOOK.

11 MRS. POPE: YOUR HONOR, I WOULD LIKE TO MAKE A
12 STATEMENT IF THAT'S ALL RIGHT.

13 THE COURT: GO AHEAD.

14 MRS. POPE: YESTERDAY AFTERNOON LATE MR. BUCHANAN
15 SIGNED SOME CHECKS WHICH WE ALWAYS PUT RIGHT AFTER HE
16 SIGNS THEM TWO SIGNATURES REQUIRED ABOVE HIS SIGNATURE. I
17 HAVE NOT GOTTEN AROUND TO THAT. I WOULD LIKE THAT PUT ON
18 THERE BEFORE ANYBODY COPIES THEM BECAUSE I DON'T WANT IT
19 TO APPEAR THAT THE CHECK WITH A SINGLE SIGNATURE WOULD
20 LEAVE MY OFFICE WITHOUT TWO SIGNATURES REQUIRED.

21 THE COURT: NOBODY IS GOING TO MAKE COPIES OF THEM
22 RIGHT NOW.

23 MRS. POPE: COULD MR. BAILEY DO THAT JUST ON THOSE
24 CHECKS THAT MR. BUCHANAN SIGNED YESTERDAY?

25 THE COURT: CERTAINLY.

1 (WHEREUPON, A BREAK WAS TAKEN.)

2 THE COURT: OKAY. ARE WE READY?

3 MR. MEDLIN: READY, YOUR HONOR, IF YOU ARE.

4 MRS. POPE: IF I MIGHT NOTE, YOUR HONOR, THERE IS AN
5 ACCOUNTING THROUGH JUNE FILED WHICH WAS CIRCULATED AT A
6 HEARING LAST YEAR.

7 MR. MEDLIN: YOUR HONOR, WHILE HE'S DOING THAT WITH
8 YOUR INDULGENCE I'LL TRY TO MAKE SOME MORE CONSISTENT
9 ORDER OF THE DOCUMENTS THAT I SHOWED MRS. POPE EARLIER.
10 I'D LIKE TO MARK THEM AND HAVE THEM INTRODUCED INTO
11 EVIDENCE. IF I MAY, LET ME JUST TELL YOU ONE BY ONE WHAT
12 THEY ARE AND THEN WE'LL CONSIDER THEM IN WHOLE OR IN PART.

13 THE COURT: HOWEVER YOU WANT THEM MARKED. LET'S JUST
14 IDENTIFY THEM AND THEN WE'LL MARK THEM.

15 MR. MEDLIN: THE FIRST ITEMS ARE PRINTS FROM WESTLAW,
16 AND THEY ARE FROM 17 USCA. THERE IS SECTION 203 WHICH IS
17 ONE OF THE RENEWAL AND TERMINATION STATUTES, AND IT'S
18 EFFECTIVE NOVEMBER 2, 2002; THE SAME STATUTE FOR THE
19 PERIOD OF OCTOBER 27, '98 TO NOVEMBER 1, 2002; THE SAME
20 STATUTE FOR THE PERIOD UP TO OCTOBER 26, 1998. THEN THE
21 OTHER RELEVANT SECTION IS 17 USCA SECTION 304. THE FIRST
22 VERSION WOULD BE THE CURRENTLY EFFECTIVE VERSION WHICH WAS
23 EFFECTIVE NOVEMBER 2, 2002; THEN THE VERSION THAT WAS
24 EFFECTIVE OCTOBER 27, 1998 TO NOVEMBER 1, 2002; THEN THE
25 NEXT EARLIER VERSION EFFECTIVE NOVEMBER 13, '97 TO

1 OCTOBER 26, '98; THE NEXT EARLIER VERSION WHICH WAS
2 EFFECTIVE NOVEMBER 13, '97 TO OCTOBER 26, '98 AND THEN THE
3 FIRST VERSION WHICH IS NOVEMBER -- WHICH IS VALID TO
4 NOVEMBER 12, 1997.

5 ALSO REPRINTED FROM WESTLAW ARE TWO ARTICLES: ONE BY
6 PROFESSOR TRITT ENTITLED LIBERATING ESTATES LAW FROM THE
7 CONSTRAINTS OF COPYRIGHT; THE SECOND BY PROFESSOR BARTOW
8 ENTITLED INTELLECTUAL PROPERTY AND DOMESTIC RELATIONS
9 ISSUE, ISSUES TO CONSIDER WHEN THERE IS AN ARTIST, AUTHOR,
10 INVENTORY OR CELEBRITY IN THE FAMILY.

11 MR. MICHEL: MAY I INDULGE THE COURT? YOU ALSO HAD
12 MARKED THE TRANSCRIPT PAGE 170. SHE'S GOT IT UP THERE.

13 MRS. POPE: I THINK MY TESTIMONY ABOUT THIS WAS 171
14 THROUGH 177. IS THAT RIGHT?

15 MR. MICHEL: I BELIEVE IT WAS ORIGINALLY MARKED.

16 THE COURT REPORTER: THERE WASN'T ANYTHING MARKED.

17 MR. MICHEL: NOTHING WAS MARKED?

18 MR. MEDLIN: AND THEN THE TRANSCRIPT FROM THE
19 JANUARY 30 HEARING, YOUR HONOR.

20 THE COURT: THAT'S FINE. THE TRANSCRIPT IS A
21 TRANSCRIPT. IF YOU WANT TO --

22 MR. MEDLIN: I'D BE HAPPY NOT TO DO IT, YOUR HONOR.

23 THE COURT: I DON'T THINK WE NEED THAT. ALL RIGHT.

24 ANY OBJECTIONS BY ANYBODY TO WHAT THE PROFESSOR JUST SAID?
25 HEARING NONE, MARK THEM THE NEXT SEQUENTIAL EXHIBITS. THE

1 TRANSCRIPT IS ALREADY OF RECORD.

2 MR. ROSEN: YOUR HONOR, ARE WE IN AGREEMENT THAT THE
3 TRANSCRIPTS ARE ALL IN EVIDENCE IN THIS PROCEEDING, IN
4 THIS HEARING?

5 THE COURT: WHAT WE TOOK THE OTHER DAY IS A
6 TRANSCRIPT OF THIS PROCEEDING. I MEAN, THIS IS THE SAME
7 PROCEEDING. I HAVE JUST NEVER HAD THE TRANSCRIPT MADE
8 EVIDENCE.

9 MR. ROSEN: YOU KNOW, YOU JUST WORRY ABOUT THE RULES
10 OF EVIDENCE.

11 (WHEREUPON, MEDLIN'S EXHIBIT NO. 1 WAS MARKED FOR
12 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

13 Q MRS. POPE, WE WERE TALKING ABOUT THE ESTATE TAX
14 RETURN AND YOU HAD INDICATED THAT AT LEAST PART IF I
15 UNDERSTOOD CORRECTLY OF YOUR DETERMINATION OF THE OVERALL
16 VALUE OF THE ESTATE WAS BASED ON AT VARIOUS TIMES A LETTER
17 OF INTENT, AN OFFER, SORT OF AN OFFER. WHAT EXACTLY WAS
18 IT THAT YOU WERE REFERRING TO WHEN YOU TALKED ABOUT THAT?

19 A WELL, AS YOU KNOW WE ON THE ESTATE TAX RETURN JUST
20 BUNDLED TOGETHER A LOT OF THINGS WHICH WE DIDN'T HAVE
21 ADEQUATE INFORMATION ABOUT AND WE EXPLAINED TO THE I.R.S.
22 THAT WE HAD TRIED TO GET AN ADDITIONAL EXTENSION BUT ONE
23 HAD NOT BEEN GRANTED AND THEY ASSERTED COULD NOT BE
24 GRANTED AND THAT WE WERE FILING IT AS BEST WE COULD WITH
25 THE INFORMATION AVAILABLE AND -- I'M SORRY. I LOST MY

1 TRAIN OF THOUGHT.

2 Q MRS. POPE, THE QUESTION WAS THE LETTER OF INTENT --

3 A RIGHT, THE LETTER OF INTENT. I'M SORRY. SO, THE
4 ISSUE WAS TO BUNDLE A NUMBER OF THINGS WHOSE VALUES WERE
5 UNCERTAIN EVEN WHEN WE FILED THE RETURN ON SEPTEMBER 25,
6 2008, BUT, AGAIN, REMEMBERING THAT WHEN YOU FILED THE
7 RETURN ON SEPTEMBER 25, 2008 YOU'RE TRYING TO RELATE BACK
8 TO THE DATE OF DEATH, AND, SO, THE DOCUMENTS WE HAD WHICH
9 PURPORTED TO RELATE TO THE DATE OF DEATH WAS THE INVENTORY
10 AND APPRAISEMENT FILED BY MR. DALLAS AND MR. BRADLEY PRIOR
11 TO MR.~BYRD'S INVOLVEMENT. I THINK IT WAS FILED ON
12 NOVEMBER 15 OF 2007.

13 THEN THE OTHER THINGS THAT SORT OF AIDED US IN
14 PUTTING A SINGLE VALUE ON THIS BUNDLE WERE WHAT WE KNEW
15 ABOUT POSSIBLE RECOVERIES IN DIFFERENT LAWSUITS, WHAT WE
16 KNEW ABOUT THE BOND THAT WAS DUE, WHAT WE -- WHAT -- SOME
17 OF WHAT WE HAD LEARNED ABOUT CLAIMS. AS YOU KNOW THOSE
18 ARE THINGS THAT YOU DON'T WANT TO REVEAL MORE OF YOUR HAND
19 THAN YOU NEED TO IF IT'S LIKELY THAT YOUR ESTATE TAX
20 RETURN MAY BECOME PUBLIC WHICH CERTAINLY WAS A POSSIBILITY
21 HERE. SO, THE WHOLE BUNDLE OF ASSETS -- AND WE HAD
22 CONSIDERED -- AGAIN, WE HAD CONSIDERED THE DOCUMENTS
23 PREPARED IN JUNE OF 2007 BY THE GRAHAM WINDSOR GROUP WHEN
24 THEY WERE SEEKING A PURCHASER FOR THE SIGNIFICANT ASSETS,
25 AND, YOU KNOW, THAT WAS NOT -- THAT WAS NOT A PERFECT

1 VALUATION, BUT IT WAS SOME INDICATION FROM WHAT WAS
2 PERHAPS STARTING TO BE A BONAFIDE SALE, AND THEN,
3 SECONDLY, WE LOOKED AT THE LETTERS OF INTENT. IT WAS
4 IMPRECISE AT BEST, BUT IT WAS AS THOUGHTFULLY DONE AS WE
5 WERE ABLE AT THE TIME.

6 Q SO, WE'VE GOT LETTERS OF INTENT WHICH YOU WOULD AGREE
7 AREN'T BINDING?

8 A I THINK THEY WERE NOT BINDING AND THEY DID NOT INTEND
9 TO BE BINDING.

10 Q AND THE OFFER -- WAS IT AN ACTUAL OFFER THAT WAS
11 ACCEPTED? WAS IT AN ACTUAL OFFER THAT WAS MADE?

12 A NO. AS YOU'LL RECALL THE GRAHAM WINDSOR GROUP MET IN
13 JUNE OF 2007 WITH MR. DALLAS AND MR. CANNON, AND WHAT THEY
14 WERE PROPOSING WAS TO TRY TO BEGIN AN I.P.O. AND THEY WERE
15 LOOKING FOR INVESTORS, AND THE DOCUMENTS THAT WERE RELATED
16 TO THAT WERE USING 100 MILLION AS THE OFFERING PRICE AND
17 SUPPORTING THAT WERE SOME DOCUMENTS THAT CAME UP WITH
18 VALUES FOR THE PRINCIPAL ASSETS OF THE ESTATE, EXCLUDING
19 BEECH ISLAND.

20 Q OKAY. SO, WE'RE BASING IT ON A LETTER OF INTENT
21 WHICH IS NOT BINDING. WE'RE BASING IT ON AN OFFER WHICH
22 IS NOT BINDING, AND WE'RE BASING IT ON AN INVENTORY AND
23 APPRAISEMENT AMONG OTHER FACTORS. NOW, THE INVENTORY AND
24 APPRAISEMENT AS I RECALL, MRS. POPE -- SO, PLEASE CORRECT
25 ME -- WAS FILED UNDER SEAL BY YOUR PREDECESSORS --

1 A AND WE LEARNED ABOUT THEM.

2 Q -- MR. DALLAS AND BRADLEY? YOU DIDN'T DISCOVER THAT?

3 A UNTIL VERY LATE. VERY LATE.

4 Q MAYBE LAST SUMMER?

5 A I THINK IT WAS QUITE LATE BECAUSE I THINK WE LET
6 EVERYBODY KNOW THAT ON NOVEMBER 15 THEY DID A NOTEBOOK AND
7 I DID NOT REALIZE UNTIL I WAS LOOKING FOR OTHER DOCUMENTS
8 THAT THE INVENTORY KIND OF DOCUMENT WAS TUCKED IN THE
9 NOTEBOOK AND I THINK I LET EVERYBODY KNOW THAT.

10 Q OKAY. AND, YOUR HONOR, I BELIEVE THIS IS ALREADY
11 PART OF THE COURT RECORD, AND, MRS. POPE, I WANT TO ASK
12 YOU TO --

13 A RIGHT.

14 Q -- TO LOOK AND MAKE SURE -- ACTUALLY, LET'S START
15 WITH THE LETTER THAT YOU SENT OUT ENCLOSING THE INVENTORY
16 AND APPRAISEMENT THAT YOU DISCOVERED.

17 A RIGHT. RIGHT. YES.

18 THE COURT: WHAT DOES THIS PURPORT TO BE?

19 THE WITNESS: WHEN I SAY WE LOOKED AT IT, I MEAN WE
20 LOOKED AT THE TOTAL HERE WHICH IS --

21 THE COURT: HOLD ON A SECOND. WHAT DOES THIS PURPORT
22 TO BE?

23 MR. MEDLIN: THE INVENTORY AND APPRAISEMENT, YOUR
24 HONOR, THAT WAS FILED WITHOUT ANYONE'S KNOWLEDGE --

25 THE WITNESS: WELL --

1 MR. MEDLIN: -- EXCEPT FOR MR. DALLAS AND BRADLEY.

2 THE WITNESS: WELL, ACTUALLY, MR. MEDLIN, I DON'T
3 REALLY THINK THAT'S TRUE BECAUSE I LOOKED BACK AT THE
4 TRANSCRIPT. I THINK -- NOW, YOU KNOW, I STAND TO BE
5 CORRECTED, BUT I THINK I LOOKED BACK AT THE TRANSCRIPT AND
6 THAT MR. JACKSON SAID WE'RE FILING AN INVENTORY AND
7 APPRAISEMENT AND I THINK -- I KNOW WHAT HAPPENED TO ME. I
8 CAN'T SAY WHAT HAPPENED TO EVERYBODY ELSE. I LOOKED OVER
9 THERE AND IT LOOKED LIKE THE SAME OLD NOTEBOOK I HAD
10 ALREADY SEEN, AND, SO, THAT'S ALL I THOUGHT OF IT. THEN
11 LATER -- LATER -- I GUESS MY LETTER WOULD SAY WHEN -- YEA,
12 LATER I WAS OVER SOMETIME -- IT MUST HAVE BEEN BEFORE JULY
13 8 -- I WAS OVER IN THE CLERK'S OFFICE TRYING TO LOOK AT
14 SOME EXHIBITS FROM 2007 AND WHEN I WAS DOING THAT I LOOKED
15 IN THE NOTEBOOK AND I SAW IN THE POCKET OF THE NOTEBOOK
16 THAT WAS THIS DOCUMENT TUCKED IN THERE, AND I CERTAINLY
17 HAD NO INDICATION THEY WERE ATTEMPTING TO HIDE IT.

18 IN FACT, I THINK WE THEN HAD SOME DISCUSSION ON THE
19 RECORD ABOUT THESE SORTS OF THINGS NEED TO BE DOWN IN THE
20 PROBATE COURT RATHER THAN UP, AND I THINK IT WAS UNSEALED.
21 I CAN'T ACTUALLY REMEMBER, BUT I COULD CHECK, BUT I NEVER
22 MEANT TO SUGGEST THAT THERE WAS ANY INTENTION TO CONCEAL
23 IT, AND SO FAR AS I KNOW I THINK OTHERS KIND OF DID WHAT I
24 DID. THEY DIDN'T REALIZE IT WAS IN THERE. WE COULD CHECK
25 THE RECORD, BUT THAT'S KIND OF MY RECOLLECTION OF WHAT

1 HAPPENED.

2 Q PLEASE UNDERSTAND, MRS. POPE, I AM NOT TRYING TO PIN
3 YOU AND BOB DOWN.

4 A WELL, NO, NO, NO. I DON'T WANT TO PIN POOR
5 MR. DALLAS AND MR. BRADLEY DOWN IF THEY MEANT FOR IT TO BE
6 GENERALLY KNOWN WHEN THEY DID IT.

7 Q SURE.

8 THE COURT: DID YOU EVER GET THE ANSWER TO YOUR
9 QUESTION AS OUTLINED IN YOUR LETTER JULY 8, 2008 AS TO WHO
10 HELPED THEM PREPARE THIS? IT SAYS IT LOOKS LIKE IT WAS
11 DONE BY A PROFESSIONAL OR THEY GOT PROFESSIONAL HELP?
12 DOES ANYONE KNOW THE ANSWER TO WHO PREPARED IT? SECOND
13 PARAGRAPH.

14 THE WITNESS: I CAN'T SAY THAT I DID, YOUR HONOR.

15 THE COURT: DID YOU EVER TALK TO HIM?

16 THE WITNESS: I CAN'T SAY THAT I DIDN'T EITHER. I
17 JUST HAVEN'T THOUGHT THAT THROUGH. I REALLY, QUITE
18 FRANKLY, DIDN'T RECALL THE CONTENT OF THE LETTER.

19 THE COURT: DID YOU EVER TALK TO STAN JACKSON? HE IS
20 THE ONE WHO NOTARIZED IT.

21 THE WITNESS: WELL, HE HAS COUNSEL. WE'VE REALLY NOT
22 BEEN ABLE TO HAVE VERY EFFECTIVE COMMUNICATION WITH HIM.
23 I DIDN'T --

24 THE COURT: VERY WELL.

25 THE WITNESS: I WOULD SAY I DON'T RECALL PURSUING IT.

1 MR. BYRD: IF YOUR HONOR, PLEASE.

2 MRS. POPE: YEA.

3 MR. BYRD: I WAS ASKED THAT QUESTION AND I PROVIDED
4 THE RESPOND TO MRS. POPE, BUT IT WAS SOMETIME LATER WHEN I
5 GOT IN THE CASE. IT WAS NOT AT THE TIME THAT WAS FILED IN
6 NOVEMBER, YOUR HONOR.

7 THE COURT: THANK YOU, MR.~BYRD. ALL RIGHT, SIR. GO
8 AHEAD.

9 Q MRS. POPE --

10 A UH-HUH.

11 Q -- PARTICULARLY, ON PAGES 5 AND 6 OF THE INVENTORY IT
12 APPEARS THAT YOUR PREDECESSORS -- AT LEAST MR. BRADLEY AND
13 DALLAS -- BASED A SIGNIFICANT PART OF THE VALUATION OF THE
14 ESTATE ON WHAT THEY CALLED A GOOD FAITH OFFER WHICH THEY
15 LATER CALLED -- FOR EXAMPLE, IN ITEM NUMBER ONE AND ITEM
16 NUMBER SIX THEY TALKED ABOUT BASED ON A FIRM OFFER FILED
17 UNDER SEAL WITH THE COURT FOR CONFIDENTIALITY PURPOSES --
18 BOTH OF WHICH REFER TO THAT 100 MILLION-DOLLAR NUMBER?

19 A YEA. MY RECOLLECTION -- WOULD YOU LIKE FOR ME TO
20 TELL YOU WHAT I THINK I KNOW ABOUT IT?

21 Q SURE.

22 A THAT'S NOT THE LETTER OF INTENT I'M REFERRING TO, BUT
23 I THINK IF YOU'LL RECALL AFTER MR. DALLAS AND MR. BRADLEY
24 RESIGNED WE WENT BACK INTO THE ROOM AND THERE WAS SOME
25 DISCUSSION ON THE RECORD BY PROFESSOR COX AND I HAD THE

1 IDEA CLEARLY THAT THERE WAS AT LEAST DISCUSSION OF AN
2 OFFER OF THAT AMOUNT, AND, ALSO, IF YOU'LL RECALL IN
3 FORLANDO BROWN'S -- I NEVER SAW IT AND IF IT SAYS IT WAS
4 FILED UNDER SEAL IT MAY BE OVER THERE, BUT THAT WAS NOT A
5 NEW NUMBER TO ME, AND, ALSO, IF YOU'LL RECALL ON
6 OCTOBER 31 OF 2007 BACK THEN MR. BUCHANAN AND I WERE NOT
7 ATTENDING DEPOSITIONS, BUT WE CAME IN LATE ON FORLANDO
8 BROWN'S DEPOSITION AND HE WAS QUESTIONED BY MR. LEVENSON
9 ABOUT 100 MILLION-DOLLAR OFFER. SO, THE NOTION OF
10 100 MILLION -- I ASSUME THAT WAS THE EARLIER GRAHAM
11 WINDSOR GROUP ONE THAT MR. LEVENSON WAS TALKING ABOUT, BUT
12 THE NOTION OF THE HUNDRED-MILLION-DOLLAR OFFER HAD BEEN,
13 AS FAR AS I'M CONCERNED, FLOATING AROUND SINCE LATE SUMMER
14 OF 2007.

15 MR. DALLAS SPECIFICALLY DISCUSSED WITH ME IN THE
16 SUMMER -- THE LATE SUMMER -- AFTER THE RESIGNATION OF
17 MR. CANNON THAT VALUE WHICH HE USED AS A VALUE, AND,
18 AGAIN, THAT WAS SAID A LOT BEGINNING IN THE SUMMER -- THE
19 LATE SUMMER AFTER MR. CANNON'S RESIGNATION.

20 Q THAT SAME DAY THAT MR. COX CAME BACK INTO CHAMBERS
21 WITH US --

22 A UH-HUH.

23 Q -- YOU AND MR. BUCHANAN WERE APPOINTED PERMANENT
24 TRUSTEES AND PERSONAL REPRESENTATIVES; IS THAT CORRECT?

25 A WE WERE.

1 Q DID YOU EVER UNDERSTAND THAT THERE WAS A FIRM OFFER
2 TO SELL THE ESTATE FOR A HUNDRED MILLION DOLLARS ON THAT
3 DAY?

4 A I DIDN'T THINK THAT WAY. YOU KNOW, I MEAN, THERE WAS
5 SO MUCH GOING ON AND I KNEW I WASN'T GOING TO SELL
6 ANYTHING THAT DAY ANYWAY. SO, I CERTAINLY -- I MEAN AND
7 AFTER THAT WE HAD -- WELL, ACTUALLY, MR. MEDLIN, SHORTLY
8 AFTER THAT JUST ABOUT THE TIME WE WERE BEING SUED BY
9 FORLANDO BROWN FOR NOT SELLING THE ESTATE, WE -- SOMEBODY
10 WROTE AND SAID, WELL, YOU HAVEN'T PAID ANY ATTENTION TO
11 OUR OFFER, IT IS REJECTED, OR SOMETHING TO THAT EFFECT. I
12 MEAN, BUT AS YOU MAY RECALL A LOT WENT ON BETWEEN
13 NOVEMBER 20 OF 2007 AND EARLY JANUARY OF 2008 -- LIKE FIVE
14 LAWSUITS, FOUR IN THIS COURT AND ONE IN THE FEDERAL
15 COURT -- AND WE WERE NOT IN A POSITION TO LOOK AT ANYTHING
16 OF THAT MAGNITUDE, BUT AS I RECALL -- AND I WOULD HAVE TO
17 CHECK THE FILE -- I GOT A LETTER I THINK FROM MR. COX OR
18 HIS GROUP OF WHICH FORLANDO WE LATER LEARNED WAS A MEMBER
19 THAT SAID, WELL, YOU HAVEN'T PAID ANY ATTENTION TO OUR
20 OFFER SO THEY'RE WITHDRAWN, BUT, I MEAN, YOU KNOW, WE WERE
21 NOT AT THAT STAGE THINKING ABOUT A SALE. WE WERE JUST
22 TRYING TO GET COLLECTED.

23 Q YOU NEVER THOUGHT IN TERMS OF THERE BEING A FIRM
24 OFFER. CERTAINLY, IF YOU HAD THOUGHT ABOUT THERE BEING A
25 FIRM OFFER FOR \$100 MILLION YOU WOULD HAVE SUPPORT

1 EXPLORED THAT WITH THE COURT RATHER THAN DISREGARD IT?

2 A IF I HAD THOUGHT THERE WAS A FIRM --

3 Q THAT'S A LOT OF MONEY.

4 A IF A FIRM OFFER HAD COME IN WE WOULD JUST AS WE DID
5 WHEN IT CAME IN ON MARCH 27. EVEN THE LETTER OF INTENT WE
6 PROVIDED TO THE COURT AND PARTIES, BUT IN TERMS -- I MEAN,
7 THAT FIGURE, AS I SAID, HAD BEEN FLOATING SINCE LATE
8 AUGUST FROM BUDDY DALLAS WHO I THOUGHT KNEW SOME STUFF
9 ABOUT VALUES.

10 Q SO, IT'S FAIR TO SAY THAT YOU AND MR. BUCHANAN DIDN'T
11 AT THAT TIME THINK OF THIS AS A FIRM OFFER IN FAIRNESS TO
12 BOTH OF YOU, AND, SO, CONSEQUENTLY, IF WE ASSUME THERE WAS
13 NO FIRM OFFER ON THE TABLE, WHAT DO YOU THINK ABOUT THE
14 METHODOLOGY BY WHICH MR. BRADLEY AND MR. DALLAS PREPARED
15 THIS INVENTORY AND APPRAISAL?

16 A I HAVE NEVER THOUGHT ABOUT IT.

17 Q WHAT?

18 A I JUST DON'T THINK ABOUT IT. THAT WAS NOT MY -- I
19 HAD TOO MUCH ELSE TO THINK ABOUT.

20 Q WELL, LET'S THINK ABOUT IT NOW.

21 A WELL, IF YOU WANT ME TO.

22 Q IS THIS A VALID METHODOLOGY IN YOUR EXPERIENCE TO
23 VALUE MUCH OF THE VALUE OF AN ESTATE BASED ON AN OFFER
24 THAT WE'RE NOT EVEN SURE WAS FIRM?

25 A MR. MEDLIN, IN MY 35 YEARS OF PRACTICE THERE WERE

1 MANY TIMES -- NOT EVERYTIME AND CERTAINLY NOT WHEN IT
2 COULD BE AVOIDED, BUT MANY TIMES WHERE AN ESTATE TAX
3 RETURN BECAME DUE AND WE DID NOT HAVE WHAT WE NEEDED TO
4 FILE IT OR EVEN AN INVENTORY AND --

5 MR. MEDLIN: YOUR HONOR, I'M SORRY, BUT --

6 THE WITNESS: WE MADE -- IF I COULD FINISH.

7 MR. MEDLIN: -- I'M ASKING ABOUT THE INVENTORY AND
8 APPRAISEMENT.

9 THE COURT: WELL, SHE'S ANSWERING.

10 THE WITNESS: AND WE MADE A DECISION TO GO AHEAD AND
11 FILE IT AND, TYPICALLY, WE WOULD PUT FOOTNOTES OR WHATEVER
12 TO TRY TO EXPLAIN WHY IT IS, BUT THERE ARE TIMES WHEN A
13 NUMBER -- YOU NEED A NUMBER. IT'S JUST HELPFUL TO HAVE A
14 NUMBER EVEN IF IT'S NOT A PERFECT NUMBER. SO, I MEAN, I
15 HAVEN'T THOUGHT ABOUT THIS, BUT WHAT WAS SIGNIFICANT TO ME
16 WAS LOOKING AT A TOTAL NUMBER THERE AND HAVING SOMETHING
17 TO RELATE TO THE TASK THAT WE HAD TO PERFORM.

18 Q BUT IN YOUR EXPERIENCE HAVE YOU EVER SEEN INVENTORY
19 AND APPRAISEMENT OF SUCH SUBSTANTIAL SIZE BASED PURELY ON
20 THE SUPPOSITION OF AN ALLEGED FIRM OFFER AND NO OTHER
21 APPRAISAL, NO OTHER EVIDENCE, NO OTHER DOCUMENTATION?

22 A OH, ABSOLUTELY. I SEE THEM ALL THE TIME WITHOUT
23 APPRAISALS.

24 Q AND YOU THINK THAT'S A PROPER METHODOLOGY?

25 A I WOULD NOT WANT TO SPEAK TO THIS BECAUSE I WOULD NOT

1 KNOW WHAT ALL THEY HAD IN MIND. YOU KNOW, I JUST --
2 THEY'RE HERE. THEY SHOULD BE ASKED THESE QUESTIONS. BUT
3 DOES IT HAPPEN, HAS IT HAPPENED, ARE THERE ALWAYS OFFERS?
4 NO. ARE THERE ALWAYS APPRAISALS? NO. AND, YOU KNOW,
5 MR. MEDLIN, IT IS UNIQUE IN AN ESTATE WHERE YOU DO NOT
6 HAVE ANY ESTATE TAX RETURN WHERE EVERYTHING IS GOING TO
7 CHARITY IT IS A LITTLE BIT UNIQUE IN THAT IF IT'S 85 OR
8 100 OR 115, IT DOESN'T CHANGE THE RESULT. SO, YOU'RE NOT
9 ANTICIPATING THAT YOU'RE GOING TO HAVE TO DEFEND A VALUE,
10 AND THAT CAN BE SIGNIFICANT JUST AS WHEN THERE IS A FULL
11 MARITAL DEDUCTION. ALTHOUGH, YOU'RE BOUND TO GET IT RIGHT
12 WHETHER IT'S 10 MILLION OR 30 MILLION OR 60 MILLION OR A
13 HUNDRED, THE F.I.S.C., THE US GOVERNMENT, IS NOT GOING TO
14 GET ANY MORE. SO, THE ABILITY TO HAVE TO DEFEND A VALUE
15 IS A FACTOR.

16 Q MRS. POPE, MAYBE I MISUNDERSTOOD. ARE YOU SAYING
17 THAT WHEN WE HAVE A MARITAL DEDUCTION - A FULL MARITAL
18 DEDUCTION, IT DOESN'T MATTER THAT WE HAVE GET THE VALUE
19 EXACT?

20 A NOT AT ALL. WHAT I'M SAYING --

21 Q I DIDN'T THINK --

22 A NO. I DID NOT SAY THAT AT ALL. I AM JUST SAYING
23 THAT THERE IS LESS COMPUNCTION FOR ABSOLUTE PRECISION. I
24 WOULD FEEL MORE COMFORTABLE FILING ONE WITH LESS PRECISION
25 WHERE I KNEW THERE WOULD BE NO ADDITIONAL TAX IF I WERE

1 OFF BY 5 PERCENT. IF YOU'RE GOING TO BE OFF BY A MILLION
2 DOLLARS WORTH OF TAXES OR TWO OR FIVE OR 10, THEN YOU
3 CONSIDER EVERYTHING ELSE. OF COURSE, WE DID NOT HAVE THE
4 MONEY TO PAY FOR AN APPRAISAL EVEN IF WE DECIDED WE WANTED
5 ONE. SO, THAT WAS NOT AN OPTION FOR US BEFORE SEPTEMBER
6 25 ANYWAY.

7 Q BUT EMBEDDED IN YOUR ANSWER IS YOU DIDN'T DECIDE YOU
8 WANTED AN APPRAISAL?

9 A WE WOULD HAVE LOVED TO HAVE AN APPRAISAL, WE JUST
10 DIDN'T HAVE THE MONEY TO PAY FOR IT. WE HAD TO BORROW
11 \$10,000 WAITING FOR THE CHRISTIE'S MONEY TO COME IN.

12 Q AND THEN THE CHRISTIE'S MONEY WOULDN'T HAVE BEEN
13 SUFFICIENT TO HELP PAY FOR AN APPRAISAL?

14 A WELL, IT CAME IN IN SEPTEMBER. WE USED IT TO PAY FOR
15 THE REAL ESTATE APPRAISAL. WE DIDN'T HAVE ANY MONEY AHEAD
16 TO GIVE ANYBODY -- TO GET ANYBODY TO DO A DUE DILIGENCE
17 FULL APPRAISAL ON THE ESTATE. AS YOU RECALL THERE WAS A
18 \$60,000 PRICE TAG FOR THAT WHICH WE ABSOLUTELY DIDN'T HAVE
19 TO SPARE EVEN IF THE CHRISTIE'S MONEY HAD COME IN WHICH IT
20 HADN'T. IT CAME IN IN SEPTEMBER. SO, WE DIDN'T HAVE THE
21 FUNDS TO DO IT.

22 Q BUT IN YOUR EXPERIENCE YOU OBTAINED APPRAISALS FOR
23 ESTATE TAX RETURNS AND YOU PAID THE APPRAISER LATER RATHER
24 THAN BEFORE?

25 A I -- AS PERSONAL REPRESENTATIVE OF THIS ESTATE I

1 WOULD NOT HAVE ADVANCED \$60,000, NO. I WOULD NOT HAVE
2 DONE THAT. WE WENT TO THE BANK AND BORROWED 10,000 SO WE
3 COULD PAY FOR THE REAL ESTATE APPRAISAL. THE BANK LOANED
4 US 10,000 ON OUR SIGNATURES. I WOULD NOT HAVE ADVANCED
5 \$60,000 TO THIS ESTATE, NOR WOULD I IN AN ESTATE WHERE I
6 WAS THE ATTORNEY.

7 Q MRS. POPE, I'M SORRY. THAT WASN'T THE QUESTION.

8 A I'M SORRY.

9 Q THE QUESTION WAS IN YOUR EXPERIENCE WHEN YOU OBTAIN
10 AN APPRAISER TO PERFORM AN APPRAISAL FOR AN ESTATE,
11 WHETHER IT BE AN INVENTORY AND APPRAISEMENT OR AN ESTATE
12 TAX RETURN, DO YOUR APPRAISERS ALWAYS REQUIRE BEING PAID
13 IN ADVANCE OR DO THEY AGREE TO BE PAID LATER ON DOWN THE
14 ROAD IN SOME CASES?

15 A WELL, HONESTLY, USUALLY, I MAKE SURE THAT THE METHOD
16 OF PAYMENT IS GOING TO BE CLEAR, AND IF IT'S ANYTHING
17 CLOSE TO \$60,000 THAT IT'S SECURED BEFORE IT HAPPENS SO
18 THERE WON'T BE ANY PROBLEM OR MISUNDERSTANDING.

19 Q BUT YOU COULD HAVE ASKED AN APPRAISER WOULD YOU
20 PREPARE AN APPRAISAL? WE WON'T BE ABLE TO PAY YOU SOON.
21 IT MIGHT BE LATER OR IT MAY BE NEVER. YOU COULD HAVE DONE
22 THAT, BUT Y'ALL DID NOT DO THAT?

23 A WE -- WITH EVERYTHING GOING TO CHARITY, WE THOUGHT
24 THAT THAT WAS UNNECESSARY.

25 Q WELL, LET'S TALK ABOUT THAT A LITTLE BIT MORE, TOO.

1 IF THIS WERE IN PART A TAXABLE ESTATE, DOES YOUR COMFORT
2 LEVEL WITH IMPRECISION ABOUT THE VALUE DECREASE?

3 A I DO NOT HAVE A COMFORT LEVEL WITH ANYTHING IN
4 MR. BROWN'S ESTATE. EVERYTHING HAS TO BE THOUGHT THROUGH.
5 I WOULD NOT HAVE DONE -- I MEAN, WE KNEW -- WE KNEW ON
6 SEPTEMBER 25 THAT THERE WAS A SETTLEMENT. WE HAD RECEIVED
7 A LETTER FROM MR. ROSEN TELLING US TO TAKE NO ACTION
8 WHATSOEVER AS PERSONAL REPRESENTATIVES. SO, KNOWING THAT
9 THERE MIGHT BE A SETTLEMENT AND IT MIGHT BE PARTIALLY
10 TAXABLE, I WOULD NOT HAVE DONE ANYTHING DIFFERENT UNDER
11 THE FACTS AS THEY EXISTED THEN --

12 Q THANK YOU, MRS. POPE.

13 A -- BECAUSE MR. ROSEN WAS TELLING ME I COULD TAKE NO
14 ACTION WHATSOEVER AS PERSONAL REPRESENTATIVE.

15 Q WELL, LET'S DEAL WITH THAT. YOU'VE MENTIONED THAT --

16 A YEA.

17 Q -- A COUPLE OF TILES. DID YOU REGARD MR. ROSEN'S
18 LETTER? DID YOU TAKE NO ACTION AFTER YOU GOT THE LETTER?

19 A I WAS VERY TROUBLED BY THE SIMPLISTIC APPROACH TO
20 THIS VERY, VERY COMPLICATED ESTATE AND TRUST.

21 Q SO, THE ANSWER WOULD BE YES OR NO?

22 A THE ANSWER WOULD BE I CERTAINLY DID NOT DISREGARD IT.
23 I DON'T DISREGARD ANYTHING ANYBODY SAYS. I TRY TO LISTEN
24 TO EVERYTHING, BUT I WAS VERY TROUBLED BY IT.

25 Q WHAT ACTIONS DIDN'T YOU TAKE BASED ON THAT LETTER?

1 A WELL, EVERY STEP WE TAKE WE HAVE TO STOP AND SAY,
2 WHAT IS IT WE'RE GETTING READY TO DO? IS IT BEST FOR
3 JAMES BROWN'S ESTATE BALANCING IT AGAINST ALL THE
4 INEVITABLE CRITICISM WHICH WE WILL RECEIVE EVERY STEP WE
5 TAKE.

6 Q MRS. POPE, LET ME TRY TO STATE THIS A LITTLE MORE
7 ARTFULLY. WHAT ACTIONS DIDN'T YOU TAKE BASED ON MR. ROSEN
8 LETTER? YOU SAID THAT YOU GOTTEN THE LETTER A COUPLE OF
9 TIMES NOW. YOU VOLUNTEERED THAT. WHAT ACTIONS DIDN'T YOU
10 TAKE?

11 A MR. ROSEN'S LETTER WAS ONE OF MANY CRITICISMS THAT WE
12 WERE RECEIVING BEGINNING ON -- WELL, ACTUALLY, BEGINNING
13 IN JUNE JUST BEFORE THE CHRISTIE'S SALE. SO, I CAN'T
14 ATTRIBUTE A SINGLE ACTION TO MR. ROSEN'S LETTER. YOU
15 KNOW, THE ENTIRE ADMINISTRATION HAS BECOME IMPOSSIBLE
16 BECAUSE OF THE INTERFERENCE. MR. ROSEN'S LETTER IS JUST
17 INDICATIVE OF THE ATTITUDE THAT HAS RENDERED US INCAPABLE
18 OF PROTECTING THE ESTATE WHILE WE DO WHAT WE REALLY HAVE A
19 DUTY TO DO WHICH IS TO DEFEND MR. BROWN'S ESTATE PLAN.

20 Q AND THAT'S THE ONLY DUTY THAT YOU HAVE IS TO DEFEND
21 MR. BROWN'S ESTATE PLAN?

22 A NO.

23 Q YOU DON'T HAVE TO FILE TAX RETURNS AND MAKE SURE --

24 A NO.

25 Q -- YOU PROTECT THE ASSETS?

1 A NO. WE HAVE THAT --

2 MR. BAILEY: YOUR HONOR, I AM GOING TO OBJECT TO THIS
3 LINE OF QUESTIONING. IT'S GETTING -- I THOUGHT WE WERE
4 HERE FOR THE APPROVAL OF THIS SETTLEMENT. THIS IS JUST --

5 THE COURT: HOW IS IT RELEVANT AS TO WHETHER OR NOT
6 THE SETTLEMENT IS FAIR AND REASONABLE? I'M SORT OF THE
7 SAME WAY YOU ARE, MR. BAILEY. I MEAN, HOW IS IT RELEVANT?

8 MR. MEDLIN: YOUR HONOR, IT'S RELEVANT TO THE
9 QUESTION -- THIS LINE OF QUESTIONING ABOUT THE VALUATION
10 OF ESTATE. PART OF MRS. POPE'S VOLUNTEERED TESTIMONY ON
11 JANUARY 30 WAS THAT WE WERE GIVING AWAY \$50 MILLION OF
12 THIS ESTATE, AND I'M TRYING TO SHOW THAT I DON'T THINK
13 THAT'S SUCH A RELIABLE NUMBER, AND THIS IS ONE OF THE
14 SEVERAL WAYS, YOUR HONOR, THAT I AM TRYING TO DISPUTE THAT
15 NUMBER.

16 THE COURT: WELL, HOW IS THE QUESTION OF ASKING HER
17 WHAT SHE DIDN'T DO BECAUSE OF A LETTER THAT MR. ROSEN
18 WROTE, HOW DOES THAT GO TO THE EVALUATION?

19 MR. MEDLIN: YOUR HONOR, SHE'S THE ONE WHO RAISED IT.
20 I DIDN'T ASK FOR THAT TO BEGIN WITH, BUT ON A COUPLE OF
21 OCCASIONS WHEN I'VE ASKED HER WHAT DID SHE DO WITH THE
22 ESTATE TAX RETURN, DID SHE GET AN APPRAISER, DID SHE DO
23 THIS IN A CERTAIN WAY, SHE SAYS, NO, BECAUSE MR. ROSEN
24 WROTE ME A LETTER. I AM JUST TRYING TO ASCERTAIN IF THAT,
25 IN FACT, WAS THE REASON WE DON'T HAVE CERTAIN THINGS THAT

1 I AM GOING TO ASK ABOUT IN JUST A SECOND WITH YOUR
2 INDULGENCE, YOUR HONOR, ABOUT THE VALUATION OF THE ESTATE.

3 THE COURT: I HAVE CERTAINLY INDULGED ALL OF YOU. GO
4 AHEAD. YOU'RE MAKING YOUR RECORD.

5 MR. MEDLIN: THANK YOU, YOUR HONOR.

6 THE COURT: PLEASE KEEP IT RELEVANT.

7 MR. MEDLIN: WELL, YOUR HONOR, I'M SORRY, BUT I THINK
8 IT IS.

9 THE COURT: I AM NOT SUGGESTING IT ISN'T. PLEASE
10 KEEP IT RELEVANT.

11 Q MRS. POPE, IN FACT, YOU AND MR. BUCHANAN HAVE STATED
12 UNDER OATH, I BELIEVE, THAT YOU HAVE FELT RESTRAINED UNDER
13 SECTION 62-3-611 SINCE JANUARY OF '08 WHEN FORLANDO FILED
14 HIS LAWSUIT?

15 A WHAT MY INTENTION WAS -- YOU'RE A PROFESSOR, AND I AM
16 A PRACTITIONER. SO, I DON'T THINK IN TERMS OF NUMBERS,
17 BUT WHAT I SAID, MR. MEDLIN, IS THAT WE HAVE FELT THAT OUR
18 ACTIONS BOTH AS TO THE ESTATE AND TRUST -- AND AS YOU KNOW
19 THAT REFERS TO ESTATES -- WERE SEVERELY CONSTRAINED SO
20 THAT WE -- WE CERTAINLY NEVER, NEVER SHOULD HAVE BEEN
21 CONSTRAINED IN CONDUCTING SALES OR MANAGING ASSETS OR
22 ANYTHING SUCH AS THAT. WHAT HAPPENED WITH CHRISTIE'S
23 SHOULD HAVE NEVER HAPPENED, BUT IT DID.

24 WHAT WE WERE CONSTRAINED FROM, MR. MEDLIN, WAS MAKING
25 -- MAKING DISTRIBUTIONS WITHOUT COURT APPROVAL. WHAT WE

1 DID IN ADDITION TO THAT WAS SEEK COURT APPROVAL WHERE WE
2 KNEW THERE WOULD BE PROBLEMS THAT WE MIGHT AVOID, BUT THE
3 CONSTRAINT -- AND I AM SO SURPRISED AT THE
4 MISINTERPRETATION BECAUSE I BELIEVE AS YOU KNOW A
5 CONSTRAINT EVEN AGAINST A PERSONAL REPRESENTATIVE WHOSE
6 TERMINATION IS SOUGHT DOES NOT PREVENT THEM FROM MANAGING
7 THE STOCK PORTFOLIO OR SOMETHING. I MEAN, CERTAINLY -- I
8 MEAN, THAT WOULD BE TERRIBLE IF IT DID. IT DOESN'T
9 PREVENT SALES IF THEY'RE AUTHORIZED UNDER THE DOCUMENTS.

10 IT PREVENTS DISTRIBUTIONS AND THINGS THAT CAN'T BE
11 CORRECTED, BUT DESPITE THAT WE HAVE ACTED EXTRAORDINARILY
12 CAREFULLY IN EVERYTHING THAT WE'VE DONE, BUT DESPITE
13 GETTING REPEATED COURT ORDERS AUTHORIZING US TO ACT NOW WE
14 CAN'T EVEN DO WHAT THE JUDGE ORDERED US ON FEBRUARY 20 OF
15 2008 TO DO.

16 Q SO --

17 A -- BECAUSE OF INTERFERENCE.

18 Q SO YOUR UNDERSTANDING OF THE RESTRAINT UNDER SECTION
19 62-3-611 --

20 A UH-HUH.

21 Q -- WHICH YOU TESTIFIED TO AS BEING APPLICABLE SINCE
22 JANUARY OF 2008 --

23 A RIGHT.

24 Q -- WHICH ALLOWS YOU TO TAKE NO ACTION EXCEPT TO
25 ACCOUNT -- BY THE WAY, HAVE Y'ALL PROVIDED AN ACCOUNTING?

1 A WE DID LAST JUNE.

2 Q OKAY. BUT SINCE THEN --

3 A NO, NO. THEY'RE ANNUALLY DUE. THEY'RE ANNUALLY.

4 Q SECONDLY, TO CORRECT MALADMINISTRATION OF THE
5 ESTATE.

6 A RIGHT, WE'VE DONE THAT.

7 Q AND THIRD TO PRESERVE THE ESTATE?

8 A RIGHT.

9 Q IT DOESN'T SAY PRESERVE THE ESTATE PLAN, THOUGH, IN
10 THE STATUTE, DOES IT? IT SAYS PRESERVE THE ESTATE.

11 A WELL, FOR STARTERS, MR. MEDLIN, AS YOU KNOW THAT ONLY
12 DEALS WITH ESTATES AND DOESN'T SPECIFICALLY DEAL WITH THE
13 TRUST, BUT JUST -- SO, AN INTERESTING THING THAT WE'VE HAD
14 HAPPEN HERE IS THAT WE'VE HAD TO USE ESTATE ASSETS TO
15 PRESERVE THE TRUST ASSETS. SO, ARGUABLY, YOU KNOW, MAYBE
16 WE SHOULDN'T HAVE DONE THAT, BUT WE HAVE BECAUSE WE HAD AN
17 ORDER -- AN ORDER, SOMETHING WE REGULARLY SEEK TO ALLOW US
18 IN ESSENCE TO HELP THE TRUST WITH FUNDS THAT THE ATTORNEY
19 GENERAL LATER DETERMINED BELONGED MORE TO THE ESTATE
20 PROBABLY THAN THE TRUST, BUT, ANYWAY, I DO NOT BELIEVE
21 THAT SALES ARE PREVENTED, BUT THIS HAS BEEN A VERY
22 TROUBLESOME YEAR, AND WE'VE ALWAYS SOUGHT APPROVAL FOR ANY
23 SIGNIFICANT ACT WE TRIED TO TAKE, AND WE HAVE APPROVAL A
24 YEAR OLD TO SELL BOTH THE HOME AND -- BOTH TO SELL THE
25 HOME AND ANY TANGIBLE PERSONAL PROPERTY WE WANT TO SELL,

1 BUT COULD IT POSSIBLY BE DONE? OF COURSE NOT. THAT'S WHY
2 WE'VE GOT TO HAVE SOMEBODY ELSE TO MANAGE BECAUSE WE CAN'T
3 MOVE AND THE HOUSE IS GOING TO BE LOST AND THE CONTENTS OF
4 THE HOUSE ARE GOING TO BE LOST. WE'RE IN A TERRIBLE
5 EMERGENCY BECAUSE WE'VE BEEN SO PARALYZED BY INTERFERENCE.

6 Q I AM SORT OF CONFUSED BY THAT, MRS. POPE BECAUSE --

7 A WELL --

8 Q -- I'M NOT QUITE SURE WHERE YOU DRAW THE LINE BETWEEN
9 RESTRAINT AND BEING PARALYZED AS AN EXPLANATION OF WHY
10 THINGS HAVEN'T BEEN DONE VERSUS WHERE, IN FACT, YOU DO
11 HAVE THE AUTHORITY. WHEN WE'RE TALKING ABOUT NOT BEING
12 RESTRAINED UNDER 62-3-611 FROM SELLING ASSETS, DO YOU MEAN
13 WITH COURT APPROVAL?

14 A NO, I DON'T MEAN WITH COURT APPROVAL. I DON'T AT
15 ALL. I BELIEVE -- I BELIEVE THAT UNDER 62-3 WHATEVER TO
16 THE EXTENT THAT IT APPLIES TO TRUSTS THAT THE ENTIRE YEAR
17 OF 2008 WE SHOULD HAVE BEEN ABLE TO DO ANYTHING THAT WAS
18 REASONABLY APPROPRIATE TO THE GENERAL PRESERVATION OF
19 ASSETS -- THE PRIMARY OF WHICH ARE THE ROYALTIES, IMAGE,
20 AND PERSONA. I BELIEVE WE SHOULD HAVE BEEN ABLE TO DO
21 ANYTHING, BUT HAVING BEEN SUED BY FORLANDO BROWN AND
22 HAVING THE ORDEAL WE UNDERWENT WITH THE CHRISTIE'S SALE,
23 OUT OF AN ABUNDANCE OF CAUTION WE ALWAYS SOUGHT COURT
24 APPROVAL FOR MAJOR THINGS -- NOT BECAUSE WE NEEDED TO
25 UNDER THAT STATUTE OR ANY OTHER STATUTE OR THE DOCUMENTS

1 THEMSELVES, BUT BECAUSE THE ATMOSPHERE WAS SO HOSTILE THAT
2 IT WAS MORE -- MORE PRUDENT TO JUST GET IT RESOLVED AT
3 FIRST.

4 THE CHRISTIE'S SALE IS JUST THE VERY BEST EXAMPLE OF
5 THAT. THE NEXT IS OUR ATTEMPTS TO SELL THE HOUSE WHICH
6 HAS -- THE COURT ORDERED US A YEAR AGO ON FEBRUARY 20 TO
7 LOOK FOR A PURCHASER -- TO TRY TO FIND A MUSEUM PURCHASER.
8 WE CAN'T MOVE ON THAT. ON FEBRUARY 20 A YEAR AGO THE
9 COURT TOLD US WE COULD SELL ANY MORE TANGIBLE PERSONAL
10 PROPERTY WE NEEDED. WE CAN'T MOVE ON THAT. EMERGENCY
11 MOTIONS ARE FILED SAYING THAT WE'VE ACTED INAPPROPRIATELY.
12 YOU KNOW, WE'RE JUST --

13 Q AGAIN, THAT'S WHERE I AM CONFUSED, MRS. POPE. IF YOU
14 BELIEVE YOU HAVE THE AUTHORITY UNDER 62-3-611 TO SELL
15 ASSETS --

16 A TO THE EXTENT --

17 Q -- DESPITE THE RESTRAINT --

18 A TO THE EXTENT THAT --

19 THE COURT: HOLD ON, MA'AM, MRS. POPE.

20 THE WITNESS: I'M SORRY.

21 THE COURT: FINISH YOUR QUESTION.

22 Q -- THEN WHY DOES THE EMERGENCY MOTION RESTRAIN YOU
23 ANY FURTHER THAN THAT? IN OTHER WORDS --

24 A BECAUSE --

25 Q -- THE MOTION IS BROUGHT UNDER THAT SECTION.

1 A BECAUSE EVERYTHING WE DO, EVEN IF IT'S BEEN
2 PREVIOUSLY ORDERED BY COURT ORDER, YOU INTERFERE WITH.
3 THAT'S WHY. BECAUSE JUDGE EARLY'S FEBRUARY 20 ORDER
4 GIVING US FULL AUTHORITY TO SELL THE HOUSE AND SELL THE
5 CONTENTS IF WE NEEDED TO WE CAN'T IMPLEMENT BECAUSE Y'ALL
6 WILL HAVE ANOTHER EMERGENCY. SO, WE WANT YOU TO MANAGE
7 ALL OF THESE WHILE WE DEFEND MR. BROWN'S ESTATE PLAN, WE
8 DEFEND HIS TRUST THAT WAS IN EXISTENCE FOR SEVEN YEARS
9 BEFORE HIS DEATH -- ALMOST SIX YEARS; EXCUSE ME.

10 Q DID YOU TELL MR. COX IN A LETTER OR IN A PLEADING
11 TELL THIS COURT THAT YOU BELIEVE THAT THE JANUARY 7 ORDER
12 APPOINTING MR. BAUKNIGHT RELEASED YOU FROM ANY RESTRAINT?

13 A DID I DO WHAT?

14 Q DO YOU BELIEVE THAT THE JANUARY 7 ORDER APPOINTING
15 MR. BAUKNIGHT ALSO LIFTED ANY RESTRAINT THAT YOU SAY HAD
16 BEEN IMPOSED ON YOU?

17 A I CAN'T RECALL HOW THAT URBAN LEGEND GOT GOING.
18 AGAIN, I DON'T THINK IN TERMS OF THE NUMBERS. I BELIEVE
19 WE HAVE BEEN RESTRAINED AS TO THE ESTATE AND THE TRUST SO
20 THAT WE WOULD NOT MAKE ANY DISTRIBUTIONS, CANNOT MAKE ANY
21 DISTRIBUTIONS WITHOUT COURT ORDER, AND THAT ALL OF OUR
22 ACTIONS MUST BE TO PRESERVE THE ASSETS OF THE ESTATE AND
23 TRUST. YOU CAN CALL IT THE SECTION NUMBER YOU WANT TO
24 CALL IT. THAT'S MY CLEAR UNDERSTANDING.

25 HAVING SAID THAT, WE CAN'T DO ANYTHING. SO, WHAT WE

1 ARE FACED WITH IS DETERIORATION OF THE ASSETS, EMERGENCY
2 CONDITIONS, INABILITY TO ACT, PARALYSIS. WE CAN'T DO
3 ANYTHING. WE WANT SOMEBODY ELSE TO DO THIS AND WE ARE SO
4 SURPRISED THAT PEOPLE WHO HAVE TRIED FOR MONTHS TO GET
5 SOMEONE -- A PROFESSIONAL PERSON APPOINTED NOW WON'T GIVE
6 US A NAME.

7 Q SO, YOU BELIEVE YOU ARE STILL RESTRAINED DESPITE THAT
8 ORDER?

9 A I DON'T -- I MEAN, THAT ORDER DOESN'T -- THAT ORDER
10 AS YOU WILL RECALL REAFFIRMED OUR ABILITY TO SERVE, BUT IT
11 DID NOT TAKE AWAY YOUR MOTION TO GET RID OF US AS P.R.'S.

12 Q SO, ARE YOU RESTRAINED OR NOT?

13 A WELL, AGAIN, I THINK I HAVE EXPLAINED. I DON'T THINK
14 IN NUMBERS BECAUSE I DON'T THINK THAT NUMBER APPLIES TO
15 THIS SITUATION. I KNOW THAT WE CAN ONLY ACT TO PRESERVE
16 AND MAINTAIN THE ESTATE -- SOMETHING WE DO EVERY DAY FOR
17 ABOUT 11 HOURS, OR AT LEAST I DO.

18 Q SO, IF YOU DON'T BELIEVE THE ORDER CHANGED THAT
19 STATUS -- THE JANUARY 7?

20 A IT DID NOT CHANGE MY APPROACH TO THIS CONDITION, BUT
21 THE EMERGENCY MOTIONS AND OTHER INTERFERENCE SINCE THEN
22 HAVE MADE ME REALIZE IT IS IMPOSSIBLE FOR US TO CONTINUE
23 TO PROTECT MR. BROWN'S ESTATE PLAN, A JOB THAT I INTEND TO
24 DO AND CAN'T WAIT TO CONTINUE TO DO BUT WE CANNOT MANAGE
25 THE ASSETS WHILE WE DO IT -- THE COURT MUST RELIEVE US

1 FROM THAT OR GIVE US THE AUTHORITY WE HAD BEFORE AND THE
2 ORDERS THAT WE HAD BEFORE AND, HOPEFULLY, THE FAMILY WILL
3 BUY BEECH ISLAND. I WANT MORE THAN ANYBODY AS MUCH AS ANY
4 MEMBER OF THAT FAMILY FOR THEM TO BUY BEECH ISLAND. I
5 LOVE THAT PLACE, BUT IT IS GOING DOWN. IT IS
6 DETERIORATING. THE CONDITION IS TERRIBLE AND ALL SOMEBODY
7 WANTS TO DO IS CATCH US MAKING A MISTAKE. THAT'S NOT THE
8 WAY TO MANAGE THIS STORE. IT NEEDS HELP.

9 Q SO, YOUR UNDERSTANDING OF RESTRAINT IS THAT IF I HAD
10 A CLIENT WHO DIDN'T WANT THE PERSONAL REPRESENTATIVE TO
11 SELL A SENTIMENTAL PIECE OF PROPERTY EVEN THOUGH THE P.R.
12 HAD THE POWER OF SALE, WHAT REMEDY WOULD I HAVE TO PREVENT
13 THAT OTHER THAN A RESTRAINT?

14 A MR. MEDLIN, I AM NOT A PROFESSOR. I AM NOT
15 INTERESTED IN THESE HYPOTHETICALS. I AM INTERESTED IN
16 TRYING TO PRESERVE MR. BROWN'S ESTATE PLAN AND HIS ASSETS.
17 IF THE COURT INSISTS THAT YOU AND I HAVE A DIALOGUE -- A
18 PROFESSORIAL DIALOGUE -- I WILL HAVE IT, BUT THIS IS REAL
19 LIFE TO ME.

20 Q MRS. POPE, I REALLY --

21 THE COURT: PROFESSOR MEDLIN, JUST KEEP IT CASE
22 SPECIFIC.

23 MR. MEDLIN: I AM TRYING TO GET TO THE POINT, YOUR
24 HONOR. THANK YOU.

25 THE COURT: GET TO THE POINT, PLEASE.

1 Q WOULD YOU SELL AN ASSET THAT THE FAMILY DIDN'T WANT
2 TO SELL UNDER YOUR NOTION OF THE MEANING OF RESTRAINT
3 UNDER WHICH YOU THINK YOU --

4 A ABSOLUTELY, IF I THOUGHT IT HELPED THE GENERAL
5 ASSETS. IF I THOUGHT I WOULD -- IF I THOUGHT I COULD SAVE
6 THE ROYALTY -- SAVE THE ROYALTIES, WHICH IS BECOMING THE
7 QUESTIONS -- SAVE THE ROYALTIES BY SELLING BEECH ISLAND, I
8 WOULD DO IT IN A MINUTE. IF I THOUGHT I COULD SAVE THE
9 ROYALTIES BY SELLING THE TANGIBLE PERSONAL PROPERTY, I
10 WOULD DO EVERYTHING I COULD TO TRY TO GET IT TO THE
11 FAMILY. AS YOU WILL RECALL, WE DID. WE'VE OFFERED BEECH
12 ISLAND TO THE FAMILY. WE'VE OFFERED THE TANGIBLE PERSONAL
13 PROPERTY TO THE FAMILY. WE HAVE DONE EVERYTHING WE CAN TO
14 TRY TO HELP THE FAMILY ACCOMPLISH WHAT THEY WANT TO
15 ACCOMPLISH.

16 I SPENT THE DAY THERE LAST WEEK DEALING WITH THE
17 PLUMBER AND A GUY FROM ARCHIVES IN HISTORY GETTING
18 SUGGESTIONS WHICH I CAN PASS ALONG TO THE FAMILY. I WANT
19 TO HELP THEM IN ANY WAY I CAN, BUT WE ARE PARALYZED. WE
20 HAVE GOT TO GET RELIEF OR THESE ASSETS ARE GOING TO BE
21 DESTROYED.

22 Q MRS. POPE, IF THE SETTLEMENT WERE APPROVED WOULDN'T
23 THAT BECOME THE PROBLEM OF THE CHARITIES AND THE FAMILY
24 AND WHOEVER MIGHT BE MANAGING THE ESTATE AT THAT POINT?

25 A NO, BECAUSE WE WOULD APPEAL THE SETTLEMENT. SO,

1 WE'RE ASKING FOR A SPECIAL ADMINISTRATOR BECAUSE THE
2 PARTIES AREN'T HERE. IT'S UNJUST. IT DOES NOT COMPORT
3 WITH MR. BROWN'S WISHES. THE STANDARD THAT YOU'VE BEEN
4 TALKING ABOUT ISN'T EVEN THE STANDARD FOR CHARITABLE
5 TRUST. IT IS WRONG, AND WE DON'T EVEN HAVE ALL OF THE
6 RIGHT PARTIES WHO NEED TO PROTECT -- TO PROTECT IT BECAUSE
7 YOU HAVE CHOSEN NOT TO ADD THE PARTIES WHO SHOULD BE
8 PROTECTING THE ESTATE PLAN.

9 NO. WE NEED A SPECIAL ADMINISTRATOR TO MANAGE THIS
10 ESTATE SO IT WON'T GO DOWN ANYMORE BECAUSE IF IT WERE
11 APPROVED NOW WITHOUT SALKEHATCHIE, WITHOUT USC AIKEN,
12 WITHOUT THE PARTIES PROPERLY JOINED, WITH NO SIGNATURES ON
13 AN AGREEMENT, WITH A STATEMENT TO THIS COURT THAT THE
14 GRANDCHILDREN HAVE NOT EVEN SIGNED, WITH NO AGREEMENT --
15 NOBODY HAS SEEN AN AGREEMENT. OF COURSE, WE WOULD NOT DO
16 THAT. IT'LL JUST INVITE 10, 20, 30 MORE YEARS OF
17 LITIGATION WHICH WE DO NOT NEED, AND IT IS UNJUST.

18 Q MRS. POPE, OTHER THAN THE BEECH ISLAND REAL ESTATE
19 WHICH YOU'VE ASSERTED IS IN THE TRUST, DO YOU KNOW WHAT
20 OTHER ASSETS ARE IN THE TRUST?

21 A YOU KNOW, MR. JONES ATTACKED US FOR A YEAR BECAUSE WE
22 DIDN'T KNOW. HE IS STANDING BY YOU NOW. YOUR CLIENTS
23 HAVE SIGNED A STIPULATION THAT THERE IS NOTHING IN THE
24 TRUST BUT BEECH ISLAND AND \$50. MR. BELL'S CLIENTS HAVE
25 ATTACKED US IN FEDERAL COURT BECAUSE WE DIDN'T SAY

1 EVERYTHING WAS IN THE TRUST. MR. JONES HAS ATTACKED US
2 EVERYWHERE BECAUSE WE DIDN'T SAY EVERYTHING WAS IN THE
3 TRUST. IT IS STILL UP IN THE AIR. IT IS STILL UP IN THE
4 AIR.

5 Q SO, SINCE IT'S STILL UP IN THE AIR, YOU CAN'T BE SURE
6 WHETHER YOUR RESTRAINT AS A PERSONAL REPRESENTATIVE COVERS
7 ANY ASSETS OTHER THAN WHAT YOU WOULD SAY IS THE BEECH
8 ISLAND PROPERTY?

9 A WE CONSIDER OURSELVES RESTRAINED AND ACTING ONLY TO
10 PRESERVE THE ASSETS, AND WITH RESPECT TO BEECH ISLAND WE
11 WANT TO PRESERVE EVERYTHING. BEECH ISLAND -- THE TRUST OF
12 WHICH WE ARE THE TRUSTEES IS THE PRIMARY BENEFICIARY OF
13 THAT ESTATE. SO, WE TRY TO LOOK AT THE PLAN AS A WHOLE.

14 Q MRS. POPE, I WAS JUST ASKING IF BASED ON YOUR EARLIER
15 COMMENT THAT THE RESTRAINING STATUTE DIDN'T APPLY TO
16 TRUSTEES.

17 A MR. MEDLIN, I DON'T THINK OF IT THAT WAY. I THINK OF
18 PRESERVING AND PROTECTING THIS VALUABLE GIFT THAT JAMES
19 BROWN LEFT FOR THE WORLD. THAT'S WHAT -- THAT'S ALL I
20 THINK ABOUT FROM SEVEN IN THE MORNING UNTIL NINE AT NIGHT
21 EVERYDAY.

22 Q I APPRECIATE THAT, MRS. POPE. I WAS JUST TRYING TO
23 CLARIFY SOMETHING YOU SAID IN YOUR ANSWER FOR THE RECORD.
24 NOW, YOU INTENDED AT SOME TIME TO GET APPRAISALS FOR THESE
25 ASSETS FOR ESTATE TAX PURPOSES?

1 A NO, WE DID NOT. WE DID NOT. WE INTENDED TO ASK A
2 GROUP SUCH AS THE GRAHAM WINDSOR GROUP TO DO A DUE
3 DILIGENCE WHICH WE THOUGHT WAS THE VERY BEST WAY TO
4 ASCERTAIN THE VALUE, AND, MR. MEDLIN, IF IT TURNED OUT NOT
5 TO BE A GOOD VALUE, WE'LL BE DOING OUR DUE DILIGENCE AT
6 THE SAME TIME AND WE WILL, OF COURSE, BE ASKING YOU GUYS
7 BECAUSE THIS IS HUGE. THE WHOLE ISSUE OF WHETHER TO
8 ACTUALLY SELL OR NOT SELL, WHETHER TO PRESERVE THE
9 ROYALTIES, WHETHER TO SELL SOME AND NOT SELL SOME, IT'S
10 HUGE.

11 WE NEED A DIALOGUE ABOUT THAT, BUT WE THINK, YOU
12 KNOW, THIS ISN'T LIKE YOU DON'T RUN OUT TO THE CORNER AND
13 GET AN APPRAISER. A DUE DILIGENCE BEING MADE AT THE
14 EXPENSE OF A POTENTIAL PURCHASER IS THE VERY BEST WAY. IF
15 THERE IS A RIGHT OF FIRST OFFER THAT IS THE PERFECT WAY TO
16 GET A FAIR APPRAISAL. PERFECT AND CHEAP. ZERO.

17 Q DID YOU FILE A FORM 4768 STATEMENT OR WAS THAT YOUR
18 PREDECESSOR?

19 A I'M SORRY. YOU KNOW, YOU'LL HAVE TO SHOW IT TO ME.
20 I WON'T SAY I DID OR DIDN'T.

21 Q IT IS PART OF THE STATE TAX RETURN. IT IS A REQUEST
22 FOR AN EXTENSION.

23 A I CAN'T REMEMBER. I MEAN, CAN YOU TELL ME WHAT IT
24 WAS ATTACHED TO?

25 Q YEA, IT WAS ATTACHED TO THE ESTATE TAX RETURN THAT

1 YOU DISTRIBUTED --

2 A OKAY.

3 Q -- TO US AFTER WE SIGNED A CONFIDENTIALITY --

4 A WELL, AGAIN, I CAN'T LOOK AT THAT AND TELL. THERE
5 WERE SEVERAL EXTENSIONS SOUGHT, AND IF YOU SHOW ME THE
6 WHOLE DOCUMENT MAYBE I CAN TELL YOU WHETHER IT WAS US. AS
7 YOU KNOW A TIME FOR EXTENSION CAME UP IN SEPTEMBER 2007
8 WHEN MR. DALLAS AND MR. BRADLEY WERE REPRESENTED BY BILL
9 SELLERS. SO, I CAN'T SAY WITHOUT, YOU KNOW, MAYBE IF WE
10 COULD RECONSTRUCT IT IN OUR HEADS.

11 Q BUT IF THERE WERE A STATEMENT -- AND I HAVE THE
12 RETURN BUT I DON'T THINK YOU WANT THIS IN EVIDENCE.

13 A OH, I DON'T THINK IT'S A GOOD IDEA.

14 Q THEN IF YOU'LL INDULGE ME, MRS. POPE.

15 A I KNOW THAT MR. CANNON -- I MEAN, I KNOW THAT
16 MR. DALLAS AND MR. BRADLEY REQUESTED ONE EXTENSION. MY
17 RECOLLECTION IS THAT WE ASKED FOR ONE. IT MAY HAVE ONLY
18 BEEN IN A LETTER, BUT WE COULDN'T GET IT, BUT I
19 COULDN'T...

20 Q MRS. POPE, I AM GOING TO HAND YOU --

21 A WHERE IS THE 4768? WELL, THERE IT IS. IT IS SIGNED
22 BY THEM.

23 Q THAT'S ALL I AM ASKING.

24 A WELL, I MEAN, I AM LOOKING AT THEIR SIGNATURE. IT'S
25 NOT MINE. IT IS THEIRS.

1 Q SURE. FINE. AND DID YOU REVIEW WHAT THEY HAD FILED
2 BEFORE YOU FILED YOUR ESTATE TAX RETURN? DID YOU LOOK AT
3 WHAT THEY HAD?

4 A I CAN'T SAY THAT I DID BECAUSE BILL SELLERS WOULD
5 HAVE JUST PUT THAT IN THERE AS HE PUT IN THE BAD SCHEDULE
6 B. HE COLLATED THE RETURN -- THE ATTACHMENTS TO THE
7 RETURN -- AND IT WAS ONLY AFTER AS YOU KNOW THE NEXT DAY
8 WE DISCOVERED THAT THE DALLAS-CREATED SCHEDULE B HAD BEEN
9 SENT TO THE I.R.S. AND WE IMMEDIATELY NOTIFIED THEM AND
10 TOLD THEM THAT IT WAS AN ERROR BECAUSE THAT IS WHAT HAD
11 BEEN HANDED TO MR. SELLERS. I CAN'T SAY THAT -- I MEAN, I
12 AM NOT SAYING THAT I HAVEN'T READ IT, BUT I DIDN'T --

13 Q BUT MR. SELLERS WAS YOUR GUY, NOT YOUR PREDECESSOR'S
14 GUY?

15 A NO, HE WAS THE PREDECESSOR'S GUY. IF YOU WILL
16 RECALL, HE WAS ENGAGED ON AUGUST 10, AND HE REPRESENTED
17 THEM UNTIL THEIR RESIGNATION.

18 Q I DO RECALL, BUT YOU WANTED MR. SELLERS TO SERVE IN
19 THAT POSITION?

20 A WELL, YOU WANTED ME. SO, DOES THAT MAKE ME YOUR GUY?

21 THE COURT: ALL RIGHT. LET'S --

22 MR. MEDLIN: YOUR HONOR, I JUST --

23 THE COURT: -- PLEASE LET'S KEEP TO ANSWERS AND
24 QUESTIONS.

25 Q THE QUESTION IS DIDN'T MR. SELLERS CONTINUE TO WORK

1 FOR YOU AFTER YOU WERE APPOINTED PERMANENT --

2 A HE DID.

3 Q -- PERSONAL REPRESENTATIVE AND TRUSTEES?

4 A HE DID BECAUSE AS YOU WILL RECALL WE WERE APPOINTED
5 ON NOVEMBER 20, AND THE CRITICAL ISSUE WHICH HAD BEEN
6 FOUND ON AUGUST 10 ORDER WAS TO GET THE APPLICATION FOR
7 THE RECOGNITION FOR THE I FEEL GOOD CHARITY DONE BETWEEN
8 NOVEMBER 20 AND DECEMBER 5 BEFORE ALL OF THE LAWSUITS
9 STARTED, AND MR. SELLERS NOW WANTS TO QUIT. HE'S TRIED TO
10 QUIT. AS YOU RECALL OUR CONVERSATION HE TRIED TO QUIT
11 BEFORE PREPARING THE ESTATE TAX RETURN AND I CALLED YOU
12 AND ASKED YOU PLEASE LET YOUR GUY WHOEVER YOU CHOOSE
13 PREPARE THE ESTATE TAX RETURN FOR US. LET'S USE YOUR GUY,
14 AND YOUR ANSWER WAS, NO, NO, WE WANT BILL SELLERS TO DO
15 IT, AND I SAID, LOOK, YOU KNOW, I'M GLAD TO WORK WITH YOUR
16 GUY. IT IS A PERFECT TRANSITION AND YOU WOULDN'T ALLOW IT
17 AND THEN YOU COMPLAINED ABOUT WHAT WE DID.

18 Q WELL, MRS. POPE, DO YOU KNOW THAT I HAD A GUY?

19 A NO. IN FACT, YOU SPECIFICALLY TOLD US YOU DIDN'T
20 HAVE A GUY AND I WAS THINKING -- A GUY BEING AN
21 ACCOUNTANT -- AND I'M THINKING, HOW CAN THEY HAVE REACHED
22 THIS COMPLEX SETTLEMENT WITHOUT HAVING AN ACCOUNTANT?
23 THAT'S WHAT I THOUGHT TO MYSELF THAT DAY WHEN YOU TOLD ME
24 IN EARLY SEPTEMBER YOU DIDN'T HAVE AN ACCOUNTANT EVEN
25 THOUGH YOU HAD REACHED THIS SETTLEMENT.

1 Q WHY WOULD --

2 THE COURT: PROFESSOR MEDLIN, I AM GOING TO STOP
3 RIGHT NOW. I MEAN, I AM -- MY PATIENCE -- HOW IS THIS
4 GOING TO WHETHER OR NOT THIS SETTLEMENT IS FAIR AND
5 REASONABLE? I MEAN, YOU AND MRS. POPE --

6 MR. MEDLIN: YOUR HONOR --

7 THE COURT: -- ARE CARRYING ON A CONVERSATION ABOUT
8 CONFERENCES Y'ALL HAD.

9 MR. MEDLIN: WE'RE TRYING TO PROTECT THE RECORD. SHE
10 SAID AT THE VERY BEGINNING OF THE EXAMINATION TODAY THAT
11 SHE WAS GOING TO APPEAL THIS. SHE SAID IT A FEW MINUTES
12 AGO.

13 THE COURT: WELL, I DON'T THINK THERE IS ANY QUESTION
14 THAT SHE IS.

15 MR. MEDLIN: WELL, YOUR HONOR, IF I COULD GET MORE
16 SUCCINCT ANSWERS TO THE QUESTIONS, I PROBABLY WOULDN'T
17 HAVE TO RESPOND SO MUCH, BUT THAT, APPARENTLY, IS NOT SO
18 FAR THE PROCESS INVOLVED. WHAT I AM SIMPLY TRYING TO DO
19 IS GET TO THE VALUATION OF THE ESTATE, AND I AM TRYING TO
20 READ A SENTENCE FROM THE FORM 4768.

21 THE COURT: WELL, THEN READ IT AND ASK YOUR QUESTION.

22 Q DO YOU KNOW WHY MR. SELLERS INCLUDED STATEMENT IN THE
23 FORM 4768? THE P.R.'S ARE IN THE PROCESS OF SECURING
24 PROPER APPRAISALS FOR THE ESTATE ASSETS?

25 A IS THAT --

1 Q THOSE ARE NOT COMPLETE OR AVAILABLE AT THIS TIME.

2 A IS THAT THE ONE THAT MR. DALLAS SIGNED? IS THAT THE
3 ONE THAT MR. DALLAS SIGNED?

4 A APPARENTLY.

5 Q DO YOU RECALL THAT JUST PRIOR TO THEIR RESIGNATION
6 THERE WAS A HUGE FIGHT OVER GETTING AN APPRAISAL AND IT
7 WAS ONE FOR \$60,000 AND STAN JACKSON WANTED IT AND THERE
8 WAS ALL THIS BICKERING BACK AND FORTH AND IT DIDN'T HAPPEN
9 AND THEY RESIGNED. SO, I AM GOING TO GUESS THAT THAT
10 STATEMENT WAS TRUE WHEN IT WAS MADE. YOU KNOW, I CAN'T
11 SAY THAT. WHAT DAY WAS THAT SIGNED? SEPTEMBER OF '07? I
12 WOULD GUESS IT WAS A TRUE STATEMENT WHEN MADE. I DON'T
13 HAVE -- I MEAN, YOU KNOW, I DON'T HAVE ANY REASON TO THINK
14 IT WAS UNTRUE WHEN MR. DALLAS AND MR. BRADLEY CAME ALONG,
15 BUT WE -- HAVING EVEN HEARD THE NUMBER 60,000, WE WEREN'T
16 EVEN GOING TO CONSIDER IT. WITH THE TROUBLE WE HAD WITH
17 THE CHRISTIE'S SALE, IT JUST WASN'T GOING TO HAPPEN.

18 Q DID YOU EXPLORE WITH MR. SELLERS THE POSSIBILITY OF
19 OBTAINING APPRAISALS?

20 A NO.

21 Q FOR PURPOSES OF COMPLETING THE ESTATE TAX RETURN?

22 A NO. I DID NOT BECAUSE THAT WAS NOT HIS DECISION.
23 THAT WAS MINE. OURS. WE COULDN'T AFFORD IT. THE ESTATE
24 IS A GREAT BIG CHAPTER 11.

25 Q AND YOU SAID EARLIER THAT THE ESTATE TAX RETURN CAN

1 BE FIXED IF IT'S INCORRECT?

2 A WELL, WHEN I SAY CAN BE FIXED I DON'T WANT YOU TO
3 MISUNDERSTAND ME. I SPEAK SOMETIMES IN SHORT TO YOU,
4 MR. MEDLIN, BECAUSE YOU UNDERSTAND THESE THINGS. THE
5 ESTATE TAX RETURN MUST NECESSARILY BE FIXED BECAUSE WE
6 HAVE TAKEN AN 80 MILLION-DOLLAR CHARITABLE DEDUCTION, AND
7 IF A SETTLEMENT IS REACHED IN WHICH ANY LESS THAN
8 VIRTUALLY THE WHOLE ESTATE EXCEPT \$2 MILLION THE ESTATE
9 TAX RETURN WILL HAVE TO BE FIXED BECAUSE UNDER PENALTIES
10 OF PERJURY I HAVE TOLD THE ESTATE TAX PEOPLE AND SO HAS
11 BOB THAT THAT MUCH IS GOING TO CHARITY AND THAT IS NO
12 LONGER GOING TO BE TRUE.

13 SO, WHEN I SAY IT'S GOT TO BE FIXED, THAT'S WHY WE
14 HAVE SAID TO YOU, LET'S TALK, LET'S GET YOUR PEOPLE
15 TOGETHER WITH OUR PEOPLE AND FIGURE OUT HOW TO NOTIFY THE
16 I.R.S. AND BEGIN TO FIX THIS PROBLEM. SO, YES, THINGS CAN
17 BE FIXED.

18 Q MRS. POPE, LET'S ASSUME THAT THE SETTLEMENT IS
19 APPROVED DESPITE YOUR OBJECTIONS AND ADMITTEDLY 25 PERCENT
20 OF THE ASSETS IN THE ESTATE WILL PASS TO THE CHILDREN AND
21 SOME OF THAT MAY WELL BE TAXABLE. IF YOU HAVE OVERVALUED
22 THE ESTATE SIGNIFICANTLY, AREN'T WE GOING TO HAVE A
23 PROBLEM WITH THE I.R.S. TRYING TO ARGUE AGAINST THE FIRST
24 RETURN THAT'S BEEN FILED?

25 A MR. MEDLIN, I HAVE GRAVE CONCERNS ABOUT EVERYTHING WE

1 -- AND YOU USED THE TERM LIGHTLY -- ARE TRYING TO DO
2 BECAUSE THERE IS SO MUCH IN THAT TROUBLESOME DOCUMENT THAT
3 SIMPLY TAKES MORE HERE, MORE THERE FROM THE CHARITY AND
4 GIVES IT TO THE FAMILY, AND I'M ASKING MYSELF HOW IS
5 ANYONE GOING TO BE ABLE TO TREAT THE CHARITY FAIRLY WITH
6 ALL OF THIS SECRECY? THAT IS A PRIMARY CONCERN OF MINE.
7 THE FACT THAT YOU WILL NOT TELL US WHAT YOUR ATTORNEY'S
8 FEES ARE, THE FACT --

9 MR. MEDLIN: YOUR HONOR --

10 THE WITNESS: NO, NO, THESE ARE HUGE. Y'ALL WON'T
11 SAY WHAT YOUR ATTORNEY'S FEES ARE, BUT THEY'RE COMING OUT
12 OF MR. BROWN'S ASSETS. TELL HE ME ABOUT THAT.

13 THE COURT: ALL RIGHT. I'VE HAD IT. YOU'RE GOING TO
14 EITHER ASK AND ANSWER OR I AM GOING TO CONCLUDE THE
15 HEARING. Y'ALL JUST KEEP GOING ON AND ON AND ON.

16 MRS. POPE, PLEASE LET'S TRY -- WITH ALL DUE RESPECT,
17 PLEASE TRY TO ANSWER THE QUESTION THAT IS POSED. PLEASE.

18 MR. MEDLIN: YOUR HONOR, I AM TRYING TO ASK YES OR NO
19 QUESTIONS AND SHORT-ANSWER QUESTIONS. I APOLOGIZE.

20 THE COURT: I AM NOT FUSSING AT BOTH OF YOU. I AM
21 JUST -- IT'S JUST GETTING FAR AFIELD. WE'RE GOING OVER
22 MATTERS THAT WE'VE GONE OVER ALL DAY LONG.

23 Q IF THE ESTATE IS SIGNIFICANTLY OVERVALUED IN THAT
24 FIRST RETURN AND IF, IN FACT, THERE WILL BE SOME TAXABLE
25 PART OF THAT PURSUANT TO AN APPROVED SETTLEMENT, COULDN'T

1 THAT CONSTITUTE A PROBLEM WHEN WE TRY TO AMEND THE TAX
2 RETURN AND REDUCE THE TAX WHICH ULTIMATELY IMPACTS THE
3 CHARITY UNDER OUR SETTLEMENT?

4 A YES AND I WILL EXPLAIN. THAT'S WHY I CALLED YOU IN
5 SEPTEMBER AND ASKED YOU AND MR. CARTER TO PLEASE BE
6 INVOLVED WITH US IN THE PREPARATION OF THE ESTATE TAX
7 RETURN AND YOU REFUSED.

8 Q YOU ALSO SAID IN YOUR TESTIMONY, MRS. POPE -- LET ME
9 ASK ONE MORE QUESTION ABOUT THE ESTATE TAX RETURN.

10 HOPEFULLY, ONE MORE QUESTION, YOUR HONOR.

11 SO, IF I UNDERSTAND IT, YOUR ESTATE TAX RETURN
12 VALUATION WAS BASED ON AN INVENTORY AND APPRAISEMENT FILED
13 BY YOUR PREDECESSORS THAT YOU HAVE SAID IN COURT AREN'T
14 CREDIBLE?

15 A MR. MEDLIN --

16 THE COURT: HOLD ON WAIT A MINUTE. YOU'VE ALREADY
17 ASKED THIS QUESTION AT LEAST 10 TIMES.

18 THE WITNESS: MR. MEDLIN, I DO THINK --

19 THE COURT: MRS. POPE. MRS. POPE, PLEASE. I AM
20 GOING TO LET HIM ASK IT ONE MORE TIME, BUT DON'T INTERRUPT
21 HIM UNTIL HE FINISHES AND THEN YOU CAN ANSWER. ONE MORE
22 TIME.

23 Q I AM JUST TRYING TO RECONCILE EVERYTHING HERE. YOU
24 HAVE BASED YOUR ESTATE TAX RETURN VALUATION ON INVENTORY
25 AND APPRAISEMENT FILED BY A GENTLEMAN WHOSE CREDIBILITY

1 YOU QUESTION, NON-BINDING OFFERS AND LETTERS OF INTENT,
2 AND, IN FACT, IN THE ESTATE TAX RETURN YOU SAY THAT THESE
3 GENTLEMEN AREN'T CREDIBLE BUT I AM GOING TO TREAT THEM AS
4 A SOURCE OF INFORMATION AS YOU SAID EARLIER.

5 THE COURT: IS THAT THE QUESTION?

6 MR. MEDLIN: THAT'S THE QUESTION, YES, AND I THINK
7 SHE'S --

8 THE WITNESS: THE ANSWER IS -- I CAN'T REMEMBER
9 WHETHER IT'S YES OR NO, BUT I'LL EXPLAIN. I BELIEVE THAT
10 MR. DALLAS HAS GIVEN ME CREDIBLE INFORMATION IN CERTAIN
11 AREAS. I BELIEVE IN THE LATE SUMMER OF AUGUST -- I MEAN,
12 IN THE LATE SUMMER OF 2007 WHEN HE SAID TO MR. BUCHANAN
13 AND ME OVER LUNCH THAT HE THOUGHT THE ASSETS WERE -- HAD A
14 VALUE OF ABOUT A HUNDRED MILLION THAT THAT WAS CREDIBLE.
15 IT IS NOT AN APPRAISAL, BUT IT IS WHAT I BELIEVE TO HAVE
16 BEEN A CREDIBLE STATEMENT BY A PERSON WHO HAD DEEP
17 EXPERIENCE WITH MR. BROWN. THAT NUMBER HAS SHOWN UP AGAIN
18 AND AGAIN.

19 AGAIN, IN THIS COMPLEX ATMOSPHERE YOU TAKE WHAT YOU
20 BELIEVE IS CREDIBLE FROM EVERYBODY WHEN YOU FIND IT AND
21 YOU REJECT WHAT YOU DON'T BELIEVE TO BE CREDIBLE.

22 Q MRS. POPE, IN THIS YEAR OF DILIGENCE WHAT METHODOLOGY
23 ARE YOU AND MR. BUCHANAN GOING TO USE TO DETERMINE THE
24 VALUE OF THE ESTATE?

25 A A RIGHT OF FIRST OFFER WHICH WE'VE ASKED THE COURT TO

1 ALLOW US TO DO SO THAT WE WILL HAVE A TRUE MARKET FOR THE
2 -- THOSE MAJOR ASSETS AND WE ASK THE COURT TO DO THAT, BUT
3 WE CAN'T GET IT DONE.

4 Q WHAT WILL YOU COMPARE THAT RIGHT OF FIRST OFFER TO TO
5 KNOW WHETHER IT IS, IN FACT, A FAIR OFFER?

6 A WELL, WHAT WE'LL DO IS IF WE GET AN OFFER WE'LL HAVE
7 AN APPRAISAL BECAUSE WE'LL HAVE SOME MONEY IN HAND AND
8 MEANWHILE WE WOULD HAVE CONDUCTED ALL OF OUR DUE DILIGENCE
9 TO GET READY FOR THE APPRAISER. YES.

10 Q THE ANSWER IS YOU'LL GET AN APPRAISAL.

11 A THE ANSWER IS WE WILL GET IT ALL TOGETHER AND IF WE
12 GET AN OFFER WE WILL -- ACTUALLY, WE'LL GET A REVIEW OF
13 THE OFFER. I AM NOT SAYING WE'LL GET AN APPRAISAL. WE'LL
14 GET A REVIEW OF THE OFFER BY APPROPRIATE PEOPLE.

15 Q MRS. POPE, YOU TESTIFIED THAT ANY SETTLEMENT NEEDS TO
16 DEAL WITH THE ATTORNEY'S FEES AND YOU HAVE EXPRESSED
17 CONCERN THAT \$14 MILLION OF ATTORNEY'S FEES THAT,
18 APPARENTLY, THE COUNSEL IN THIS CASE ARE GOING TO GET
19 ACCORDING TO YOU, WHY IS THAT A PROBLEM FOR THE ESTATE?

20 A MR. MEDLIN, EVERY DIME OF THIS SETTLEMENT IS COMING
21 FROM JAMES BROWN. WE DON'T KID OURSELVES ANYMORE THAT THE
22 FAMILY IS REALLY CONTRIBUTING ANYTHING. SO, I BELIEVE
23 THAT THIS COURT WITH THIS CHARITABLE AND NON-CHARITABLE
24 TRUST AND A SETTLEMENT WITH MANY OF THE ESSENTIAL PARTIES
25 NOT EVEN HERE AND THE P.R.'S AND THE TRUSTEES OBJECTING

1 HAS THE RIGHT TO KNOW EVERY DIME THAT'S COMING OUT OF THAT
2 SETTLEMENT. IT ISN'T COMING FROM ANYWHERE BUT JAMES
3 BROWN.

4 Q UNDER THAT THEORY, ISN'T THAT DOUBLE ACCOUNTING? YOU
5 ALREADY WANT TO SAY THAT THIS MONEY SHOULDN'T BE GOING
6 AWAY FROM THE CHARITY ANYWAY AND THEN BECAUSE THE
7 ATTORNEY'S FEES WILL BE PAID FROM WHATEVER THE PARTIES
8 RECOVER YOU WANT TO ADD THAT INTO THE PROBLEM OF THE
9 SETTLEMENT?

10 A EVERY DIME OF THIS SETTLEMENT --

11 Q BUT IT'S --

12 A -- IS COMING FROM JAMES BROWN.

13 Q SORRY. UNDERSTOOD, BUT IS THE DIME GOING TO BE 20
14 CENTS UNDER THIS MATH?

15 A MR. MEDLIN, I AM KIND OF GOOD AT MATH AND I CAN TELL
16 THAT EVERY DIME IS COMING FROM MR. BROWN, AND I HAVE NEVER
17 SEEN A SETTLEMENT LIKE THIS WHERE A CHARITY -- THE MONEY
18 IS BEING TAKEN FROM A CHARITY AND THE LAWYERS ARE REFUSING
19 TO SAY WHAT THEY'RE GOING TO BE PAID IN THE SETTLEMENT.
20 NEVER SEEN IT IN MY 35 YEARS.

21 Q MRS. POPE, IF THE -- IF MY CLIENT GETS \$25 MILLION AS
22 PART OF THE SETTLEMENT -- LET'S JUST THROW THAT NUMBER
23 OUT -- AND SHE PAYS HER LAWYERS FROM THAT 25 MILLION, THE
24 CHARITY IS OUT A TOTAL OF 25 MILLION UNDER YOUR THEORY;
25 RIGHT?

1 A MR. MEDLIN, EVERY DIME OF THAT IS BEING TAKEN FROM
2 THE CHARITY. SO, IF IT'S TAKEN FROM THE CHARITY, WE HAVE
3 A RIGHT TO KNOW WHAT IT IS. WE HAVE A RIGHT TO HAVE IT
4 APPROVED BY THE COURT, AND WE HAVE A RIGHT TO WONDER
5 WHETHER IT'S GOING TO DISQUALIFY THE CHARITY.

6 Q THE ESTATE HAS BEEN CHARGED 25 MILLION UNDER YOUR
7 SCENARIO. WHAT DIFFERENCE DOES IT MAKE AS FAR AS THE
8 TOTAL NUMBERS ARE CONCERNED WHAT MY CLIENT PAYS US OUT OF
9 THAT 25 MILLION?

10 A BECAUSE IT'S COMING FROM A CHARITY -- AN ESTATE AND A
11 CHARITY AND A NON-CHARITABLE TRUST AND IT SHOULDN'T BE A
12 SECRET, AND THERE'S NO BUSINESS ON EARTH FOR IT TO BE A
13 SECRET.

14 Q IF THE SETTLEMENT IS APPROVED AND MY CLIENT GETS WHAT
15 SHE'S SUPPOSED TO GET UNDER THE CHARITY, WHAT DIFFERENCE
16 IN THE TOTAL DOLLARS TO THE CHARITY DOES IT MAKE WHAT SHE
17 PAYS HER LAWYERS FROM HER RECOVERY?

18 A EVERYTHING. EVERYTHING. EVERY DIME THAT IS PAID TO
19 LAWYERS IS INCONSISTENT WITH MR. BROWN'S CHARITABLE
20 PURPOSES AND THIS COURT IN ORDER TO APPROVE A TRUST MUST
21 DETERMINE -- TO MODIFY A TRUST MUST DETERMINE THAT THE
22 MODIFICATION IS NOT INCONSISTENT WITH THE PURPOSES OF THE
23 SETTLOR.

24 Q MRS. POPE, BUT YOU DO UNDERSTAND THAT OTHER THAN
25 THROUGH YOUR CALCULATION WHICH IS ONCE THE ATTORNEY

1 GENERAL HAS OR THE CHARITIES HAVE LOST THE MONEY TO THE
2 SETTling PARTIES THEY LOSE IT AGAIN WHEN THEY PAY THEIR
3 LAWYERS FROM THAT AMOUNT -- OTHER THAN THAT SCENARIO YOU
4 UNDERSTAND THAT THERE IS NO REQUIREMENT UNDER THE
5 SETTLEMENT AGREEMENT FOR THE CHARITIES TO PAY THE SETTling
6 PARTIES ATTORNEY'S FEES?

7 A I THINK THAT IS SMOKE AND MIRRORS. IT IS ALL COMING
8 FROM MR. BROWN. EVERY NICKLE OF IT IS COMING FROM
9 MR. BROWN.

10 Q IS IT POSSIBLE FOR THE ESTATE TO DEDUCT LEGAL FEES
11 INCURRED BY THE SETTling PARTIES IF IT'S TO HELP
12 FACILITATE THE SETTLEMENT FOR PURPOSES OF THE ESTATE TAX
13 RETURN?

14 A MR. MEDLIN, THAT IS A COMPLEX DIALOGUE WHICH I HAVE
15 BEEN TRYING TO HAVE WITH YOU SINCE SEPTEMBER --

16 Q DO YOU KNOW --

17 A -- YOU AND MR. CARTER WHO WILL NOT TALK TO US ABOUT
18 THAT.

19 Q DO YOU KNOW THE ANSWER TO THE QUESTION?

20 A THERE IS NOT A YES OR NO ANSWER AND THAT IS WHY IN
21 EVERY SETTLEMENT I HAVE EVER SEEN --

22 Q THE QUESTION IS IS IT POSSIBLE?

23 THE COURT: HOLD ON.

24 THE WITNESS: MAY I FINISH? IN EVERY SETTLEMENT I
25 HAVE EVER SEEN WHERE SOMEONE IS SEEKING A DEDUCTION UNDER

1 AN ESTATE TAX RETURN THEY DISCLOSE THEM -- ALL FEES. THEY
2 LOOK AT THEM AND THE COURT MAKES A FINDING WITH FULL
3 DISCLOSURE, ALL THE PARTIES THERE, GUARDIANS AD LITEM,
4 PROPER PARTIES, THAT THE SETTLEMENT -- THIS MASSIVE
5 ATTORNEY'S FEES, WHATEVER THEY MAY BE, HAVE BENEFITTED THE
6 ESTATE OR THE CHARITABLE TRUST. I HAVE NEVER SEEN ONE
7 LIKE THIS.

8 Q YOUR ANSWER IS IT'S POSSIBLE?

9 A I'M SORRY?

10 Q YOUR ANSWER IS IT IS POSSIBLE TO TAKE LEGAL FEES AS A
11 DEDUCTION ON AN ESTATE TAX RETURN?

12 A SUBJECT TO SOME LIMITATIONS.

13 Q POSSIBLE?

14 A AND ALWAYS PREFERABLE WITH FULL DISCLOSURE AND A
15 FINDING BY THE COURT, ESPECIALLY IF THERE IS A CHARITY
16 INVOLVED.

17 Q NOW, FEES ARE IMPORTANT TO YOU, AND, SO, I GUESS AN
18 OBVIOUS QUESTION IS WHAT ARE YOUR FEES SO FAR?

19 A WELL, MR. MEDLIN, ON THE LITTLE CHART HERE WE HAVE
20 PUT ABOUT 2 PERCENT OF THE VALUE OF THE ESTATE WE THINK
21 WILL GO FOR ATTORNEY'S FEES. WE'VE ALSO PUT 5 PERCENT AS
22 A FULL P.R. COMMISSIONS. THOSE MAY SHIFT SOME, BUT WE
23 THINK THAT WITHIN THE 7 PERCENT THAT WILL BE LIKELY --
24 THAT WILL LIKELY DIMINISH THE ESTATE AND TRUST OVER A
25 FIVE-YEAR PERIOD THAT IT WILL BE 7 PERCENT OR LESS OF THE

1 ESTATE FOR BOTH P.R. COMMISSIONS, EXPENSES OF
2 ADMINISTRATION, AND ATTORNEY'S FEES.

3 Q HOW MUCH HAVE YOU BEEN PAID TO DATE FOR YOUR SERVICE
4 AS FIDUCIARY FOR THE ESTATE AND TRUST OF JAMES BROWN?

5 A I HAVEN'T FINISHED BEING PAID AS A SPECIAL
6 ADMINISTRATOR.

7 Q HOW MUCH HAVE YOU BEEN PAID TO DATE FOR THAT SERVICE?

8 A I DIDN'T CALCULATE IT. I MEAN, IT'S RIGHT THERE IN
9 THE CHECKBOOK.

10 Q CAN YOU BALLPARK IT?

11 A IT'S SOMEWHERE BETWEEN -- I REALLY -- I WOULD RATHER
12 NOT. I MEAN, I CAN LET YOU KNOW IN 15 MINUTES, BUT IT IS
13 SOMEWHERE BETWEEN A HUNDRED AND TWO HUNDRED THOUSAND, I
14 THINK, BUT PLEASE DON'T HOLD ME TO IT, AND I CAN TAKE A
15 BREAK AND GO THROUGH THE CHECKBOOK.

16 Q AND IN JUST A MINUTE, MRS. POPE, WE MAY ASK THE JUDGE
17 TO DO THAT. DO YOU HAVE A FIGURE OF HOW MUCH YOU'RE OWED
18 TO DATE THAT YOU HAVEN'T BEEN PAID?

19 A I BELIEVE I AM OWED A FULL PERSONAL REPRESENTATIVE'S
20 COMMISSION AND I INTEND TO BE HERE TO WORK FOR IT AS I
21 HAVE WORKED IN THE PAST.

22 Q YOU HAVE JUST FILED A MOTION SAYING THAT YOU HAVE
23 ACCUMULATED 2990 HOURS SINCE THE LAST PETITION FOR SPECIAL
24 ADMINISTRATIVE SERVICE IN YOUR SERVICE AS P.R. AND
25 TRUSTEE?

1 A I DID THAT BECAUSE WE HAVE AN UNAPPEALED ORDER WHICH
2 SAYS WHAT WE ARE TO BE PAID.

3 Q AND YOU'D LIKE TO BE PAID THOSE FEES?

4 A I WOULD LIKE TO BE PAID THAT AND WHATEVER ELSE AT THE
5 CONCLUSION OF MY SERVICE THE COURT DETERMINES IS
6 REASONABLE.

7 Q BUT TO DATE YOU'D LIKE TO BE PAID FOR 2990 HOURS --

8 A I HAVE NOT BEEN PRESSING FOR IT. I HAVE BEEN
9 THINKING ABOUT MANAGE -- I HAVE BEEN THINKING ABOUT
10 SERVING JAMES BROWN.

11 Q HOW MUCH WOULD 2990 HOURS OF \$325 AN HOUR FEES BE FOR
12 THE YEAR OF 2008?

13 A WELL, IT WILL BE CLOSE TO A MILLION DOLLARS.

14 Q AND MR. BUCHANAN HAS GOT LIKE 1327 HOURS OR 1500
15 HOURS OR SOMETHING LIKE THAT? I CAN'T RECALL. SO, HE
16 HASN'T BEEN PAID EITHER TO YOUR KNOWLEDGE?

17 A NO, NO. HE'S BEEN PAID SOMETHING. THE GIST OF THAT
18 WAS TO INFORM THE COURT OF ALL OF THE MATTERS WHICH
19 PURSUANT TO AN APPROVED SETTLEMENT MUST BE DEALT WITH AND
20 WERE NOT DEALT WITH IN YOUR SETTLEMENT. OUR FEES, COURT
21 ORDERED; THE COURT-ORDERED FEES OF OUR LAWYERS IN NEW
22 YORK; THE FEES FOR OUR ATTORNEYS WHO ARE HELPING US DEFEND
23 THE ESTATE PLAN WHICH THE COURT HAS FOUND IN AN ORDER IS
24 APPROPRIATE FOR US TO DO.

25 I DON'T BELIEVE -- COMPARED TO WHAT IT LOOKS LIKE

1 EVERYBODY ELSE IS TRYING TO CHARGE, I DON'T BELIEVE OUR
2 FEES ARE A BIG ISSUE, AND WE LOOK FORWARD TO DEFENDING THE
3 ESTATE PLAN.

4 Q WELL, MRS. POPE, I APPRECIATE YOUR OPINION ABOUT
5 WHETHER YOU THINK YOUR FEES ARE A BIG ISSUE, BUT I AM
6 TRYING TO GET AN ANSWER TO MY QUESTION WHICH IS HOW MUCH
7 MONEY DO YOU THINK YOU'RE OWED BY THIS ESTATE TO DATE IN
8 DOLLARS?

9 A A REASONABLE FEE AS DETERMINED BY THE COURT AT THE
10 CONCLUSION OF MY SERVICE WITH A DEPOSIT AS SET OUT IN THE
11 COURT'S ORDER DATED JANUARY 8, 2007 PAYABLE WHEN FUNDS ARE
12 AVAILABLE.

13 Q ACCORDING TO THAT ORDER AND THE DEPOSIT NOTION, WHERE
14 DO YOU STAND NOW AS FAR AS BEING OWED BY THE ESTATE?

15 A I CALCULATED MY HOURS YESTERDAY AND I DON'T THINK IN
16 THOSE TERMS, MR. MEDLIN. I THINK IN TERMS OF TRYING TO
17 SAVE THIS ESTATE AND GET PAID WHEN THERE IS MONEY
18 AVAILABLE.

19 THE COURT: WELL, IF THE MONEY WERE AVAILABLE HOW
20 MUCH WOULD THE ESTATE OWE YOU AS OF TODAY?

21 THE WITNESS: A REASONABLE FEE AFTER SUBMISSION TO
22 THIS COURT OF WHAT MR. BUCHANAN AND I HAVE DONE FOR THE
23 BENEFIT OF THIS ESTATE, AND, YOUR HONOR, I WOULD
24 RESPECTFULLY REQUEST NOT TO HAVE TO ASK FOR THAT TODAY. I
25 HAVE PUT MY HOURS DOWN. THERE IS A COURT ORDER STANDING

1 THAT ALLOWS US TO BE PAID. I DID NOT HAVE TIME TO PUT
2 DOWN MY COSTS. WE BEGAN IN JANUARY TO REIMBURSE OUR COSTS
3 AS THEY WENT ALONG.

4 I WOULD LIKE AN OPPORTUNITY AFTER ALL OF THIS SERVICE
5 TO HAVE AN OPPORTUNITY TO HAVE A LITTLE TIME TO DEAL WITH
6 THAT ISSUE ALONG WITH MR. BUCHANAN WHO CAN'T BE HERE TODAY
7 BECAUSE HE IS IN FEDERAL COURT.

8 THE COURT: I'LL ACCEPT THAT ANSWER. SHE'S PUT DOWN
9 THE HOURS SHE'S EXPENDED TO DATE. SHE'S PUT DOWN HER
10 HOURLY RATE. SHE'S TESTIFIED ABOUT COMMISSIONS. IT'S NOT
11 FAIR, I DON'T THINK, TO PUT HER ON THE SPOT TODAY ABOUT
12 THE EXACT AMOUNT SHE WOULD GET IF I WERE TO APPROVE IT.
13 TODAY. THAT TAKES A LOT OF THOUGHT AS TO WHAT SHE -- I'LL
14 ACCEPT THE ANSWER SHE'S GIVEN. MOVE ALONG.

15 Q MRS. POPE, YOU TESTIFIED THAT \$400,000 AS OF YOUR
16 LAST TESTIMONY HAD BEEN ATTRIBUTABLE TO THE FEDERAL
17 LAWSUIT?

18 A THAT'S TRUE. APPROXIMATELY.

19 Q AND YOU'RE THINKING IN NUMBERS WITH RESPECT TO THAT
20 ISSUE?

21 A I'M SORRY?

22 Q YOU'RE THINKING IN NUMBERS -- CONCRETE NUMBERS --
23 WITH RESPECT TO THE FEDERAL LAWSUIT?

24 A WELL, I MEAN, I'VE ASKED AND I'VE HEARD IT'S ABOUT
25 THAT MUCH. I MEAN, IT MAY BE MORE, BUT IN THAT RANGE.

1 Q AND IS THAT BECAUSE OF YOUR LAWYER'S FEES OR BECAUSE
2 OF FEES THAT YOU AND BOB HAVE INCURRED AS PART OF THE TIME
3 THAT YOU'VE SPENT OR COMBINATION OF THE TWO?

4 A THAT IS OUR LAWYER'S FEES ADVANCED BY MY MALPRACTICE
5 INSURANCE COMPANY AS, AND AS YOU MAY KNOW MY MALPRACTICE
6 WAS CANCELLED AS A RESULT OF FORLANDO BROWN'S LAWSUIT AND
7 NEVER -- I HAVE NEVER HAD A CLAIM, NEVER HAD TO DEFEND A
8 SUIT IN 35 YEARS UNTIL FORLANDO BROWN SUED ME, AND AS A
9 RESULT OF THAT LAWSUIT MY MALPRACTICE INSURANCE WAS
10 CANCELLED, AND I BELIEVE IT APPROPRIATE FOR MR. BROWN TO
11 PAY US BACK FOR WHAT OUR INSURANCE COMPANY HAS PAID.
12 HOWEVER, IF HE DOES NOT, THAT SUIT HAS BEEN ENTIRELY FOR
13 THE BENEFIT OF THE ESTATE AND TRUST BECAUSE HE SOUGHT TO
14 ENJOIN US FROM TAKING ANY ACTION AS P.R.'S AND TRUSTEES.
15 HE ACCUSED THIS COURT OF IMPROPER ACTIONS AND IMPROPRIETY,
16 JUDGE EARLY BEING MY FRIEND.

17 THAT LAWSUIT WAS SO FRIVOLOUS AND SO INAPPROPRIATE,
18 BUT IT WAS ABSOLUTELY NECESSARY TO DEFEND TO PREVENT THIS
19 ESTATE FROM BEING PARALYZED THE WAY IT'S NOW PARALYZED BY
20 YOUR ACTIONS.

21 Q SO, THE MALPRACTICE CARRIER IS CONTINUING TO PAY FOR
22 THE LEGAL EXPENSES?

23 A THE MALPRACTICE CARRIER IS CONTINUING TO ADVANCE
24 THOSE EXPENSES, AND I HAVE GOTTEN OTHER MALPRACTICE AT
25 FOUR TIMES THE COST OF MY OTHER INSURANCE.

1 Q SO, LET'S LEAVE ASIDE THE QUESTION OF HOW MUCH
2 SOMEBODY ELSE MIGHT BE RESPONSIBLE FOR THE LEGAL FEES IN
3 THAT MATTER. DO YOU HAVE AN IDEA OF APPROXIMATELY HOW
4 MANY HOURS YOU AND BOB HAVE SPENT DEFENDING THAT LAWSUIT?

5 A NO. I MEAN, WE WERE IN COURT FOR TWO DAYS, BUT HAD
6 THE FEDERAL COURT PARALYZED THIS TRUST THE DAMAGE WOULD
7 HAVE BEEN ABSOLUTELY IRREPARABLE.

8 THE COURT: WHAT IS THE STATUS OF THE FEDERAL CASE?

9 THE WITNESS: WAITING ON YOUR HONOR'S RULING. IN:
10 NOVEMBER --

11 THE COURT: WAITING ON MY RULING?

12 THE WITNESS: IN NOVEMBER WHEN WE WENT TO COURT IT
13 WAS REPORTED BY THE ATTORNEYS FOR FORLANDO THAT NOW
14 EVERYBODY DISLIKES US AND WANTS US GONE AND FOR THAT
15 REASON ALONE JUDGE BURTLESMAN SHOULD TOSS US OUT. WE HAD
16 TWO DAYS OF TRIAL -- NO, ON MY ANNIVERSARY, NOVEMBER 18
17 AND 19 OF 2008. THE JUDGE HAS IT IN ABEYANCE. WE'VE
18 URGED HIM TO GO AHEAD AND RULE. ALL THAT'S HAPPENING
19 NOW -- THIS ISN'T THE MERITS. THIS IS THE DEFENSE OF HIS
20 ATTEMPT TO ENJOIN US FROM TAKING ANY ACTION WHATSOEVER AS
21 TRUSTEES.

22 THE COURT: HOLD ON ONE SECOND.

23 (WHEREUPON, THE JUDGE CONFERS WITH THE COURT
24 REPORTER.)

25 THE COURT: IT'S ABOUT FIVE MINUTES 'TIL 4. WE'LL

1 BREAK UNTIL ABOUT 10 AFTER.

2 MR. MEDLIN: YOUR HONOR, I HEARD WHAT YOU SAID
3 BEFORE, BUT WOULD YOU MIND MRS. POPE CHECKING THE
4 CHECKBOOK TO SEE WHAT SHE'S ACTUALLY BEEN PAID?

5 THE COURT: I'M NOT -- I HAVE MADE MY RULING ON IT.
6 I AM NOT GOING TO MAKE HER --

7 MR. MEDLIN: THANK YOU, YOUR HONOR.

8 THE COURT: YOU CAN LOOK AT THE CHECKBOOK.

9 MR. BELL: YOUR HONOR, I NEED TO MAKE SOME CALLS BACK
10 TO MY OFFICE. DO YOU HAVE ANY FEEL FOR HOW LATE YOU'RE
11 GOING TO GO TONIGHT?

12 THE COURT: NO, SIR. I AM GOING TO GO AS LONG AS
13 Y'ALL WANT TO GO.

14 MR. BELL: THANK YOU.

15 (WHEREUPON, A BREAK WAS TAKEN.)

16 THE COURT: WHAT IS THE PREFERENCE OF THE GROUP? I
17 GOT COURT PERSONNEL, EVERYTHING ELSE. IS 5 O'CLOCK OKAY
18 WITH EVERYBODY, OR DO YOU WANT TO GO LATER? I AM GOING TO
19 STOP AT FIVE BECAUSE OF BUDGETARY CONSTRAINTS WITH THE
20 CLERK'S OFFICE AND EVERYTHING ELSE UNLESS WE'RE RIGHT IN
21 THE MIDDLE OF SOMETHING.

22 MR. MEDLIN?

23 MR. MEDLIN: THANK YOU, YOUR HONOR.

24 MRS. POPE, BEFORE WE TOOK THE BREAK I THINK I
25 UNDERSTOOD YOU TO SAY THAT THE FEDERAL ACTION WAS TO

1 ENJOIN YOU AND BOB FROM ACTING AS TRUSTEES?

2 A RIGHT. AND IT SAID THAT WE WERE IMPROPERLY APPOINTED
3 AND THAT CANNON AND DALLAS AND BRADLEY WERE THE PROPER
4 TRUSTEES.

5 Q AND --

6 A I'M SORRY. IT MAY HAVE BEEN -- I THINK IT WAS ALL
7 THREE.

8 Q AND DO YOU HAVE A BALLPARK ABOUT -- WELL, LET ME ASK
9 THE QUESTION AND NOT A COMPOUND QUESTION. YOU AND BOB ARE
10 SPENDING HOURS ON THE FEDERAL LAWSUIT THAT ARE INCLUDED IN
11 YOUR 2990 AND INCLUDED IN HIS FIGURE?

12 A OH, SURE. WE HAVE TO TO DEFEND THE TRUST.

13 Q WELL, THAT'S ANOTHER QUESTION. ARE WE DEFENDING THE
14 TRUST OR ARE WE TRYING TO DEFEND YOU AS TRUSTEES? I
15 THOUGHT YOU SAID THAT THE ACTION WAS TO ENJOIN YOU FROM
16 ACTING AS TRUSTEES.

17 A WELL, YOU KNOW, WE ASKED THE ATTORNEY GENERAL TO COME
18 IN AND PROTECT THE TRUST AND HE WOULDN'T. HE SAID HE
19 DIDN'T GET INVOLVED IN LAWSUITS THAT -- BY INVITATION.

20 SO, WE ASKED FOR HELP PREVENTING THE RETURN OF CANNON,
21 DALLAS, AND BRADLEY AND DENIGRATING THE WHOLE PROCESS THAT
22 WAS GOING ON HERE IN THIS COURT WHICH WAS TO SAY THAT
23 JUDGE EARLY HAD NO JURISDICTION TO DO ANYTHING HE HAD
24 DONE. SO, YOU KNOW, IT WASN'T PROTECTING ME. YOU KNOW, I
25 DIDN'T ESPECIALLY WANT TO BE HERE AND HAD ONLY BEEN HERE

1 45 DAYS WHEN -- SORRY, 43 DAYS WHEN THAT SUIT WAS FILED,
2 40 WHEN IT WAS VERIFIED.

3 THE INTENTION AND THE PRIMARY PURPOSE WAS TO PREVENT
4 SOMETHING DISASTEROUS FROM HAPPENING TO THE TRUST AND
5 ESTATE BY A REQUESTED INJUNCTION TO KEEP US FROM DOING
6 ANYTHING.

7 Q BUT THAT INJUNCTION WAS AGAINST YOU AND BOB AS
8 TRUSTEES, NOT AGAINST ALL POSSIBLE TRUSTEES; IS THAT
9 CORRECT?

10 A WELL, AGAIN, I -- I'M NOT SURE THE SUIT ADDRESSED IT
11 THAT WAY. WHAT IT SAID WAS THAT MR. CANNON AND MR. DALLAS
12 AND MR. BRADLEY WERE THE PROPER TRUSTEES -- THE SAME ISSUE
13 THAT WAS ON ITS WAY UP SHORTLY THEREAFTER TO THE COURT OF
14 APPEALS OR AT LEAST PART OF THE ISSUE. MR. DALLAS AND
15 MR. BRADLEY'S APPEAL HAD NOT STARTED UP THEN BECAUSE AS
16 YOU WILL RECALL AT THAT PARTICULAR TIME THAT WAS JUST
17 BEFORE JANUARY 4 WHEN MR. DALLAS AND MR. BRADLEY WERE
18 SEEKING TO HAVE JUDGE EARLY RECUSE HIMSELF, AND THERE WERE
19 A LOT OF ACCUSATIONES GOING AROUND AT THAT VERY SAME TIME
20 THE VERY DAY OF THE LAWSUIT, AND THEN AS YOU KNOW THERE
21 WAS A HEARING ON JANUARY 4 AND 9TH AND THEN MR. DALLAS AND
22 MR. BRADLEY TOOK UP TO THE COURT OF APPEALS WHAT WE FELT
23 WAS ESSENTIALLY OR VERY CLOSE TO THE SAME ISSUE THAT WAS
24 RUNNING IN THE FEDERAL CASE AND THAT WAS THAT JUDGE EARLY
25 WAS SOME SPECIAL FRIEND OF OURS AND, YOU KNOW, I WAS ASKED

1 IF JUDGE EARLY HELPED ME FIND A LAWYER TO DEFEND MYSELF IN
2 THE FEDERAL CASE. I DON'T KNOW WHERE THAT CAME FROM. I
3 MEAN THE WHOLE GIST OF IT WAS THAT JUDGE EARLY WAS
4 TAINTED, THIS COURT WAS TAINTED, THE TRUST WAS TAINTED, NO
5 ORDERS WERE VALID. THAT WAS THE GIST OF IT, YOU KNOW.

6 Q IF YOU AND BOB --

7 A OH, I'M SORRY. I NEED TO SAY ONE THING ELSE -- THAT
8 BOB AND I HAD WRESTED CONTROL OF THE TRUST FROM -- WE WERE
9 THESE POWER-MONGERS WHO HAD WRESTED CONTROL OF THE TRUST
10 FROM THE RIGHTFUL TRUSTEES.

11 Q I AM NOT TRYING TO ASK YOU TO REPEAT YOUR TESTIMONY.
12 I KNOW YOU'VE SAID THAT YOU BELIEVE ONLY YOU AND BOB CAN
13 DEFEND THE ESTATE PLAN OF MR. BROWN, BUT IF YOU AND BOB
14 HAD STEPPED DOWN IN JANUARY OF 2008 WOULD THAT LAWSUIT
15 HAVE GONE AWAY?

16 A MR. MEDLIN, I DON'T KNOW WHAT DANGERS WOULD HAVE
17 HAPPENED, BUT I DO KNOW IN JANUARY OF 2008 -- WELL,
18 MR. MEDLIN, YOU WERE SUPPORTING MY APPOINTMENT THAT DAY.
19 SO, DON'T GET TIRED OF IT. EVERYONE IN THE ROOM WAS
20 SUPPORTING OUR APPOINTMENT AND EVERYONE IN THE ROOM WITH
21 THE POSSIBLE EXCEPTION OF THE ATTORNEY GENERAL DID NOT
22 WANT MR. CANNON, MR. DALLAS, AND MR. BRADLEY TO RETURN AND
23 THOUGHT THAT IT WOULD BE BAD FOR THE ESTATE AND TRUST, AND
24 SO WE DID WHAT -- IN EVERY COURT AND IN EVERY INSTANCE
25 WHAT WE THOUGHT WAS APPROPRIATE TO TRY TO PREVENT THAT

1 RETURN AND I DO NOT FEEL APOLOGETIC ABOUT THAT. I THINK
2 IT WAS IMPORTANT TO DO. I THINK IT WAS SOLELY FOR THE
3 BENEFIT OF THE ESTATE AND TRUST.

4 Q IF YOU AND BOB HAD RESIGNED AND ASKED FOR SOMEONE
5 ELSE COMPETENT -- SAY, A PROFESSIONAL FIDUCIARY, MAYBE A
6 CORPORATE FIDUCIARY OR SOME INDIVIDUAL WITH EXPERTISE --
7 TO STEP IN AT THAT POINT, WOULD THE LAWSUIT HAVE GONE
8 AWAY?

9 A I DON'T THINK SO. I THINK IT WOULD HAVE JUST LOANED
10 FUEL TO THE FIRE THAT WAS THAT JUDGE EARLY WAS A CROOK;
11 THAT I WAS A CROOK; THAT BOB WAS A CROOK; THAT THE WHOLE
12 PROCEEDING WAS INAPPROPRIATE. NO, I DON'T THINK IT WOULD.
13 THAT IS THE MAIN REASON THAT I HAVE ALWAYS FELT IT WAS
14 INAPPROPRIATE FOR US TO RESIGN BECAUSE WE DID NOT -- THAT
15 WAS NOT TRUE AND WE DID NOT -- AND THE NOTION OF TAINTING
16 EVERY ORDER THAT HAD BEEN ISSUED -- THE 15 OR MORE ORDERS,
17 MAYBE NOT 15 BY THEN, MAYBE JUST 12 -- TAINTING THAT WHOLE
18 PROCEEDING IS -- EVEN THOUGH AS YOU KNOW I HAVE ALWAYS
19 SAID ALL THE PLEADINGS WERE SLOPPY, IT -- THE ISSUE OF
20 ALLOWING THAT ENTIRE YEAR TO BE TAINTED WAS JUST
21 UNTHINKABLE FROM THE STANDPOINT OF THE ESTATE AND TRUST.

22 Q AND, AGAIN, JUST FOR THE RECORD, MRS. POPE -- AND I
23 KNOW YOU AND I ARE USED TO DISCUSSING IT ON A MORE
24 INFORMAL BASIS, BUT WE'RE NOT IN THIS CASE -- DO YOU
25 REALLY UNDERSTAND THAT EVERYBODY IN THE ROOM WAS

1 SUPPORTIVE OF YOUR BEING A PERMANENT P.R. AND TRUSTEE BACK
2 IN JANUARY OF 2008? IS THAT YOUR UNDERSTANDING?

3 A I DO. IT WAS CERTAINLY MY UNDERSTANDING -- EVERYBODY
4 EXCEPT THE ATTORNEY GENERAL. CERTAINLY, ON THE DAY --
5 WELL, NO, NO, NO. I TAKE THAT BACK. I'M SORRY. ON
6 NOVEMBER 20 WHEN WE WERE APPOINTED EVERYBODY WAS. BY THE
7 TIME JANUARY 3 HIT ALL OF THE CONTESTS TO THE WILL HAD
8 BEEN FILED AND THE -- I CAN'T REMEMBER WHO YOUR CLIENT
9 WANTED, BUT MR. LEVENSON'S CLIENTS WERE SAYING THAT HIS
10 CLIENTS SHOULD BE APPOINTED ADMINISTRATORS IN INTESTACY.

11 SO, AGAIN, THEY WEREN'T SAYING WE WERE BAD. THEY
12 WERE JUST SAYING THAT THE WHOLE WILL AND TRUST SHOULD BE
13 TOSSED OUT AND THEY SHOULD BE ADMINISTRATORS IN INTESTACY,
14 BUT, CERTAINLY, ON NOVEMBER 20 I DID. I DID.

15 Q NOW, IF WE SETTLED THE LAWSUIT TODAY AND YOU DIDN'T
16 APPEAL IT AND WE HAD A REPLACEMENT FIDUCIARY STEP IN --
17 TOTAL REPLACEMENT -- WOULD BE FEDERAL LAWSUIT GO AWAY?

18 A NO.

19 Q WHY NOT?

20 A BECAUSE I INTEND TO SEE THAT SUIT OUT AND SO DOES
21 MR. BUCHANAN.

22 Q ALL RIGHT. SO, CAN YOU BALLPARK HOW MUCH THAT
23 FEDERAL LAWSUIT IS GOING TO COST THIS ESTATE?

24 A NO. CAN'T.

25 Q WHATEVER THAT FIGURE IS, THAT MONEY IS NOT GOING TO

1 CHARITY; RIGHT?

2 A I DON'T KNOW WHAT THE IMPACT OF MAKING THAT SUIT GO
3 AWAY, AND, FURTHER, I DISPUTE YOUR NOTION THAT YOU CAN
4 SETTLE TODAY. I DO NOT BELIEVE THAT YOU CAN SETTLE THE
5 LAWSUITS TODAY. I BELIEVE THAT WE ARE ESSENTIAL TO A
6 SETTLEMENT. SO, I DON'T BELIEVE IF THE JUDGE APPROVES THE
7 SETTLEMENT THAT IT MAKES THESE CRITICAL THINGS GO AWAY. I
8 BELIEVE THAT JAMES BROWN HAS A RIGHT TO HEAR IN A COURT OF
9 LAW WHETHER THE STATUTES OF LIMITATIONS PREVENTING THE
10 CHALLENGE OF HIS TRUSTS HAVE PASSED. I DON'T GIVE THAT
11 RIGHT UP FOR JAMES BROWN.

12 Q MRS. POPE, MAYBE MY QUESTION WAS SO OBVIOUS AS TO NOT
13 BE CLEAR. WHATEVER ESTATE MONEY GETS SPENT ON THAT
14 FEDERAL LAWSUIT, WHATEVER THAT IS, AND FOR HOWEVER IT GETS
15 SPENT AND FOR WHATEVER REASON, THAT'S MONEY THAT WILL NOT
16 GO TO CHARITY?

17 A IT IS GOING TO BE JUST LIKE THE \$12 MILLION THAT
18 Y'ALL WON'T EVEN TELL US YOU'RE BEING PAID.

19 Q SO THE ANSWER IS, YES, IT WON'T --

20 A WELL, NO, BECAUSE IF WE SAVE BY NOT PAYING YOU THE
21 12 MILLION WE COULD PAY IT OUT OF THAT.

22 THE COURT: I KNOW WHAT THE ANSWER IS. MOVE ALONG.

23 MR. MEDLIN: THANK YOU, YOUR HONOR.

24 Q MRS. POPE, IF YOU INTEND TO APPEAL ANY APPROVAL OF
25 THE SETTLEMENT -- AGAIN, YOUR HONOR, NOT SUGGESTING ANY

1 DECISION BY THE COURT -- BUT IF THE SETTLEMENT IS APPROVED
2 AND YOU APPEAL IT, DO YOU EXPECT THAT TO BE AN ESTATE
3 EXPENSE?

4 A MR. MEDLIN, AS I'VE SAID BEFORE A SETTLEMENT WHERE
5 THERE ARE NOT GUARDIANS AD LITEM, WHERE THERE ARE NO
6 SIGNATURES, WHERE THE PROPER PARTIES ARE NOT JOINED, WHERE
7 TWO VALID WILLS ARE SKIPPED OVER, WHERE IT'S NOT KNOWN
8 WHETHER A PERSON IS THE WIFE, WHETHER ONLY A FEW OF THE
9 POTENTIAL 13 CHILDREN ARE EVEN PARTIES TO THE SETTLEMENT,
10 AND WHERE NO GRANDCHILDREN WHO ARE BENEFICIARIES OF THE
11 TRUST HAVE EVEN BEEN PART OF THE SETTLEMENT, THAT -- YOU
12 KNOW, IT'S NOT OVER TODAY. IT'S NOT OVER. IT'S JUST NOT
13 OVER. IT'S JUST BEGINNING, AND WHERE A CHILD WHO MAY OR
14 MAY NOT BE A PRETERMITTED CHILD IS LEFT OUT AFTER
15 SETTLEMENT, IT'S NOT OVER. IT'S NOT OVER. THERE WILL BE
16 LEGIONS OF LAWSUITS.

17 Q MRS. POPE, THE QUESTION IS IF YOU APPEAL A SETTLEMENT
18 IF THERE IS ONE, DO YOU INTEND FOR THE EXPENSES OF THAT
19 APPEAL, THE TIME THAT YOU AND BOB SPENT, YOUR LAWYER'S
20 FEES, OTHER COSTS INVOLVED -- ARE THOSE GOING TO BE
21 CHARGED AGAINST THE ESTATE?

22 A AT THE CONCLUSION OF MY SERVICE WHEN THE PROPER
23 COURTS TELL ME THAT I NO LONGER HAVE A DUTY AS I BELIEVE I
24 HAVE UNDER THE LAW TO DEFEND THE ESTATE PLAN OF JAMES
25 BROWN I WILL ASK THE COURT FOR REASONABLE COMPENSATION FOR

1 MY SERVICE. I DON'T LIKE TO MAKE DECISIONS LIKE THIS
2 WITHOUT BOB BUCHANAN, BUT I ASSUME HE WILL DO THE SAME AND
3 THAT WILL -- I EXPECT TO BE PAID IN ACCORDANCE WITH THE
4 PRIOR UNAPPEALED ORDER AND WHAT IS REASONABLE AS
5 DETERMINED BY THE COURT AT THE APPROPRIATE TIME.

6 Q AND DO YOU EXPECT YOUR LAWYERS TO GET PAID FROM THE
7 ESTATE AS WELL?

8 A I EXPECT -- OUR LAWYERS HAVE ALWAYS BEEN
9 INSTRUCTED -- AND THIS IS IMPORTANT -- THAT EVERYTHING WE
10 DO IS FOR THE BENEFIT OF THE ESTATE AND TRUST. YOU WILL
11 NEVER BE ASKED TO MAKE A DECISION THAT HELPS US
12 INDIVIDUALLY, ALTHOUGH OCCASIONALLY OUR NAMES HAVE BEEN ON
13 SOMETHING JUST TO PREVENT TANGENTIAL CONFUSION AND THAT WE
14 HAVE ALWAYS INSTRUCTED THAT THE FILE BELONGS TO THE
15 SUCCESSOR. WE ARE NOT GOING TO HAVE ANY PROBLEMS LIKE
16 BEFORE.

17 SO, WE BELIEVE THAT EVERYTHING WE'RE ASKING OUR
18 LAWYERS TO DO AND EVERYTHING WE WILL ASK OUR LAWYERS TO DO
19 IS FOR THE PROTECTION AND WHAT WE BELIEVE TO BE OUR LEGAL
20 DUTY AS IT RELATES TO JAMES BROWN. IN TERMS OF -- IF I
21 COULD SAY, IN TERMS OF LEGAL FEES WE HAVE ASKED THIS COURT
22 TO REQUIRE APPROPRIATE MEDIATION AFTER THE PARTIES ARE
23 JOINED. THAT WOULD SAVE US ALL ALL OF THESE LEGAL FEES.
24 WE HAVE LAID OUT FOR THE COURT WHAT WOULD WORK, AND THEN
25 EVEN IF WE DISAGREE THERE WOULD BE A LIKELIHOOD THAT THERE

1 WOULDNT BE A NEXT ROUND OF LAWSUITS, BUT NOBODY WANTS TO
2 TALK ABOUT THAT.

3 Q SO, I'M UNDERSTANDING YOUR ANSWER TO BE FOR THE
4 REASONS YOU EXPRESSED, YES, YOU WOULD EXPECT YOUR LAWYER'S
5 LEGAL FEES TO BE PAID FROM THE ESTATE?

6 A WE EXPECT LEGAL FEES THAT ARE INTENDED TO BENEFIT,
7 PRESERVE, AND PROTECT MR. BROWN'S ESTATE PLAN TO BE PAID
8 FROM THE ESTATE AND TRUST AND WE BELIEVE THAT THEY ARE SO
9 SMALL RELATIVE TO OTHER FEES AND WE HAVE BEEN SO JUDICIOUS
10 IN OUR USE OF LAWYERS THAT THAT IS CERTAINLY WHAT WE
11 EXPECT.

12 Q IS THAT BECAUSE YOU AND MR. BUCHANAN ARE ABLE TO DO A
13 LOT OF WHAT LAWYERS WOULD TYPICALLY DO?

14 A WE HAVE TRIED BECAUSE OF THE CASH-FLOW ISSUES TO MAKE
15 IT AS EASY AS WE COULD ON OUR LAWYERS AND ALSO BECAUSE
16 DESPITE THE NOTION THAT A PROFESSIONAL TRUSTEE NEEDS TO
17 MANAGE THIS, THIS ESTATE AND TRUST HAVE BEEN IN SUCH A
18 LITIGATION PHASE THAT FOR THIS PARTICULAR PHASE OF ITS
19 LIFE IT'S EXTREMELY HELPFUL, I THINK, TO HAVE P.R.
20 TRUSTEES WHO ARE ATTORNEYS.

21 Q AND THE TIME THAT YOU'RE SPENDING DOING THAT IS
22 INCLUDED IN YOUR 2990 HOURS AND BOB'S 1200?

23 A IT IS, AND WE'VE MADE NO ATTEMPT TO ALLOCATE IT IN
24 ANY WAY. WE'VE JUST TRIED AS EFFICIENTLY AS WE POSSIBLY
25 CAN -- AND IF Y'ALL WOULD REVEAL YOUR BILLS I THINK YOU

1 WOULD SEE THAT COMPARED TO EVERYBODY ELSE IT IS
2 EXTRAORDINARILY EFFICIENT, BUT WE HAVEN'T SEEN YOUR BILLS.

3 Q MRS. POPE, YOU HAVE SAID THAT YOU BELIEVE THAT ANY
4 SETTLEMENT SHOULD PROTECT THE CREDITORS AND THE TAXING
5 AUTHORITIES?

6 A AND THE NON-SETTLING PARTIES.

7 Q RIGHT. YOU DO UNDERSTAND THAT OUR REQUEST FOR
8 APPROVAL IS TO SIMPLY SETTLE THE RIGHTS AMONG THE PARTIES
9 TO THE SETTLEMENTS -- THAT WE HAVE, IN FACT, STATED IN
10 THIS COURT THAT WE DO NOT EXPECT THAT SETTLEMENT TO IMPACT
11 NON-SETTLING PARTIES, CERTAINLY NOT TAXES AUTHORITIES, AND
12 CERTAINLY NOT CREDITORS. YOU DO UNDERSTAND THAT?

13 A WELL, I HAVE NOT BEEN ABLE TO UNDERSTAND WHAT YOU
14 MEAN BY THAT. FOR EXAMPLE, WE ARE THE TRUSTEES WITH A
15 DUTY TO DEFEND THE ESTATE PLAN AND IS THE FACT -- IS THE
16 NOTION THAT SIX OR SEVEN OF THE THIRTEEN HEIRS AGREE THAT
17 THEY'RE THE ONLY HEIRS -- DOES THAT END THE WILL AND TRUST
18 CONTEST? I CAN'T TELL FROM YOUR DOCUMENTS WHETHER YOU --

19 MR. MEDLIN: YOUR HONOR, I ASK THAT SHE NOT RESPOND
20 WITH A QUESTION --

21 THE COURT: HOLD ON.

22 MR. MEDLIN: -- AND RESPOND WITH AN APPROPRIATE --

23 MRS. POPE: WELL, NO, THAT'S IMPORTANT. THAT'S
24 IMPORTANT. I DON'T THINK THIS ENDS ANYTHING BECAUSE WE
25 DON'T HAVE THE PROPER PARTIES JOINED.

1 Q WELL, AGAIN, MRS. POPE, LET ME ASK THE QUESTION. IF
2 WE HAVE PROFESSED TO THIS COURT THAT WE'RE SIMPLY TRYING
3 TO ALLOCATE THE RIGHTS AMONG THE PARTIES TO THE
4 SETTLEMENT, HOW DOES THAT PREVENT THE TAXING AUTHORITY
5 FROM GETTING PAID?

6 A WELL, IT DOESN'T.

7 Q HOW DOES IT PREVENT CREDITORS FROM GETTING PAID?

8 A WE HAVE TO HAVE SOMEBODY THERE WHO WILL MAKE SURE
9 THAT THEY'RE PAID, AND THAT'S WHY WE URGED A TRANSITION
10 PLAN THAT WOULD PROTECT THE CREDITORS, THE TAXING
11 AUTHORITIES, AND THE NON-SETTLING PARTIES. THAT WOULD BE
12 US.

13 Q A FIDUCIARY WOULD MAKE SURE THAT THE TAXING
14 AUTHORITIES GOT PAID AND THE CREDITORS GOT PAID?

15 A I CAN'T BE SURE OF THAT, MR. MEDLIN. I CAN'T BE
16 SURE --

17 Q A FIDUCIARY --

18 A YOU KNOW, THAT IS THE PRIMARY HOLE IN YOUR -- AMONG
19 THE HOLES IN THE SETTLEMENT. THERE IS NOT A NAMED
20 FIDUCIARY. IN 35 YEARS I HAVE NEVER SEEN A LARGE ESTATE
21 BEING TURNED OVER TO A BLANK LINE AND THAT PERSON NOT HERE
22 TO BE ON THE STAND INSTEAD OF ME TALKING ABOUT HOW IT IS
23 THAT THEY'RE GOING TO PROTECT THE TAXING AUTHORITIES, WHO
24 THEY'RE GOING TO PAY, WHAT THE PRIORITIES ARE GOING TO BE,
25 HOW THEY'RE GOING TO REVALUE THE ESTATE IF THEY ARE, HOW

1 THEY'RE GOING TO BE NEUTRAL ABOUT IT -- THAT IS TO ME THE
2 MOST UNBELIEVABLE PART OF THIS SETTLEMENT THAT IT IS A
3 SECRET WHO IS GOING TO BE THE FIDUCIARY AND THAT FIDUCIARY
4 HADN'T TALKED TO US, HADN'T ASKED US, HADN'T TALKED TO US
5 ABOUT HOW TO TRANSITION, HADN'T TALKED TO US ABOUT THINGS
6 AS SIMPLE -- AS SIMPLE AS, DO WE DO THE INCOME TAX RETURNS
7 IN THE NAME OF THE ESTATE AND DISCLOSE? NOBODY WILL TALK
8 TO US. HEYWARD CARTER WRITES ME A LETTER SAYING, WE'RE
9 NOT GOING TO TALK TO YOU ABOUT THIS. I MEAN, IT'S --

10 Q MY QUESTION WAS ABOUT --

11 A -- VERY DIFFICULT.

12 Q -- ABOUT PAYMENT OF CREDITORS' CLAIMS. DO I

13 UNDERSTAND YOU TO SAY THAT A PROPERLY APPOINTED FIDUCIARY,
14 NO MATTER WHO OR WHAT THAT FIDUCIARY MAY BE, UNDER THE
15 AUSPICES OF JUDGE ROE AND JUDGE EARLY AND INVOLVED IN AN
16 ENTITY WITH THE SOUTH CAROLINA ATTORNEY GENERAL YOU CAN'T
17 BE SURE THAT CREDITORS WOULD BE PAID PROPERLY?

18 A I AM SAYING THAT I HAVE NEVER SEEN A PROPOSED
19 SETTLEMENT TO NAME A FIDUCIARY WHO IS KEPT A SECRET AND
20 WHO DOES NOT HIMSELF OR HERSELF COME BEFORE THIS COURT AND
21 EXPLAIN HOW HE OR SHE UNDERSTANDS HIS DUTY AND WORKS WHEN
22 ASKED WITH THE PREDECESSOR TRUSTEE TO TRY TO DETERMINE
23 WHAT ARE THE PRIORITY EXPENSES? WHAT ARE THE CLAIMS?
24 WHAT ARE THE LAWSUITS? WHAT IS A GOOD TRANSITION? HOW DO
25 WE DO IT? HOW DO WE BENEFIT THE ESTATE?

1 A SPECIAL ADMINISTRATOR APPOINTED BY THIS COURT COULD
2 HELP US ALONG THAT PROCESS.

3 Q MRS. POPE, EVEN THOUGH THE JUDGE CORRECTED YOU AND
4 POINTED OUT THAT WE'RE NOT GENIUSES OVER HERE I HEARD YOU
5 THE FIRST TIME. MY QUESTION IS DO YOU THINK THAT A
6 PROPERLY-APPOINTED FIDUCIARY SUBJECT TO THE AUTHORITY OF
7 JUDGE EARLY, JUDGE ROE, AND INVOLVED IN A SETTLEMENT
8 ENTITY WITH THE ATTORNEY GENERAL OF SOUTH CAROLINA
9 WOULDN'T GET CREDITORS PROPERLY PAID? THAT IS MY
10 QUESTION.

11 A NOT NECESSARILY. ESPECIALLY IF HE OR SHE WILL NOT
12 REVEAL WHO HE IS AND WILL NOT COME BEFORE THE COURT TO
13 EXPLAIN HIS OR HER UNDERSTANDING OF WHAT HIS OR HER DUTY
14 MIGHT BE. NO, NOT NECESSARILY, I DO NOT.

15 Q MRS. POPE, DON'T YOU THINK THAT BEFORE THE JUDGE
16 WOULD APPOINT ANOTHER FIDUCIARY THAT FIDUCIARY WOULD BE
17 REVEALED?

18 A I REALLY -- THIS WHOLE PROCESS HAS BEEN SUCH AN ABUSE
19 OF JAMES BROWN THAT I REALLY DON'T KNOW WHAT'S NEXT.

20 Q MRS. POPE, YOU'VE ALSO MADE A LOT OF STATEMENTS IN
21 OPPOSITION OF THE SETTLEMENT BECAUSE YOU BELIEVE
22 MR. BROWN'S ESTATE PLAN IS BEING SCUTTLED. IS THAT --

23 A I BELIEVE THAT MR. BROWN HAD TWO VALID ESTATE PLANS.
24 I HAVE DONE ALL THE DUE DILIGENCE I CAN DO TO DETERMINE
25 THAT. I UNDERSTAND ISSUES AND I BELIEVE THAT THEY ARE

1 GOOD AS GOLD, AND HAVING SAID THAT THAT DOESN'T MEAN THAT
2 YOU NEVER REACH A SETTLEMENT WHERE YOU -- WHERE YOU TRY TO
3 WORK WITH THE FAMILY, BUT NOT TOSS OUT TWO VALID ESTATE
4 PLANS WITHOUT EVEN A LEGAL DETERMINATION ABOUT THE STATUTE
5 OF LIMITATIONS, JUMP OVER TWO VALID ESTATE PLANS -- THE
6 SECOND OF WHICH -- THE SECOND OF WHICH THE PARTIES ARE NOT
7 EVEN BEFORE THIS COURT AND THEN SAY THAT YOU'RE HANDING
8 THE PROPERTY TO THE HEIRS AND YOU HAVEN'T EVEN GOTTEN THE
9 HEIRS.

10 Q MRS. POPE, DO YOU TELL THIS COURT THAT THERE ARE TWO
11 CURRENTLY VALID ESTATE PLANS, THE 2000 WILL AND TRUST AND
12 THE 1999 WILL AND TRUST?

13 A I BELIEVE THAT -- I BELIEVE THAT THE FINAL LAST WILL
14 AND TESTAMENT OF JAMES BROWN WHICH GIVES EVERYTHING TO AN
15 IRREVOCABLE TRUST WHICH I BELIEVE THAT A COURT MORE LIKELY
16 THAN NOT WOULD FIND IS BEYOND CONTESTING IS THE PRIMARY
17 AND EFFECTIVE ESTATE PLAN OF JAMES BROWN.

18 Q SO THE 1999 WILL AND TRUST --

19 A NO, NO. THAT'S THE 2000. THAT'S THE 2000 AND --

20 Q MRS. POPE, IF YOU WOULD, LET ME FINISH MY QUESTION --

21 A OH, I'M SORRY. I THOUGHT I WAS FINISHING MINE.

22 Q -- SO YOU MIGHT ACTUALLY FIND ME AGREEING WITH YOU ON
23 SOMETHING. SO THE 1999 WILL AND TRUST AREN'T IN PLAY YET
24 BECAUSE THE 2000 WILL AND TRUST ARE VALID?

25 A RIGHT, BUT I BELIEVE THE CIRCUMSTANCES OF THEIR NOT

1 BEING AROUND SUGGEST THAT THEY WERE NOT INTENDED TO BE
2 NEGATED BY MR. BROWN. AGAIN, OUR POSITION IS THE 2000
3 WILL AND TRUST ARE VALID AND THAT WE DON'T -- WE DON'T
4 NEED TO GO THERE, BUT SOMEBODY NEEDS TO GO THERE. THE
5 BENEFICIARIES OF THAT ESTATE PLAN NEED TO GO THERE FOR THE
6 PROTECTION OF TWO ESTATE PLANS OF JAMES BROWN WHICH DO
7 ESSENTIALLY EXACTLY THE SAME THING: LEAVE HIS FAMILY OUT,
8 INSIST THAT THE FIDUCIARIES ENFORCE IN TERROREM CLAUSES,
9 AND LEAVE EVERYTHING TO CHARITABLE AND NON-CHARITABLE
10 EDUCATION.

11 Q BUT IF THE 2000 WILL AND TRUST ARE VALID, THE 1999
12 WILL AND TRUST AREN'T CURRENTLY VALID; IS THAT CORRECT?
13 YES OR NO?

14 A WELL, NOT CORRECT AND I'LL TELL YOU WHY. I DON'T
15 THINK IT MATTERS, BUT THERE IS NO INDICATION THAT THE '99
16 TRUST EVEN THOUGH IT WAS REVOCABLE WAS EVER REVOKED.

17 Q I SEE.

18 A AND THERE WAS SOME INDICATION THAT J.B.E., INC. WAS
19 INTENDED TO BE PLACED IN IT. I DON'T THINK IT HAPPENED.

20 Q WHO WERE THE TRUSTEES?

21 A I MEAN, I AM NOT SURE. MAYBE IT HAPPENED. I RESERVE
22 THAT FOR LATER.

23 Q WHO WERE THE TRUSTEES OF THE '99 TRUST?

24 A MR. DALLAS, MR. CANNON, MR. BRADLEY, AND A COUPLE OF
25 OTHER PEOPLE. I'M SORRY. I THINK MAYBE WILLIE GLENN. I

1 COULD LOOK. I APOLOGIZE.

2 Q SO, WHATEVER IS IN THAT TRUST YOU DON'T HAVE CONTROL
3 OVER?

4 A NO.

5 Q AND HAVE YOU EXPLORED WITH MR. DALLAS AND MR. BRADLEY
6 AND MR. CANNON AND MR. OVERTON WHAT'S IN THAT TRUST
7 BECAUSE PERHAPS IF J.B.E., FOR EXAMPLE, IS IN THERE AND
8 SOME OF THE ASSETS YOU'RE SELLING, SAY, AT THE CHRISTIE'S
9 SALE MAYBE THEY DON'T BELONG TO?

10 A WELL, YEA, SURE. NO, NO, NO. THE ONLY THING THAT
11 INDICATED THAT IT WAS IN THERE WAS BEECH ISLAND WHICH WE
12 KNOW THERE WAS NOT A DEED -- SO, WE'VE INQUIRED -- AND
13 J.B.E., INC. WHICH WE'VE CHECKED THE STOCK BOOK DID NOT
14 HAPPEN. NOW, AGAIN, IN -- AND MR. BROWN'S ACTIONS HIMSELF
15 IN 2000 WHICH WERE TO ATTEMPT TO GET J.B.E., INC. IN THE
16 2000 TRUST.

17 Q WE'LL TALK MORE ABOUT THAT IN A LITTLE BIT. LET ME
18 GET BACK TO SOME BASIC ISSUES HERE. YOU NEVER TALKED TO
19 MR. BROWN?

20 A NO. I DON'T THINK I NEED TO. I HAVE LISTENED. I'VE
21 READ. I DON'T THINK I NEED TO.

22 Q YOU DIDN'T KNOW HIM?

23 A I DIDN'T KNOW HIM. I DON'T THINK I NEED TO KNOW HIM.
24 I KNOW HIM FROM EVERYTHING I'VE READ, EVERYTHING I'VE
25 LISTENED TO. I KNOW HIM. I KNOW WHAT HE WANTED.

1 Q SO, YOUR VIGOROUS ASSERTION THAT THE 2000 WILL AND
2 TRUST ARE VALID AND BY MR. BROWN ARE BASED ON YOUR VIEW OF
3 THE DOCUMENTS AND YOUR READING OF WHAT?

4 A THOUSANDS OF DOCUMENTS AND LISTENING AND THINKING AND
5 LISTENING TO FORLANDO BROWN AND LOOKING AT DOCUMENTS
6 SIGNED BY DEANNA THOMAS ACCEPTING THE TRUSTEESHIP;
7 DOCUMENTS SIGNED BY YAMMA BROWN ACCEPTING THE JOB OF
8 ASSISTANT EXECUTIVE ASSISTANT TO THE TRUST; LISTENING TO
9 MR. DALLAS, MR. CANNON, AND MR. BRADLEY WHO BECAUSE THEY
10 TURNED OUT TO BE UNFORTUNATE TRUSTEES DO KNOW THINGS ABOUT
11 MR. BROWN; WATCHING THE VIDEOTAPE OF MS. HOLMES.
12 THOUSANDS OF THINGS.

13 THOUSANDS OF THINGS SUPPORT -- I INVESTIGATED THE
14 NOTION THAT HE HAD TAKEN A KNIFE TO AN SCE&G WORKER JUST
15 THE MONTH BEFORE THE DOCUMENT WAS EXECUTED. I LOOKED INTO
16 THAT. I FOUND OUT THAT HAPPENED IN EARLY JULY. HE WENT
17 OUT OF THE COUNTRY. HE RETURNED ON THE 19TH OF JULY, JUST
18 SOME 11 DAYS OR SO, 12 DAYS BEFORE HE EXECUTED HIS LAST
19 WILL AND TESTAMENT. HE HAD A TWO-HOUR INTERVIEW WITH THE
20 POLICE THAT THEY FELT WAS PERFECTLY -- THAT THEY WERE
21 PERFECTLY SATISFIED WITH HIS EXPLANATIONS AND RATHER
22 INTERESTINGLY ON THE VERY DAY HE EXECUTED HIS DOCUMENTS
23 THE CHARGES WHICH HAD BEEN FILED BY THE -- I SAID SCE&G,
24 BUT THE ELECTRIC WORKER GUY -- THE CHARGES THAT HAD BEEN
25 FILED ON JULY 13 BY THE ELECTRIC WORKER GUY WERE DISMISSED

1 ON THE VERY DAY HE DID HIS LAST WILL AND TESTAMENT.

2 I'VE LISTENED. I'VE READ. I HAVE DONE EVERYTHING I
3 COULD, AND I'VE LOOKED AT THE -- AT THE LONG, LONG TIME
4 THAT PASSED AFTER HE DID HIS DOCUMENTS AND I'VE LOOKED AT
5 THE FACT THAT HE CONSIDERED DOING ANOTHER WILL AND I THINK
6 IT WAS 2002. I DON'T HAVE IT BECAUSE MR. MICHEL MADE A
7 COPY OF THE BOX AND WE REQUESTED A COPY AND HE DIDN'T SEND
8 IT TO US BUT --

9 MR. MICHEL: YOUR HONOR, WITH ALL DUE RESPECT, SHE'S
10 TESTIFYING ABOUT ME.

11 THE COURT: JUST -- JUST --

12 MR. MICHEL: THAT'S IN EVIDENCE. SHE HAS IT.

13 THE COURT: JUST CALM DOWN, MR. MICHEL.

14 MR. MICHEL: THANK YOU, YOUR HONOR.

15 MRS. POPE: THAT BOX IS SEALED. WE COULD LOOK AT IT
16 TODAY, BUT MY RECOLLECTION IS THAT HE CONSIDERED DOING
17 ANOTHER WILL IN ABOUT 2002 AND REJECTED IT. YOU KNOW,
18 JUST -- THERE ARE THOUSANDS OF THINGS.

19 Q ALL RIGHT. LET'S TRY TO PARSE SOME OF THAT,
20 MRS. POPE. MR. BROWN'S DAUGHTERS ACCEPTED TRUSTEESHIPS
21 UNDER THE 2000 TRUST?

22 A YES. NO, NO, ONE, DEANNA.

23 Q I THOUGHT YOU SAID YAMMA DID?

24 A I'M SORRY. MY RECOLLECTION -- WE CAN LOOK AT THE
25 DOCUMENTS.

1 Q I THOUGHT YOU MENTIONED BOTH?

2 A AND I'VE SPOKE -- WELL, I DID MENTION BOTH OF THEM.
3 THEY MET WITH -- AND I LEARNED THAT FROM MR. DALLAS AS
4 WELL -- THEY MET WITH THEM JUST AFTER MR. BROWN'S DEATH
5 AND DEANNA ACCEPTED A POSITION AS A TRUSTEE AND SIGNED A
6 DOCUMENT THAT SAID THAT MR. BROWN -- I MEAN, MR. BRADLEY
7 HAD NOT COME FORWARD AS A TRUSTEE AND THAT SHE ACCEPTED A
8 POSITION AS TRUSTEE AND MS. YAMMA BROWN -- I'M SORRY,
9 YAMMA LUMAR, HER SISTER, I THINK THE TERM WAS ADVISORY OR
10 EXECUTIVE ASSISTANT TO THE BOARD ON THAT DAY -- WHATEVER
11 IT WAS, THE 26TH OR 27TH OF DECEMBER JUST AFTER MR. BROWN
12 DIED.

13 Q HAS DEANNA EVER RESIGNED?

14 A YOU KNOW, I COULDN'T QUITE FIGURE THAT OUT BECAUSE
15 THEN ON JANUARY 2 MR. BRADLEY CAME FORWARD AND THEN
16 FORLANDO TESTIFIED THAT THERE WAS SOMETHING ABOUT TRYING
17 TO TRICK DALLAS AND BRADLEY -- YOU KNOW, I NEVER GOT
18 WHAT --

19 Q HAS SHE EVER BEEN REMOVED?

20 A I ASSUMED THAT SHE RESIGNED BECAUSE SHE NEVER -- SHE
21 ATTENDED MANY, MANY HEARINGS AND NEVER STOOD UP AND NEVER
22 ASSERTED THAT SHE WAS A TRUSTEE, BUT WE'VE HAD OTHER
23 PEOPLE ATTEND MANY HEARINGS AND NEVER TELL THAT THEY'RE
24 TRUSTEES EITHER, BUT I DON'T THINK THAT SHE CONTINUED TO
25 SERVE. I DON'T KNOW EXACTLY HOW HER ACCEPTANCE WENT AWAY,

1 BUT I ASSUME IT WENT AWAY BECAUSE SHE DECIDED NOT TO
2 CONTINUE WITH IT. I DON'T KNOW THE ANSWER TO THAT. I
3 WASN'T HERE. THAT WAS TWO MONTHS BEFORE I GOT APPOINTED.

4 Q WOULD THERE BE AN EASY WAY TO ASCERTAIN YOUR
5 ASSUMPTION?

6 A WELL, I GUESS SHE HAS BEEN IN COURT FOR TWO YEARS. I
7 GUESS IF SHE THOUGHT SHE WERE THE TRUSTEE SHE WOULD HAVE
8 STOOD UP IF SHE THOUGHT SHE WERE STILL THE TRUSTEE.

9 Q OR YOU AND BOB COULD HAVE ASKED HER?

10 A I DIDN'T THINK I NEEDED TO, HONESTLY.

11 Q OKAY.

12 A I MEAN, SHE WAS HERE.

13 Q AND, AGAIN, ONLY YOU AND BOB AS YOU TESTIFIED CAN
14 UPHOLD THE ESTATE PLAN OF MR. BROWN. YOU'VE ASSUMED THAT
15 DEANNA IS NO LONGER A TRUSTEE. YOU'VE BEEN OPERATING THIS
16 TRUST SINCE NOVEMBER OF 2007 AND YOU HAVEN'T BOTHERED TO
17 EXPLORE WHETHER THERE IS A THIRD VALID APPOINTED TRUSTEE?

18 A I BELIEVE THAT -- WELL, ACTUALLY, ACTUALLY, I CAN SAY
19 I'VE EXPLORED THAT BECAUSE -- WELL, DON'T GET TIRED. YOU
20 ASKED THE QUESTION.

21 Q I AM HAVING TO STAND, MRS. POPE. YOU GET TO SIT.

22 A WELL, I'LL TELL YOU --

23 Q I'LL TRADE YOU FOR STANDING.

24 A I'LL TELL YOU. BETWEEN OUR APPOINTMENT ON
25 NOVEMBER 20 AND THE WILL CONTEST OF MR. LEVENSON'S CLIENTS

1 WHICH TOOK THE PLACE ON DECEMBER 26, 2007 I CALLED LOUIS
2 LEVENSON AND BEGGED HIM, PLEASE, DON'T LET YOUR CLIENTS
3 CONTEST THE WILL, AND I JUST BELIEVE THAT MR. LEVENSON AS
4 BRIGHT AS HE IS AND AS AGGRESSIVE AS HE IS WOULD HAVE LET
5 ME KNOW IF HIS CLIENT WAS STILL SERVING AS TRUSTEE. I
6 JUST DON'T -- I MEAN, I JUST DON'T THINK THE TONE OF OUR
7 CONVERSATIONS WOULD HAVE BEEN SUCH THAT THAT WOULD HAVE
8 BEEN -- THAT HE WOULD NOT HAVE TOLD THAT.

9 Q SO, AS FIDUCIARIES BOUND AND DETERMINED TO CARRY OUT
10 MR. BROWN'S INTENT WHICH YOU SAY WAS TO HAVE DEANNA SERVE
11 AS TRUSTEE --

12 A NO, NO, NO. I DID NOT SAY THAT. YOU'RE WRONG. I
13 DID NOT SAY IT WAS MR. BROWN'S INTENT. I SAID THAT SHE
14 WAS NOMINATED BY MR. CANNON AND MR. DALLAS AND ACCEPTED.

15 Q THROUGH A PROCESS THAT YOU CLAIM WAS CREATED BY
16 MR. BROWN THROUGH THE DOCUMENTS; CORRECT?

17 A YES, BECAUSE THEY ASSERTED TO HER AND ACCORDING TO
18 THE DOCUMENT AND ACCORDING TO MR. BRADLEY -- I MEAN, I'M
19 SORRY, MR. DALLAS -- THAT MR. BRADLEY HAD NOT ACCEPTED AND
20 I DON'T KNOW WHAT HAPPENED BETWEEN THE 27TH OF -- 26TH OR
21 27TH OF DECEMBER WHEN SHE ACCEPTED THE APPOINTMENT. SHE
22 SIGNED AND ACCEPTED IT AND SHE WENT TO MR. LEVENSON. AS I
23 SAY, I WASN'T HERE.

24 I DO KNOW THAT SHE SIGNED A DOCUMENT ACCEPTING THE
25 TRUSTEESHIP, AND I DO KNOW THAT THAT IS CONSISTENT WITH

1 THE STATEMENTS MADE BY DEBRA OPRI WHO REPRESENTED HERSELF
2 TO BE THE FAMILY LAWYER ON PUBLIC TELEVISION THAT THERE
3 WAS A TRUST AND THAT IT WAS VALID.

4 Q SO, BASED ON YOUR ASSUMPTION WHICH INCLUDES
5 MR. LEVENSON'S TONE AND A TELEVISION INTERVIEW WITH
6 MS. OPRI THAT WE'LL TALK ABOUT LATER AND OTHER
7 ASSUMPTIONS, RATHER THAN ASKING HER IF SHE WAS STILL
8 TRUSTEE OR EVER PROPERLY APPOINTED YOU JUST WENT ABOUT THE
9 BUSINESS OF TAKING CARE OF THE TRUST?

10 A MR. LEVENSON, SOME OF THE 11 LAWYERS ON THE SIDE --
11 THAT SIDE -- I'M SORRY. MR. MEDLIN, SOME OF THE 11
12 LAWYERS I AM SURE WOULD HAVE TOLD ME THAT DEANNA WAS
13 TRUSTEE. I'VE HAD A NUMBER OF NICE CONVERSATIONS WITH
14 DEANNA. I CERTAINLY WOULDN'T HAVE INTERROGATED HER ABOUT
15 THAT BECAUSE SHE WAS REPRESENTED BY COUNSEL, BUT I ASSUMED
16 THAT SHE JUST WENT AWAY AND THAT WAS WHAT MR. DALLAS
17 INDICATED -- SHE JUST WENT AWAY. HOW EXACTLY SHE WENT
18 AWAY AND MR. BRADLEY CAME OR RESUMED, SHALL WE SAY, ACTIVE
19 SERVICE OR WHATEVER, YOU KNOW, I WASN'T HERE. IT NEVER
20 OCCURRED TO ME THAT I NEEDED TO TRY TO QUESTION DEANNA
21 ABOUT WHY SHE RESIGNED OR DIDN'T RESIGN.

22 Q BUT WOULDN'T IT BE A FIDUCIARY RESPONSIBILITY TO
23 DETERMINE WHO IF ANY OTHER PERSON WAS SERVING AS
24 CO-FIDUCIARY?

25 A I HAVE, MR. LEVENSON (SIC). I HAVE. WE HAVE

1 NUMEROUS COURT ORDERS -- COURT ORDERS ISSUED WHILE YOU
2 WERE STANDING IN THIS COURT AND MR. LEVENSON AND OTHERS
3 SAYING WHO THE TRUSTEES ARE.

4 Q OKAY.

5 A AND NOBODY HAS EVER STOOD UP. WHY WOULD IT BE MY
6 DUTY?

7 Q AND, MRS. POPE, MR. LEVENSON AND I ARE NOT THE SAME
8 PERSON.

9 A SORRY.

10 Q I'M FAR BETTER LOOKING.

11 A YOU ARE, MR. MEDLIN.

12 Q I'M GLAD YOU SAID THAT UNDER OATH.

13 LET'S JUST STRIKE THAT FROM THE RECORD NOW, YOUR
14 HONOR.

15 HAVE YOU CONTACTED MR. DALLAS AND MR. BRADLEY OR
16 MR. BRADLEY OR MR. CANNON OR MR. OVERTON ABOUT WHAT MIGHT
17 BE IN THE '99 TRUST TO TALK TO THEM ABOUT COORDINATING ANY
18 OF THAT?

19 A I WOULDN'T SAY I'VE DONE THAT. I'M CONCERNED FOR
20 THIS REASON, MR. MEDLIN. IT IS OUR DUTY TO UPHOLD THE
21 2000 WILL AND SO TO -- IT'S NOT APPROPRIATE FOR US TO BE
22 ADVOCATES FOR THE '99 WILL EXCEPT AS WE WERE WHEN WE FILED
23 OUR ANSWER AND COUNTERCLAIM IN CASE 872 WHERE WE SAID IN
24 THE ALTERNATIVE IT SHOULD BE ADMITTED TO PROBATE, AND AS
25 YOU KNOW BACK THEN THE ATTORNEY GENERAL WAS IN THE CASE

1 AND HAD NOT JOINED THE SETTLEMENT.

2 SO -- AND THERE -- SO, IT WAS -- IT IS OUR POSITION
3 TO ADVOCATE IT AS A BACKUP BUT NOT AS PRIMARY BECAUSE WE
4 BELIEVE THAT THE 2000 WILL IS THE VALID AND THE 2000
5 IRREVOCABLE TRUST WHICH WE HOPE IS UNTOUCHABLE.

6 Q BUT YOU JUST SAID A FEW MINUTES AGO THAT YOU AREN'T
7 CERTAIN IF THE '99 TRUST IS STILL VALID, DID YOU NOT?

8 A NO. NO. I THINK YOUR QUESTION WAS IS IT STILL
9 OPERATIVE -- YEA, WHICH IS VERY DIFFERENT FROM BEING
10 VALID. YEA, I MEAN, OF COURSE.

11 Q SO, YOU'RE NOT CERTAIN IF IT'S STILL OPERATIVE.

12 A I AM NOT CERTAIN IF IT IS STILL OPERATIVE. I BELIEVE
13 IT'S STILL VALID, BUT WE HAVEN'T EVEN HAD DISCOVERY ON
14 THAT YET.

15 Q OKAY. IF IT'S POSSIBLE THAT IT IS STILL OPERATIVE --

16 A OPERATIVE OR VALID?

17 Q IF IT'S POSSIBLE THAT IT IS STILL OPERATIVE -- I AM
18 TRYING TO USE YOUR TERM HERE, MRS. POPE. IF IT'S POSSIBLE
19 THAT IT'S STILL OPERATIVE, WOULDN'T IT BE PART OF THE
20 OVERALL ESTATE PLAN OF JAMES BROWN?

21 A I DON'T BELIEVE IT'S OPERATIVE. AS I SAID, I'VE DONE
22 DUE DILIGENCE AND DO NOT BELIEVE IT IS OPERATIVE. I
23 BELIEVE IT IS VALID, BUT NOT OPERATIVE.

24 Q DO YOU KNOW IF IT WAS REVOKED?

25 A I TOLD YOU TO THE BEST OF MY RECOLLECTION THE '99

1 TRUST WAS NEITHER REVOKED NOR FUNDED. I MEAN, TO THE BEST
2 OF MY INVESTIGATION, NEITHER REVOKE NOR FUNDED.

3 Q BUT THE SCHEDULE B IN THE '99 TRUST LOOKED VERY
4 SIMILAR TO THE SCHEDULE B IN THE 2000 TRUST?

5 A IT DID.

6 Q IT TALKED ABOUT BEECH ISLAND REAL ESTATE. IT TALKED
7 ABOUT JAMES BROWN ENTERPRISES.

8 A BUT THERE WAS A HUGE DIFFERENCE. THERE WAS NO DEED
9 AND THERE WAS A DEED OF BEECH ISLAND IN 2000 TO THE 2000
10 TRUST. SO, THAT WAS AN INTENTION TO DO IT, BUT IT DIDN'T
11 GET DONE, AND SCHEDULE B LISTED THE J.B.E., INC., AND IT
12 DIDN'T HAVE THE ADDITIONAL ATTEMPTS TO TRANSFER THAT
13 ACCOMPANIED THE 2000 DOCUMENT -- THE AUTHORIZATIONS AND
14 OTHER THINGS.

15 Q DO YOU KNOW --

16 A SO, YOU KNOW...

17 Q DO YOU KNOW WHETHER IT'S POSSIBLE TO CONVEY REAL
18 PROPERTY TO A TRUST WITHOUT ACTUALLY USING A DEED BY
19 SIMPLY PUTTING IT IN WRITING IN THE SCHEDULE?

20 A I KNOW THAT IS A QUESTION THAT IS BATTED AROUND. I
21 DON'T -- I HAVE NOT EVER HAD TO DEFEND THAT SITUATION.
22 SO, I WOULD SAY, YOU KNOW, IT'S CERTAINLY A POSSIBILITY.
23 I HAVEN'T THOUGHT ABOUT IT. YOU KNOW, I HAVEN'T TAKEN A
24 POSITION ABOUT THAT BECAUSE I BELIEVE THAT BEECH ISLAND
25 WENT INTO THE 2000 TRUST AND WAS PROPERLY ADMINISTERED.

1 Q LET'S THINK ABOUT THAT.

2 A I MEAN, NOT -- WHOOPS, I DIDN'T MEAN TO SAY THAT --
3 WAS PART OF THE 2000 TRUST.

4 Q LET'S THINK ABOUT THAT JUST A MINUTE. IF, IN FACT,
5 IT IS POSSIBLE TO CONVEY REAL ESTATE TO A TRUST SIMPLY BY
6 A WRITING THAT SATISFIES THE STATUTE OF FRAUDS AND
7 EVIDENCING THE TRUSTOR'S INTENT SO THAT THE '99 TRUST HAD
8 THE BEECH ISLAND REAL ESTATE THERE WOULD BE NO REAL ESTATE
9 IN MR. BROWN'S NAME TO CONVEY BY DEED TO THE 2000 TRUST;
10 IS THAT CORRECT?

11 A I HOPE I WILL GET ACADEMIC CREDIT FOR THIS TESTIMONY,
12 BUT I JUST HAVEN'T THOUGHT ABOUT THAT.

13 Q YOU WON'T FROM ME, MRS. POPE.

14 A I BELIEVE --

15 THE COURT: ALL RIGHT. HOLD ON A SECOND. LET'S KEEP
16 TO POINT INSTEAD OF HAVING THIS -- THINGS THAT WE NEED TO
17 BE LOOKING AT TEXTBOOKS FOR. STAY TO THIS CASE,
18 PROFESSOR.

19 Q MY QUESTION, AGAIN, YOUR HONOR, IS IF IT'S POSSIBLE
20 TO CONVEY REAL ESTATE TO THE '99 TRUST SIMPLY BY LISTING
21 IT ON A SCHEDULE, IF THAT REAL PROPERTY IS IN THE '99
22 TRUST AND THAT TRUST HASN'T BEEN REVOKED AND MR. BROWN
23 DIDN'T HAVE TITLE TO THAT PROPERTY TO CONVEY IT TO THE
24 2000 TRUST, DID HE?

25 A I DON'T BELIEVE IT WAS DONE. I JUST DISAGREE WITH,

1 YOUR HYPOTHETICAL. I DON'T THINK IT MATCHES THE FACTS.

2 Q BUT HAVE YOU EXPLORED THAT WITH MR. DALLAS, BRADLEY,
3 CANNON, OVERTON TO SEE FOR SURE?

4 A I HAVE EXPLORED IT TO THE EXTENT THAT I THINK
5 NECESSARY WHICH IS TO SEE THAT A VALID DEED WENT INTO THE
6 2000 OR -- WHAT APPEARS TO BE A VALID DEED WENT INTO THE
7 2000 TRUST AND THAT BEECH ISLAND REMAINED TITLED IN THE
8 NAME OF THE 2000 TRUST AT MR. BROWN'S DEATH AND OTHER
9 FACTORS.

10 Q BUT YOUR ASSUMPTION THAT THE DEED IS VALID IS BASED
11 ON AN ASSUMPTION THAT MR. BROWN OWNED THE PROPERTY TO DEED
12 IT INTO THE 2000 TRUST; CORRECT?

13 A YEA, THAT'S TRUE.

14 Q ALL RIGHT.

15 A OR AT LEAST HE HAD ADVERSE POSSESSION TO IT.

16 Q IF THE '99 WILL -- EXCUSE ME. IF THE '99 IRREVOCABLE
17 TRUST WAS BOTH VALID AND OPERATIVE AND FUNDED WITH ANY
18 AMOUNT, WOULDN'T THAT CONSTITUTE PART OF MR. BROWN'S
19 ESTATE PLAN? IN OTHER WORDS, COULDN'T HE HAVE MORE THAN
20 ONE TRUST?

21 A THE ANSWER IS THAT A PERSON CAN HAVE MORE THAN ONE
22 TRUST. I DON'T BELIEVE ANY OF THOSE FACTS COMPORT WITH
23 ANYTHING I KNOW ABOUT AND I WOULD THINK THAT ALL THESE
24 MANY, MANY PEOPLE WOULD HAVE BROUGHT IT TO OUR ATTENTION
25 OVER THE LAST TWO YEARS.

1 Q HAVE YOU CONTACTED VOORHEES, SALKEHATCHIE, OR USC
2 AIKEN AS BENEFICIARIES AS YOU DESCRIBE IT UNDER THAT TRUST
3 TO SEE IF THEY HAVE A DIFFERENT ARGUMENT ABOUT THAT?

4 A NO, BUT WE HAVE REPEATEDLY INSISTED THAT THEY NEED TO
5 BE MADE PARTIES TO THIS PROCEEDING SO THEY CAN EXPLORE
6 JUST THE THINGS YOU'VE ASKED ME ABOUT BECAUSE THAT WOULD
7 BE THEIR BUSINESS TO EXPLORE THOSE AND THEY NEED TO BE
8 PARTIES BECAUSE YOU'RE NOT PROTECTING THEM. I AM NOT
9 PROTECTING THEM. THE ATTORNEY GENERAL IS NOT PROTECTING
10 THEM, AND THEY NEED TO BE -- AND WE'RE JUMPING OVER A WILL
11 AND A TRUST THAT PROVIDES HUGE BENEFITS TO THEM AND THEY
12 ARE NOT AT THIS TABLE.

13 THAT IS THE BEST DEMONSTRATION OF WHY THIS SETTLEMENT
14 JUST CANNOT, SHOULD NOT BE APPROVED UNTIL THE PROPER
15 PARTIES ARE JOINED BECAUSE JUST THE QUESTIONS YOU'RE
16 ASKING ME. USC SALKEHATCHIE, VOORHEES COLLEGE, AND USC
17 AIKEN HAVE THE RIGHT TO ASK AND THEY HAVE THE RIGHT TO
18 EXPLORE AND THEY HAVE THE RIGHT TO CALL MS. ELLA OVERTON,
19 AND THEY HAVE -- THEY HAVE THE RIGHT TO DO EXACTLY THE
20 THINGS YOU'RE ASKING ME TO DO -- NOT ME TO DO THEM, THEM
21 TO DO THEM.

22 Q SO, WHY HAVEN'T YOU AND BOB MADE THEM PARTIES?

23 A AS I TOLD YOU, WE ASKED FOR ALTERNATE PROBATE OF THE
24 '99 WILL. THERE ARE STILL SOME PARTIES OUT. AT THE TIME
25 THE ATTORNEY GENERAL HAD NOT JOINED IN A SETTLEMENT WHICH

1 WOULD PREVENT HIM FROM PROTECTING THE INTEREST OF THOSE
2 PEOPLE AND THOSE PEOPLE NEED TO COME FORWARD JUST AS WE
3 DO. WE ARE THE PRIMARY BENEFICIARIES OF THE 2000 WILL AS
4 TRUSTEES. THE PRIMARY BENEFICIARIES OF THE '99 WILL,
5 THOSE PEOPLE NEED TO BE HERE.

6 Q AND WHY HAVEN'T YOU INVITED THEM?

7 A BECAUSE THE LAWSUIT WAS MR. LEVENSON'S AND THE NORMAL
8 PROCEDURE FOR LAWSUITS IS THAT THE PLAINTIFF INVITES THE
9 PROPER PARTIES AND EVER SINCE THIS SETTLEMENT WHEN WE
10 REALIZED THAT THE ATTORNEY GENERAL WAS INCAPABLE OF
11 PROTECTING EITHER THE INTEREST OF JAMES BROWN OR --

12 MR. JONES: YOUR HONOR, REALLY, I OBJECT TO THIS
13 TESTIMONY.

14 THE COURT: OKAY. I NOTE YOUR OBJECTION. GO AHEAD.

15 THE WITNESS: EVER SINCE AUGUST 13 OF 2008 WHEN WE
16 REALIZED THE ATTORNEY GENERAL HAD SETTLED IN A WAY THAT
17 RENDERED HIM UNABLE TO SOLELY PROTECT THE INTEREST OF THE
18 CHARITABLE AND NON-CHARITABLE BENEFICIARIES AND ESTATE OF
19 JAMES BROWN OR THE CHARITABLE, NON-CHARITABLE, AND ESTATE
20 BENEFICIARIES OF THE 1999 WILL AND TRUST, WE HAVE SAID
21 THEY NEED TO BE HERE SINCE AUGUST 13, BUT NOBODY IS
22 LISTENING.

23 Q AND WHAT --

24 THE COURT: ALL RIGHT. MR. PROFESSOR MEDLIN, IT IS
25 5 O'CLOCK. IT SOUNDS LIKE YOU'RE AT A GOOD STOPPING

1 POINT.

2 MR. MEDLIN: YOUR HONOR, I CAN ACTUALLY FINISH UP
3 THIS LITTLE SECTION WITH ONE OR TWO MORE QUESTIONS OR WE
4 CAN STOP.

5 THE COURT: VERY WELL. GO AHEAD. ONE OR TWO MORE
6 QUESTIONS.

7 Q WHAT HAS PREVENTED YOU FROM NAMING THOSE PARTIES,
8 FROM BRINGING THEM IN?

9 A WE HAVE REPEATEDLY TOLD THE PLAINTIFF'S ATTORNEY
10 MR. LEVENSON THAT THEY SHOULD BE BROUGHT IN. WE'VE
11 WRITTEN LETTERS. WE URGED IT. WE HAVE WRITTEN AND SAID,
12 LOUIS, THE 872 CASE, UNLIKE A LOT OF OTHER CASES, IS IN
13 FAIRLY GOOD PROCEDURAL SHAPE. NOW ALL YOU NEED TO DO IS
14 ADD USC SALKEHATCHIE BECAUSE THAT'S COME UP AND GET SOME
15 GUARDIANS AD LITEM AND THEN WE'LL BE -- WE HAVE SAID THAT
16 CASE IS THE MAIN FORUM -- MOST LIKELY FORUM FOR A REAL
17 SETTLEMENT WITH ALL THE PARTIES, AND EVERYBODY HAS REFUSED
18 AND THIS SUIT WAS BROUGHT TO GET RID OF US.

19 Q AND SO, MRS. POPE --

20 A I HAVE WRITTEN MR. LEVENSON. I'LL GET YOU THE LETTER
21 IF YOU'D LIKE.

22 Q -- EVEN THOUGH YOU'RE THE FIDUCIARY, YOU'RE BLAMING A
23 BENEFICIARY FOR NOT DOING SOMETHING TO PROTECT THE ESTATE
24 PLAN?

25 A I AM NOT BLAMING ANYBODY. MR. LEVENSON IS THE PERSON

1 WHO CONTESTED THE WILL AND CONTESTED THE TRUST. I AM
2 TELLING HIM THAT AS THE PLAINTIFF HE NEEDS TO JOIN ALL THE
3 PARTIES, AND MY LETTER SPECIFICALLY SAID CASE 872 IS THE
4 BEST CASE FOR SETTLEMENT BECAUSE THE PARTIES ARE PRETTY
5 CLOSE TO RIGHT. WE JUST NEED A LITTLE BIT MORE WORK.

6 Q WHEN YOU FILED YOUR EMERGENCY MOTION WERE YOU NOT AT
7 LIBERTY TO TRY TO ADD THOSE PARTIES?

8 A MR. MEDLIN, MY JOBS ARE TO TRY TO PROTECT THIS ESTATE
9 PLAN AND I AM -- AND THIS ESTATE AND THIS TRUST AND I AM
10 URGING THE COURT TO RELIEVE US OF THE RESPONSIBILITY, AND
11 I WANT TO SPEAK IN PRIVACY ABOUT ALL THE THINGS THAT ARE
12 BEING INTERFERED WITH THAT ARE PREVENTING THIS ESTATE AND
13 TRUST FROM MOVING FORWARD TODAY, TOMORROW, NEXT WEEK.
14 IT'S GOT TO STOP. THIS COURT HAS GOT TO GIVE US RELIEF,
15 AND I AM BEGGING THE COURT TO DO THAT AND I WANT TO TALK
16 ABOUT THE CORBUS MATTER.

17 MR. MEDLIN: YOUR HONOR, CAN I JUST SUGGEST THAT THIS
18 IS JUST ANOTHER UNRESPONSIVE QUESTION AND WE'LL CONTINUE
19 TOMORROW?

20 THE COURT: WELL, I CAN UNDERSTAND MRS. POPE'S
21 CONCERNS AND I APPRECIATE SINCE SHE HAS DEVOTED AS MUCH
22 TIME AND EFFORT AND ENERGY INTO THIS THING AS SHE POSSIBLY
23 CAN AND I UNDERSTAND WHERE SHE'S COMING FROM. I AM GOING
24 TO ALLOW HER HER SAY. MAYBE SHE'S NOT AS RESPONSIVE AS
25 YOU WANT HER TO BE. WHEN WE GET LAWYERS ANSWERING

1 QUESTIONS, SOMETIMES THEY GET A LITTLE LONGER THAN
2 ORDINARY PEOPLE, BUT I UNDERSTAND HER POSITION.

3 I THINK WE ARE AT A PRETTY GOOD POINT TO STOP
4 TONIGHT. IS 10 O'CLOCK AN IMPOSITION TO ANYBODY TOMORROW?
5 IS THAT A GOOD TIME TO START? I HAVE GOT A 9:30 HEARING
6 OR I WOULD START AT 9:30.

7 MR. MICHEL: YOUR HONOR, I HAVE ONE MATTER I DO WANT
8 THE RECORD TO BE HEARD ON VERY BRIEFLY. I THINK THERE MAY
9 BE A MISSTATEMENT, BUT AS AN OFFICER OF THE COURT, YOUR
10 HONOR, I WOULD JUST LIKE TO BE HEARD ON THIS.

11 THE COURT: I'LL --

12 MR. MEDLIN: MRS. POPE MADE A STATEMENT.

13 THE COURT: -- LET YOU BE HEARD TOMORROW.

14 MRS. POPE: WELL --

15 THE COURT: THANK YOU. THANK YOU.

16 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED FOR THE
17 DAY AND WERE RECONVENED ON MARCH 5, 2009 AS
18 FOLLOWS:)

19 THE COURT: PROFESSOR MEDLIN, I HOPE THAT MR. ROSEN
20 HAS GIVEN YOU AN EXAMPLE ON HOW TO ASK REAL SUCCINCT
21 QUESTIONS THIS MORNING.

22 MR. MEDLIN: YOUR HONOR, I WOULD SUGGEST THAT MY
23 QUESTIONS ARE MORE SUCCINCT THAN THE ANSWERS I'VE
24 RECEIVED.

25 THE COURT: I MAY NOT DISAGREE WITH THAT. ALL RIGHT.

1 LET'S TRY TO MOVE IT ALONG TODAY, BUT MAKE WHATEVER RECORD
2 YOU NEED TO MAKE. PROFESSOR MEDLIN?

3 MR. MEDLIN: YOUR HONOR, MR. MICHEL WOULD LIKE TO
4 ADDRESS THE COURT AT FIRST IF HE COULD.

5 THE COURT: ALL RIGHT.

6 MR. MICHEL: JUST BRIEFLY, YOUR HONOR. I THINK THERE
7 WAS SOME CONFUSION. IT MAY HAVE JUST BEEN A MISSTATEMENT
8 ABOUT EITHER THE HERRING BOX THAT I BELIEVE MRS. POPE
9 REFERRED TO. I JUST WANT TO MAKE SURE IT'S CLEAR THAT I
10 HAVE NEVER BEEN IN CONTROL OR POSSESSION OF THAT. I
11 COPIED IT IN HER OFFICE. I MADE A COPY FOR EVERYBODY WHO
12 ASKED. I WAS NEVER ASKED BY HER LAWYER TO MAKE A COPY,
13 BUT I AM HAPPY TO. IT'S IN MY OFFICE. IT IS UNDER SEAL
14 IN THIS COURT, BUT I JUST DIDN'T WANT THAT TO BE MISSTATED
15 IN THE RECORD. I HAD TO CORRECT IT LAST TIME WE WERE HERE
16 OR THE TIME BEFORE.

17 THE COURT: VERY WELL. THANK YOU.

18 MR. MICHEL: THANK YOU.

19 MRS. POPE: AND, YOUR HONOR, IF I COULD SIMPLY
20 APOLOGIZE TO THE EXTENT THAT I MADE IT APPEAR THAT YOU HAD
21 WITHHELD SOMETHING FOR ME. IT IS ONE OF ABOUT 10,000
22 DETAILS, AND IF YOU COULD SEND US A COPY OF WHAT YOU HAVE
23 I WOULD VERY MUCH APPRECIATE IT. IT WILL KEEP US FROM
24 HAVING TO UNSEAL THE BOX AND MAKE A COPY.

25 MR. MICHEL: NOT A PROBLEM, YOUR HONOR.

1 THE COURT: THANK YOU VERY MUCH. THANK YOU. ALL OF
2 YOU ARE ACTING SO PROFESSIONAL.

3 PROFESSOR?

4 MR. MEDLIN: LET'S SEE IF I CAN RUIN THAT, YOUR
5 HONOR.

6 THE COURT: I'M SURE YOU CAN.

7 MR. MEDLIN: THANK YOU, YOUR HONOR. I APPRECIATE
8 YOUR CONFIDENCE. I'M SURE IT IS WELL PLACED. YOUR HONOR,
9 TO COVER SOMETHING THAT WE DID YESTERDAY WE DISCUSSED THE
10 INVENTORY AND APPRAISEMENT AND A COVER LETTER FROM
11 ACTUALLY BOTH MRS. POPE AND MR. BUCHANAN TRANSMITTING
12 THIS --

13 THE COURT: THAT'S THE LETTER OF JULY 8, 2008 --

14 MR. MEDLIN: -- AND ASKING QUESTIONS.

15 THE COURT: -- AND THE INVENTORY APPRAISEMENT FILE
16 11/15/07.

17 MR. MEDLIN: YES, SIR, AND, ALTHOUGH, I IMAGINE IT'S
18 IN THE PROBATE COURT FILE, IF WE COULD WE JUST MARK THIS.

19 THE COURT: ANY OBJECTION BY ANYBODY?

20 MRS. POPE: IF I COULD JUST SAY SOMETHING. I HAVEN'T
21 SEEN WHAT'S THERE, BUT AS I UNDERSTOOD IT THIS SAYS WE
22 ENCLOSE FOR EVERYONE A PORTION OF THE INVENTORY AND
23 APPRAISEMENT WHICH WAS FILED UNDER SEAL, AND I THINK I
24 JUST WANT TO EXPLAIN THAT WHEN I WROTE THAT LETTER ON
25 JULY 8 THAT AS I UNDERSTOOD IT THE ENTIRE PACKAGE

1 INCLUDING THE NOTEBOOK WAS WHAT THEY WERE SUBMITTING TO
2 THE COURT. I CAN'T ANSWER THAT FOR SURE, BUT I DON'T WANT
3 TO SAY THAT THIS IS THE ENTIRE THING AND MY LETTER SAID A
4 PORTION OF THE COPY OF THE INVENTORY AND APPRAISEMENT.

5 THE COURT: VERY WELL.

6 MR. MEDLIN: THANK YOU, MRS. POPE.

7 (WHEREUPON, MEDLIN'S EXHIBIT NO. 2 WAS MARKED FOR
8 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

9 THE COURT: ALL RIGHT, SIR. GENTLEMEN, BEFORE WE
10 START SOMETIME TODAY I AM GOING TO HAVE A QUESTION TO EACH
11 LAWYER AND MY QUESTION IS GOING TO BE IN YOUR OPINION OR
12 YOUR ASSESSMENT AS TO TO THE COMPLEXITY OF THIS CASE, THE
13 ISSUES INVOLVED, I JUST WANT YOUR OPINION AS HOW THIS CASE
14 COMPARES TO OTHER PROBATE CASES THAT YOU'VE HANDLED
15 THROUGH YOUR YEARS OF PRACTICE AS TO THE COMPLEXITY AND
16 ALL OF THE ISSUES INVOLVED. THAT'S SORT OF A SUCCINCT WAY
17 OF SAYING IT, BUT I AM GOING TO GET A SHORT STATEMENT FROM
18 EVERYBODY TO PUT IN THE RECORD AS TO HOW YOU VIEW THIS
19 LITIGATION.

20 PROFESSOR?

21 MR. MEDLIN: THANK YOU, YOUR HONOR.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. MEDLIN:

24 Q MRS. POPE, YESTERDAY WE WERE DISCUSSING THE ESTATE
25 PLAN OF MR. BROWN AS YOU CONTEND IT EXISTS AND WE WERE

1 TALKING ABOUT HOW YOU FORMED YOUR OPINION ABOUT WHAT
2 DOCUMENTS CONSTITUTE THE ESTATE PLAN. DID YOU LOOK
3 THROUGH MR. HERRING'S BOX -- WHAT IS NOW, I GUESS,
4 UNDER --

5 A MR. MEDLIN, I HAVE THOUGHT ON THE TRIP THE NEWBERRY
6 AND BACK AND LOOKED AT SOME THINGS YESTERDAY THAT I THINK
7 I NEED TO FURTHER CLARIFY.

8 MR. LEVENSON: JUDGE, I AM GOING TO --

9 THE COURT: HOLD ON. MRS. POPE, PLEASE.

10 THE WITNESS: WELL, I NEED --

11 THE COURT: WHAT DO YOU NEED TO CLARIFY --

12 THE WITNESS: I NEED TO CLARIFY --

13 THE COURT: -- AND THEN I WILL ASK YOU TO PLEASE

14 ANSWER THE QUESTION.

15 THE WITNESS: I'M SORRY, YOUR HONOR.

16 THE COURT: GO AHEAD. CLARIFY.

17 THE WITNESS: I NEED TO CLARIFY MY ANSWERS ON SEVERAL
18 ISSUES, AND I HAVE WRITTEN DOWN WHAT THEY ARE, AND I WOULD
19 LIKE TO CLARIFY THEM, AND IT MAY HELP US MOVE ALONG.

20 THE COURT: ALL RIGHT. I AM GOING TO LET HER
21 CLARIFY, AND THEN I AM GOING TO TRY TO BE PATIENT, BUT I
22 AM GOING TO ASK BOTH OF YOU TO PLEASE BE DIRECT IN YOUR
23 QUESTIONS, AND, MRS. POPE, I AM GOING TO ASK YOU TODAY TO
24 PLEASE TRY TO ANSWER THE QUESTION AT HAND SO WE CAN MOVE
25 FORWARD. I'LL ALLOW YOU NOW TO MAKE WHATEVER STATEMENTS

1 YOU'D LIKE TO MAKE TO CLARIFY.

2 THE WITNESS: WITH RESPECT TO THE VALUATION BEING
3 REASONABLE I DO NOT BELIEVE THAT I FULLY EXPLAINED WHAT I
4 BELIEVE -- THE IMPORTANCE I BELIEVE OF THE DOCUMENTS OF
5 DR. TERRY COX PREPARED IN JUNE OF 2007 BECAUSE HIS ROLE
6 THROUGHOUT HAS CHANGED. WHEN HE PUT A VALUE AND THAT
7 DOCUMENT THAT HE PREPARED IN JUNE -- MAY OR JUNE OF
8 2007 -- IS ATTACHED, I BELIEVE, AS EXHIBIT L TO ONE OF OUR
9 AFFIDAVITS AND IS ON FILE IN THIS PROCEEDING. AT THE TIME
10 MR. COX PREPARED THAT DOCUMENT HE HAD A ROLE THAT HE WAS
11 HELPING THE ESTATE AND TRUST FIND A PURCHASER, AND HE
12 PLACED THE VALUE, AND YOU CAN SEE IN THE EXHIBITS
13 SPECIFICALLY ON ALL THE ASSETS OF THE ESTATE AT 100 -- AT
14 BETWEEN 86 AND \$110 MILLION AND WE CAN LOOK AT THE EXHIBIT
15 AND SEE HOW HE BROKE THAT DOWN BETWEEN COPYRIGHTS, WHAT HE
16 DESCRIBED AS PROPERTY, AND THEN IMAGE AND -- ROYALTIES --
17 I'M SORRY -- ROYALTIES, WHAT HE DESCRIBED AS PROPERTY, AND
18 IMAGE AND PERSONA. I THINK THAT VALUATION HAS A MUCH
19 STRONGER VALUE BECAUSE AT THE TIME HE WAS WORKING TO
20 ASSIST THE ESTATE IN LOOKING FOR A PURCHASER. HE WAS NOT
21 POTENTIALLY ON THE OTHER SIDE OF THE DEAL.

22 NOW, WHY I THINK THAT IS IMPORTANT IS IN SUPPORTING
23 OUR VALUATION IS THAT I DON'T THINK I FULLY ANSWERED THE
24 QUESTION BECAUSE, QUITE FRANKLY, I JUST FORGOT. THE
25 QUESTION DIRECTLY RELATED TO THIS AND VERY IMPORTANT TO

1 WHY WE USED THE VALUE THAT WE DID ON THE ESTATE TAX RETURN
2 WAS YOUR QUESTION WAS THERE EVER A VALID OFFER FOR THE
3 PURCHASE OF THE ASSETS, AND I BELIEVE THAT THE CORRECT
4 ANSWER TO THAT IS THERE WAS AN OFFER THAT WAS AS CLOSE AS
5 COMMERCIALY POSSIBLE AT THE TIME TO BE AN OFFER. IT WAS
6 IN THE FORM OF A LETTER OF INTENT, BUT IT HAD SUCH A SHORT
7 DUE DILIGENCE PERIOD THAT FOR ALL PRACTICAL PURPOSES I
8 BELIEVE IT CONSTITUTED AN OFFER.

9 THE REASON IT SLIPPED MY MIND IS BECAUSE I WAS NOT
10 INVOLVED AT THE TIME IT WAS BEING MADE AND WORKED ON AND I
11 WOULD LIKE TO GO THROUGH THE HISTORY OF THAT OFFER BECAUSE
12 I THINK IT'S VERY CRITICAL. THE OFFER WAS MADE ON
13 OCTOBER 12 OF 2007 WHICH WAS QUITE CLOSE TO THE DEATH OF
14 MR. BROWN AND WOULD HAVE BEEN CERTAINLY FROM AN
15 ESTATE-PLANNER'S POINT OF VIEW VERY REASONABLE TO
16 CONSIDER. THE OFFER WAS MADE TO THE FORMER P.R.'S AND
17 TRUSTEES.

18 IF YOUR HONOR -- AND IF WE COULD LOOK AT THE JOINT
19 EXHIBIT OF MR. BUCHANAN AND ME DATED FEBRUARY 19, 2009
20 THAT'S BEEN SUBMITTED, THAT GOES THROUGH THE STORY OF THAT
21 OFFER AND THE INVOLVEMENT OF THE FORMER P.R. TRUSTEES AND
22 THE ATTORNEY GENERAL'S OFFICE. THE OFFER IS --

23 THE COURT: WHERE IS THAT EXHIBIT?

24 THE WITNESS: IT IS JOINT AFFIDAVIT OF ROBERT L.
25 BUCHANAN, JR., AND ADELE J. POPE DATED FEBRUARY 19, 2009,

1 AND IT IS EXHIBIT B TO THAT WHICH WAS A LETTER THAT BOB
2 BUCHANAN AND I WROTE TO THE ATTORNEY GENERAL ON JUNE 13,
3 2008 DISCUSSING CONCERNS WE HAD ABOUT PROTECTING
4 MR. BROWN'S LEGACY, AND ATTACHED TO THAT ARE A NUMBER OF
5 E-MAILS WITH MY HANDWRITTEN NOTES THAT I SENT TO THE
6 ATTORNEY GENERAL WITH OUR LETTER DISCUSSING THE CONCERNS
7 WE HAD ABOUT PROTECTION OF MR. BROWN'S ESTATE, AND, SO, IF
8 I COULD QUICKLY GO THROUGH THE CHRONOLOGY --

9 MR. LEVENSON: JUDGE, MAY I BE HEARD?

10 THE COURT: NO, SIR.

11 MR. LEVENSON: MAY I PROTECT THE RECORD, PLEASE?

12 THE COURT: JUST HOLD ON A SECOND.

13 THE WITNESS: IF I COULD QUICKLY --

14 THE COURT: MRS. POPE, WE'RE TRYING TO TAKE TESTIMONY
15 AS TO WHY THIS SETTLEMENT SHOULD BE APPROVED OR NOT
16 APPROVED AND --

17 THE WITNESS: THE VALUE OF THE ESTATE, YOUR HONOR, IS
18 CRITICAL, AND THE FACT THAT I AM BEING CRITICIZED FOR NOT
19 HAVING PUT A PROPER VALUATION ON THE ESTATE TAX RETURN OR
20 AS HAS BEEN SUGGESTED BY THE SETTLING PARTIES THAT
21 MR. BROWN'S ESTATE IS WORTH MUCH LESS THAN \$86 MILLION IS
22 ESSENTIAL TO THIS SETTLEMENT.

23 THE COURT: VERY WELL. I'LL LET YOU MAKE YOUR
24 EXPLANATION. I'LL FEED EVERYBODY OUT OF THE SAME SPOON.

25 THE WITNESS: I'VE TRIED TO PUT THE --

1 THE COURT: HOLD ON JUST ONE SECOND.

2 MR. LEVENSON, FOR THE RECORD?

3 MR. LEVENSON: JUDGE, THE ANSWER IS NOT RESPONSIVE.

4 THE PROPER METHOD OF EXAMINATION IS NOT TO GIVE THE
5 WITNESS HER OWN DISCRETION TO CREATE A NARRATIVE. SHE HAS
6 AN ATTORNEY. IF SHE WISHES TO MAKE A PRESENTATION
7 FOLLOWING THE EXAMINATION BY PROFESSOR MEDLIN, APPROPRIATE
8 QUESTIONS CAN BE ASKED OF THE WITNESS. THE WITNESS SHOULD
9 NOT CONTROL THE EXAMINATION. THE QUESTIONER AND THE COURT
10 SHOULD.

11 RESPECTFULLY, THIS IS INAPPROPRIATE, AND SINCE WE'RE
12 MAKING A RECORD I THINK IT'S IMPORTANT TO CONTINUE TO MAKE
13 AN OBJECTION. IF YOU WANT TO CONSIDER THIS TO BE MY
14 STANDING OBJECTION I WILL DO SO SO AS NOT TO INTERRUPT THE
15 TRAIN, BUT THIS IS NOT APPROPRIATE. IT WAS NOT
16 APPROPRIATE YESTERDAY, AND TO ALLOW THE WITNESS TO CONTROL
17 THE EXAMINATION IS JUST NOT WHAT WE -- WE HAVE AN
18 OBLIGATIONS TO CREATE AND A BURDEN -- TO ACCOMPLISH THE
19 BURDEN OF PROOF WITH RESPECT TO THE MOTION TO APPROVE THE
20 SETTLEMENT. THE WITNESS IS INTERFERING WITH THAT.

21 THE COURT: THANK YOU. YOUR OBJECTION IS NOTED.

22 MRS. POPE, I AM GOING TO ALLOW YOU TO MAKE --

23 THE WITNESS: I WILL GO QUICKLY.

24 THE COURT: -- A SUCCINCT EXPLANATION.

25 THE WITNESS: BETWEEN AUGUST 31 AND THE END OF 2007

1 BUDDY DALLAS AND TO SOME EXTENT MR. CANNON AND PERHAPS
2 MR. BRADLEY WERE IN CLOSE CONTACT WITH THE OFFICE OF THE
3 ATTORNEY GENERAL. WE BECAME AWARE OF THOSE CONTACTS AT A
4 LATER POINT, BUT THEY WERE CONFIRMED BOTH BY THE ATTORNEY
5 GENERAL AND BY OTHERS.

6 MR. JONES: YOUR HONOR, I AM GOING TO HAVE TO OBJECT.
7 SHE IS MAKING A POINT ABOUT THE EVALUATION OF THE ESTATE.
8 IT'S NOTHING TO DO WITH HER TESTIMONY NOW, AND THIS IS
9 PROPER FOR CROSS EXAMINATION BY QUESTIONS FROM HER LAWYER,
10 AND WE'RE SITTING HERE AND SHE'S GOING THROUGH AN
11 AFFIDAVIT THAT WE'RE GOING TO MAKE A MOTION ON IN A FEW
12 MINUTES OR A FEW HOURS THAT IT BE STRICKEN IN ITS
13 ENTIRETY, AND NOW SHE'S RAMBLING ON, IF I MAY, ABOUT A
14 JUNE 13 LETTER THAT SHE SENT TO THE A.G. THAT MY ATTORNEY
15 GENERAL RESPONDED TO ON JUNE 18 OF THE SAME YEAR AFTER WE
16 MET WITH THEM IN THE COURSE OF THE SUMMER OF 2008.

17 THE COURT: THANK YOU. MRS. POPE, PLEASE, PLEASE,
18 LET'S MOVE ALONG, BUT I WILL ALLOW YOU TO QUALIFY YOUR
19 TESTIMONY ABOUT THE VALUATION YESTERDAY, BUT I DON'T
20 UNDERSTAND WHAT --

21 THE WITNESS: THIS IS WHAT I BELIEVE TO HAVE BEEN A
22 BONAFIDE OFFER MADE IN OCTOBER OF 2007 FOR \$100 MILLION
23 AND A 5 PERCENT LEGACY ROYALTY AND HERE IS WHY I BELIEVE
24 THAT'S TRUE. FIRST --

25 THE COURT: THAT'S IN YOUR AFFIDAVIT?

1 THE WITNESS: YES, IT IS. NO, NO, NO, NOT THE
2 VALUATION ISSUE, BUT ALL OF THOSE SUPPORTING DOCUMENTS TO
3 THE QUESTION WAS THERE EVER AN OFFER WHICH MR. MEDLIN
4 ASKED ME YESTERDAY. THE SUPPORTING DOCUMENTS ARE IN THAT
5 AFFIDAVIT AND I CAN EXPLAIN WHY I BELIEVE THEY CONSTITUTE
6 A VALID OFFER.

7 THE COURT: WELL, I THINK THAT WOULD BE PROPER FOR
8 YOUR LAWYERS TO ASK YOU ON REDIRECT WHEREVER WE ARE.

9 THE WITNESS: OKAY. WELL, AGAIN, MY ANSWER YESTERDAY
10 IS NOT COMPLETE. COULD I -- MAY I TELL THE OTHER AREAS
11 WHERE MY ANSWER IS --

12 THE COURT: YES, MA'AM. YOU'VE GONE OVER VALUATION.
13 WHAT ELSE?

14 THE WITNESS: THE THIRD WAS THE QUESTION WOULD THERE
15 BE MORE ATTORNEY'S FEES IF WE DO NOT HAVE A SETTLEMENT. I
16 BELIEVE THAT THAT ANSWER IS THERE ARE WAYS THAT WE COULD
17 AVOID THAT, AND I BELIEVE THAT WE COULD REASONABLY SEE
18 THAT THERE BE NO MORE ATTORNEY'S FEES, AND I WILL TELL YOU
19 WHY I THINK THAT IF YOU'D LIKE ME TO ANSWER IT.

20 THE COURT: WELL, IF YOUR LAWYER ASKED YOU, I'LL LET
21 YOU ANSWER IT.

22 THE WITNESS: ON THE COPYRIGHT ISSUE WHEREAS MY
23 TECHNICAL EXPLANATION OF THE COPYRIGHT ISSUE WAS A LITTLE
24 BIT OFF I ABSOLUTELY STAND BY MY STATEMENT THAT THE
25 ALLEGATION IN THAT PROPOSED SETTLEMENT IS OUTRAGEOUS AND A

1 DEAL-STOPPER AND IT'S ONE OF ABOUT FIVE DEAL-STOPPERS --

2 THE COURT: YOU TESTIFIED TO THAT.

3 THE WITNESS: -- AND I'LL ANSWER MORE QUESTIONS IF
4 YOU'D LIKE.

5 MR. JONES: YOUR HONOR, MAY I BE HEARD BRIEFLY? I
6 APOLOGIZE, BUT I BELIEVE YESTERDAY AFTERNOON AT THE CLOSE
7 OF THE HEARING YOU INSTRUCTED THIS WITNESS NOT TO TALK TO
8 HER LAWYER AND NOW SHE'S BASICALLY TELLING HER LAWYER WHAT
9 QUESTIONS TO ASK HER.

10 THE COURT: MR. JONES, PLEASE. THANK YOU.

11 MR. JONES: PLEASE NOTE THAT FOR THE RECORD, YOUR
12 HONOR.

13 THE COURT: IT IS NOTED, AND SHE WENT STRAIGHT HOME
14 LAST NIGHT AND DIDN'T TALK TO HER LAWYER. THAT'S WHAT SHE
15 TOLD ME WHEN SHE WAS LEAVING THE COURTROOM. I HAVE NO
16 REASON TO DISBELIEVE THAT.

17 MR. JONES: YOUR HONOR, SHE'S, BASICALLY, STATING
18 QUESTIONS RIGHT NOW THAT SHE WANTS HER LAWYER TO ASK HER.

19 THE COURT: MR. JONES, PLEASE.

20 GO AHEAD, MRS. POPE.

21 MR. ROSEN: YOUR HONOR, IF I MAY, I JUST WANT TO CALL
22 THE COURT'S ATTENTION TO RULE 611.

23 THE COURT: I'M FAMILIAR WITH THE RULES ABOUT
24 EXAMINATION OF WITNESSES.

25 MR. ROSEN: THANK YOU, YOUR HONOR.

1 THE COURT: THANK YOU.

2 THE WITNESS: AS TO AN ACCOUNTING, IN ADDITION TO
3 HAVING FILED AN ACCOUNTING WITH THE PROBATE COURT I WANTED
4 TO CALL TO YOUR ATTENTION THAT WE ON MAY 20, 2008 DID A
5 DETAILED SIX-MONTHS ACCOUNTING WHICH WE SHARED WITH ALL
6 INTERESTED PARTIES. THAT WAS THE NON-FINANCIAL PART OF
7 THE ACCOUNTING OF OUR FIRST SIX MONTHS OF OUR SERVICE. AS
8 TO THE 1999 WILL I WAS QUESTIONED EXTENSIVELY ON WHY I
9 HADN'T SPOKEN TO DEANNA, AND I FORGOT TO SAY THE OBVIOUS.
10 DISCOVERY HAS BEEN PROHIBITED IN THAT CASE AND I CAN'T
11 WAIT TO HAVE A DISCUSSION ABOUT IT.

12 SECONDLY, THERE WAS A MENTION OF OVERTON --
13 MS. OVERTON -- AND I AM DYING TO TALK TO MS. OVERTON WHO
14 WAS NAMED ON THE ORIGINAL ADVISORY COMMITTEE OF
15 MR. BROWN'S TRUST BUT HAS NOT APPEARED -- THAT IS THE 2009
16 TRUST -- AND HAS NOT APPEARED IN EIGHT YEARS.

17 YOU ASKED -- AND THIS IS, I THINK, VERY IMPORTANT.
18 YOU SAID DO I NOT BELIEVE THAT THE ATTORNEY GENERAL CAN
19 CONTINUE TO PROTECT THE INTEREST OF ALL THE CHARITIES, AND
20 I THINK ABSOLUTELY HE CAN'T BY THE TERMS OF THE AUGUST --
21 THE LANGUAGE -- THE EXACT LANGUAGE OF THE AUGUST 10
22 DOCUMENT WHERE THE ATTORNEY GENERAL AS A PARTY --

23 MR. MEDLIN: MRS. POPE, YOU SAID HE CAN'T -- CANNOT?

24 THE WITNESS: CANNOT. CANNOT PROTECT THE INTEREST --

25 MR. MEDLIN: OKAY.

1 THE WITNESS: -- OF EITHER THE 2000 TRUST OR THE '99
2 TRUST BECAUSE UNDER THE AUGUST 10 DOCUMENT IF I CAN TAKE A
3 MINUTE TO LOOK AT IT...

4 THE COURT: IDENTIFY THE AUGUST 10 DOCUMENT.

5 THE WITNESS: THIS IS THE AUGUST 10 PURPORTED
6 SETTLEMENT DOCUMENT. ALL OF THE PARTIES -- AND THE
7 ATTORNEY GENERAL IS ONE OF THE PARTIES TO THAT
8 AGREEMENT -- PLEDGED TO TRY TO DEFEAT THE INTEREST OF ANY
9 OTHER SUCCESSORS TO MR. BROWN, AND MR. BUCHANAN AND I AS
10 TRUSTEES ARE SUCCESSORS TO MR. BROWN. JEANETTE MITCHELL
11 AND OTHERS ARE POTENTIAL SUCCESSORS AS HEIRS, AND VOORHEES
12 AND USC AIKEN AND USC SALKEHATCHIE ARE POTENTIAL
13 SUCCESSORS TO MR. BROWN, AND SIGNING THAT AGREEMENT WHICH
14 I HAVEN'T SEEN A SIGNED COPY WHICH HAS BEEN REPRESENTED TO
15 THE COURT THAT MR. JONES AGREED TO ON THE 10TH OF AUGUST
16 ABSOLUTELY RENDERED THE ATTORNEY GENERAL'S OFFICE
17 INCAPABLE OF SEPARATELY PROTECTING MR. BROWN'S INTEREST
18 BECAUSE IT PLEDGES TO TRY TO DEFEAT MR. BROWN'S ESTATE
19 PLAN.

20 NEXT -- I BELIEVE THAT'S ALL.

21 THE COURT: ALL RIGHT. NOW, MR. ROSEN, AS REFERENCE
22 TO RULE 611.

23 MR. ROSEN: I'M SORRY, YOUR HONOR?

24 THE COURT: MR. ROSEN, AS REFERENCE TO RULE 611 WHICH
25 SIMPLY MEANS THAT PROFESSOR MEDLIN ASKS THE QUESTIONS AND

1 THE WITNESS ANSWERS.

2 MR. ROSEN: WELL, YOUR HONOR, IT IS MODE OF ORDER OF
3 INTERROGATION. I MEAN, THERE IS AN ORDER FOR THIS.

4 THE COURT: I UNDERSTAND.

5 MR. ROSEN: I THINK THIS VIOLATES THAT PROCEDURE, BUT
6 IT DOES SAY THE TRIAL JUDGE HAS THE DISCRETION NOT --

7 THE COURT: I UNDERSTAND THAT, AND I WAS VERY PATIENT
8 YESTERDAY. I UNDERSTAND THAT EVERYBODY WANTS TO MAKE A
9 RECORD. EVERYBODY WANTS TO BE PROTECTED. WE DON'T HAVE A
10 JURY. I AM GOING TO LET THE RECORD BE MADE, BUT I AM
11 GOING TO BE MORE STRICT TODAY IN ASKING THE WITNESS TO
12 PLEASE BE RESPONSIVE TO THE QUESTION, AND AS TO THE PERSON
13 ASKING THE QUESTION TO PLEASE BE SUCCINCT IN THE QUESTIONS
14 AND ASK DIRECT QUESTIONS SO WE CAN MOVE ALONG. VERY WELL.

15 MR. ROSEN: YOUR HONOR, IF I MIGHT SAY, COUNSEL WOULD
16 NOT BE SO INSISTENT ON FOLLOWING THE RULES EXCEPT WE'VE
17 ALREADY BEEN PROMISED THAT WE'D HAVE TO DEFEND THIS RECORD
18 IN THE SUPREME COURT.

19 THE COURT: I UNDERSTAND THAT. WE'RE ALL AWARE OF
20 THAT.

21 NOW, PROFESSOR MEDLIN.

22 Q MRS. POPE, AS YOU CLARIFIED YOUR TESTIMONY YESTERDAY
23 YOU SAID THAT YOU CONSIDERED THE PRESENTATION THROUGH
24 MR. COX TO BE ESSENTIALLY A FIRM OFFER?

25 A NOT THE PRESENTATION, NO.

1 Q BUT --

2 A NO. WHAT HAPPENED LATER THAT YEAR. OCTOBER 12 AND
3 LATER UNTIL THE END OF THE YEAR WHICH I'LL EXPLAIN IF
4 YOU'D LIKE.

5 Q AND HOW MUCH WAS THAT OFFER?

6 A IT WAS \$100 MILLION PLUS 5 PERCENT WHAT THEY WERE
7 CALLING A ROYALTY LEGACY.

8 Q AND YOU SAID THERE WAS A SHORT DUE DILIGENCE PERIOD.
9 CAN YOU JUST TELL ME WHAT THAT PERIOD WAS?

10 A WELL, IF YOU WOULD LOOK AT OUR AFFIDAVIT DATED THE
11 19TH THE LETTER WILL SPEAK FOR ITSELF. IT'S ATTACHED TO
12 THAT AFFIDAVIT. MAYBE I COULD PULL IT OUT AND WE COULD
13 LOOK AT IT TOGETHER.

14 Q WE CAN DEAL WITH THAT LATER, MRS. POPE.

15 A WELL, DO YOU MIND IF I TURN TO IT IF YOU'RE GOING TO
16 ASK ME ABOUT IT?

17 Q THAT'S FINE. IT'S NOT THAT CRITICAL A QUESTION. I
18 DON'T WANT TO SLOW THINGS DOWN. DO YOU KNOW THAT MR. COX
19 SPOKE WITH THE ATTORNEY GENERAL AND ME LATER THAT YEAR AND
20 TOLD US THAT HE UNDERSTOOD THAT AT MOST THE OFFER WOULD
21 HAVE BEEN 65 MILLION IN NOVEMBER OF 2007 EVEN IF IT WAS
22 MADE AND HE THOUGHT THAT BY THEN THE VALUE OF THE ESTATE
23 MAY WELL BE HALF THAT? ARE YOU AWARE OF THAT?

24 A I'M AWARE THAT YOU AND MR. JONES HAD A MEETING WITH
25 MR. COX, BUT I DON'T BELIEVE IT WAS LATER THAT YEAR. I

1 BELIEVE IT WAS LATE IN 2008.

2 Q LATER IN 2008?

3 A I DON'T BELIEVE -- OR I DIDN'T BELIEVE YOU WERE IN ON
4 THE MEETINGS IN LATE 2007 WHEN THIS OFFER WAS MADE.

5 Q RIGHT. WELL, YOU WERE TALKING ABOUT EARLY 2008
6 YESTERDAY WITH RESPECT TO ALL OF THIS. YES, IN AUGUST OF
7 2008 --

8 A I --

9 Q -- WERE YOU AWARE THAT MR. COX TOLD US THAT ABOUT THE
10 VALUE OF THE ESTATE?

11 A NO. I READ AN E-MAIL ABOUT THE --

12 Q THIS WOULD HAVE BEEN THE E-MAIL THAT --

13 A -- MEETING.

14 THE COURT: ALL RIGHT. HOLD ON.

15 PROFESSOR, LET HER FINISH HER ANSWER BEFORE
16 INTERRUPTING.

17 MRS. POPE, PLEASE LET HIM COMPLETE HIS QUESTION
18 BEFORE ANSWERING.

19 MR. MEDLIN: YOUR HONOR, I'M --

20 THE WITNESS: THE ANSWER IS, NO, I DID NOT KNOW.

21 THE COURT: I DON'T EVEN KNOW WHAT IS THE QUESTION.

22 MR. MEDLIN: I WAS TRYING TO AVOID SOMETHING THAT I
23 THINK SHOULD BE AVOIDED IS ALL AND I THINK WE'VE AVOIDED
24 IT.

25 THE COURT: THANK YOU. GOOD. MOVE ALONG.

1 Q SO, YOU WERE NOT AWARE THAT MR. COX TOLD US THAT?

2 A NO. AND I STILL DON'T KNOW WHEN IT WAS. I MEAN, I
3 THINK IT WAS -- I UNDERSTOOD THAT YOU HAD A MEETING WITH
4 HIM SOMETIME LATE IN 2008.

5 Q IF THE VALUE OF THE ESTATE, IN FACT, ACCORDING TO
6 MR. COX HAD DECLINED THAT SIGNIFICANTLY, DO YOU SEE THAT
7 AS A SIGNIFICANT PROBLEM FOR THE ESTATE?

8 A DECLINED FROM WHEN, MR. MEDLIN?

9 Q WELL, FROM HIS STATEMENT TO US THAT WAS 65 MILLION AS
10 HE BEST COULD GUESS IN NOVEMBER OF '07 TO ABOUT HALF THAT
11 IN AUGUST OF '08?

12 A WELL, I'D WANT TO ASK HIM WHY ON OCTOBER 12 HE GAVE A
13 LETTER OF INTENT OFFERING A HUNDRED MILLION AND 5 PERCENT
14 ROYALTY LEGACY. I WOULD WANT TO KNOW WHAT HAPPENED IN THE
15 MONTH BETWEEN OCTOBER 12 AND DECEMBER, AND, ALSO,
16 MR. JONES -- WE HAVE AN E-MAIL FROM MR. JONES TALKING
17 ABOUT THE 100 MILLION-DOLLAR OFFER ON DECEMBER 7 OF 2007
18 AND SO -- MR. JONES WROTE US ON DECEMBER 6, 2007 AND SAID,
19 I, LIKE EACH OF YOU, HAVE BEEN CONTACTED BY DR. COX AND
20 TOBY BYRON AS TO THE PURCHASE. SEE ATTACHED 10/12 LETTER
21 OF THE TRUST ESTATE FOR 100 MILLION PLUS 5 PERCENT OF THE
22 GROSS PROFITS FROM THE COMPANY TO BE FORMED. I HAVE HEARD
23 FOR THE LAST -- AND I THINK IT'S THREE OR FOUR; IT'S HARD
24 TO READ ON THE E-MAIL -- NUMBER OF MONTHS THAT THE SKY
25 WILL FALL AND THE OFFER WILL GO AWAY IF WE DO NOT ACCEPT

1 IT NOW AND THEN HE ASKED ASKED SOME OTHERS QUESTIONS AND
2 THAT'S ATTACHED TO THE AFFIDAVIT.

3 SO, THERE IS NO INDICATION TO ME THAT ON DECEMBER 6
4 HE THOUGHT THE OFFER WAS ANY DIFFERENT FROM -- THAT WAS
5 DECEMBER 6 OF 2007. AGAIN, I WOULD LIKE TO ASK DR. COX
6 WHY -- WHAT HE WAS TALKING TO YOU ABOUT A YEAR LATER, BUT
7 THIS IS ALL I HAVE FROM THAT PERIOD. I WASN'T INVOLVED IN
8 THE OFFER.

9 MR. LEVENSON: YOUR HONOR --

10 THE WITNESS: OBVIOUSLY --

11 MR. MEDLIN: SO YOU --

12 THE WITNESS: -- MR. JONES WAS.

13 THE COURT: YES, SIR?

14 MR. LEVENSON: -- I'D LIKE TO MAKE AN OBJECTION. I

15 AM GOING TO DO SO RESPECTFULLY. THE QUESTION IS,

16 MRS. POPE, DO YOU THINK'S SIGNIFICANT THERE WAS A CHANGE?

17 THE ANSWER IS UNRESPONSIVE. THAT'S MY OBJECTION.

18 THE COURT: THANK YOU.

19 Q MRS. POPE?

20 A YES.

21 Q DOESN'T IT CAUSE A CONCERN THAT YOU BELIEVE THAT

22 MR.~COX THOUGHT THE ESTATE WAS WORTH \$100 MILLION IN

23 OCTOBER, AND IF, IN FACT, YOU BELIEVE THAT HE TOLD

24 MR. JONES AND MR. NICHOLSON AND ME IN AUGUST THAT HE

25 THOUGHT IT WAS WORTH 65 MILLION IN NOVEMBER OF '07, BUT HE

1 THOUGHT IT WAS WORTH ONLY HALF THAT IN AUGUST -- THAT
2 EITHER WE HAVE A PROBLEM WITH TREMENDOUS FLUCTUATION OF
3 THE ESTATE OR MR.~COX MAY NOT BE THE PERSON THAT HAS A
4 STEADY IDEA OF THE VALUE OF THE ESTATE?

5 THE COURT: OBJECTION SUSTAINED. NOBODY IN THE WORLD
6 CAN ANSWER THAT QUESTION. ASK A SUCCINCT QUESTION,
7 PLEASE. NOW, I AM GOING TO START -- I'M JUST GOING TO
8 START BEING A HORSE'S REAR END.

9 MR. MEDLIN: YOUR HONOR, THANK YOU.

10 THE COURT: THAT WAS A CONVOLUTED QUESTION.

11 Q DOESN'T MR.~COX' OPINION ABOUT THE VALUE OF THE
12 ESTATE CHANGE OVER TIME?

13 A BUT FOR WHAT YOU SAID TO ME THIS MORNING, NO.

14 Q CONSIDERING WHAT I SAID TO YOU THIS MORNING, DOES IT
15 CHANGE OVER TIME?

16 A MAYBE AND I'D LIKE TO EXPLAIN.

17 THE COURT: GO AHEAD.

18 THE WITNESS: I BELIEVE IF WE GAVE DR. COX A RIGHT OF
19 FIRST OFFER WE WOULD KNOW WHAT HIS OFFER IS, AND THAT IS
20 THE WAY YOU FIND OUT THE VALUE OF ASSETS -- BY GETTING --
21 HAVING A WILLING SELLER OR A CONSIDERING SELLER IN THE
22 CASE OF AN OFFER OF FIRST PURCHASE AND A WILLING BUYER AND
23 HE IS -- HE IS A POTENTIAL REPRESENTATIVE OF WILLING
24 BUYERS, I AM SURE.

25 Q OKAY. NOW, LET'S GET BACK TO THE UNDERSTANDING THAT

1 YOU HAVE ABOUT MR. BROWN'S ESTATE PLAN. HAVE YOU GONE
2 THROUGH MR. HERRING'S BOX -- HIS FILE?

3 A YES.

4 Q ALL RIGHT. AND DID YOU SEE, FOR EXAMPLE, AN ORIGINAL
5 DEED THAT WAS SIGNED AND WITNESSED BUT WAS OTHERWISE
6 BLANK?

7 A I BELIEVE I WAS ASKED THAT BEFORE, MR. MEDLIN. WHAT
8 I BELIEVE I SAID BEFORE AND WHAT IS STILL TRUE IS THAT I
9 WENT THROUGH THE BOX SEVERAL TIMES IN DECEMBER OF '07, AND
10 I MAY OR MAY NOT HAVE SEEN THIS. I DON'T SAY I DIDN'T OR
11 DID. YOU KNOW, IF IT'S THERE, I CERTAINLY BELIEVE YOU.

12 Q AND YOU DON'T RECALL ME IN YOUR OFFICE POINTING THAT
13 OUT TO YOU OVER A YEAR AGO?

14 A YOU MAY HAVE. YOU CERTAINLY MAY HAVE. YOU KNOW, IT
15 SEEMS TO MATTER MORE TO YOU THAN IT WOULD TO ME. SO, YOU
16 MAY HAVE.

17 Q WHY WOULD A LAWYER EVER HAVE A CLIENT SIGN A BLANK
18 DEED?

19 THE COURT: THAT CALLS FOR SPECULATION. HOW CAN SHE
20 KNOW THAT?

21 Q SHOULD A LAWYER EVER HAVE A CLIENT SIGN A BLANK DEED
22 AND WITNESS IT?

23 A I WOULD RATHER NOT GIVE AN OPINION. HAVE I EVER SEEN
24 IT HAPPEN? LOTS.

25 Q HAVE YOU EVER DONE IT?

1 A NO.

2 MR. MEDLIN: YOUR HONOR, CAN I MAKE THE ORIGINAL --

3 THE COURT: YOU MAY. ANY OBJECTION BY ANYBODY? MARK

4 THE NEXT ONE.

5 (WHEREUPON, MEDLIN'S EXHIBIT NO. 3 WAS MARKED FOR
6 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

7 MS. HAYES: CAN WE LOOK AT IT?

8 Q MRS. POPE --

9 THE COURT: HOLD ON A SECOND. EVERYBODY WANTS TO
10 LOOK AT IT NOW. SO, LET THEM LOOK.

11 Q MRS. POPE --

12 A YES.

13 Q -- ASSUMING THAT THAT ORIGINAL WAS IN MR. HERRING'S
14 FILE IN MR. BROWN'S ESTATE PLANNING DOCUMENTS WOULD IT
15 GIVE YOU CAUSE FOR CONCERN ABOUT THE VALIDITY OF ANY
16 DOCUMENT THAT MR. HERRING PREPARED FOR MR. BROWN?

17 A NOT AS IT RELATES TO MR. BROWN'S ESTATE PLAN.

18 Q AND WHY JUST AS TO THAT RATHER THAN GENERAL?

19 A BECAUSE THERE IS AN ACTUAL DEED TRANSMITTING BEECH
20 ISLAND TO THE 2000 TRUST. IT WAS MADE A PART OF THE
21 PUBLIC RECORD EIGHT -- MORE THAN EIGHT YEARS AGO, COMING
22 UP ON NINE YEARS AGO -- LONG PAST THE TIME TO CHALLENGE A
23 DEED EVEN ONE BY FORGERY AND NO ONE HAS CHALLENGED THAT
24 DEED ALTHOUGH THE EXISTENCE OF THAT DEED HAS BEEN
25 GENERALLY KNOWN AND NEVER CONCEALED FOR MORE THAN EIGHT

1 YEARS. SO, WHAT IS IN MR. BROWN'S -- MR. HERRING'S FILE
2 WITH RESPECT TO WHAT WAS TRANSFERRED TO MR. BROWN'S TRUST
3 IN 2000 MEANS NOTHING TO ME IN TERMS OF ITS IMPACT ON THE
4 VALIDITY OF MR. BROWN'S DOCUMENTS.

5 Q YOU DON'T THINK THERE IS A POSSIBILITY THAT
6 MR. HERRING GOT MR. BROWN TO SIGN DOCUMENTS IN BLANK AND
7 FILL THEM IN LATER?

8 THE COURT: I AM NOT GOING TO ALLOW THAT QUESTION.
9 THAT CALLS FOR SPECULATION AS TO WHAT MR. HERRING DID.

10 MR. MEDLIN: YOUR HONOR, I AM ASKING HER HOW SHE
11 CONSTRUCTED HER OPINION ABOUT THE VALIDITY OF THIS ESTATE
12 PLAN WHICH WE ACCUSE --

13 THE COURT: WELL --

14 MR. MEDLIN: -- WHICH WE --

15 THE COURT: ASK HER IN THAT MANNER. DON'T ASK HER
16 WHAT MR. HERRING KNEW OR DIDN'T KNOW.

17 MR. MEDLIN: THANK YOU, YOUR HONOR.

18 MRS. POPE, YOU UNDERSTAND THAT IN THE 2000 TRUST
19 THERE IS A PROVISION THAT ALLOWS THE PAYMENT OF UP TO
20 50 PERCENT OF THE GROSS INCOME FOR MANAGEMENT FEES?

21 THE COURT: TO WHOM?

22 MR. MEDLIN: JUST THE PAYMENT OF THEM, YOUR HONOR.

23 THE WITNESS: IT'S NO LONGER IN THE TRUST.

24 Q WHEN YOU ALLEGE THE TRUST WAS EXECUTED, MRS. POPE,
25 ARE YOU AWARE THAT THAT 50 PERCENT PROVISION WAS IN THERE?

1 A IT WAS IN THERE, BUT IT WAS OVERRIDDEN BY ANOTHER
2 PROVISION.

3 Q IT WAS OVERWRITTEN BY ANOTHER PROVISION?

4 A OVERRIDDEN. OVERRIDDEN. IT WAS TOTALLY INEFFECTIVE.

5 Q HAVE YOU EVER SEEN A PROVISION IN A TRUST ALLOWING
6 50 PERCENT MANAGEMENT FEE FOR A CHARITABLE TRUST?

7 A THAT'S WHY I BELIEVE IT WAS OVERRIDDEN.

8 THE COURT: NO, SIR -- MA'AM. THE QUESTION IS
9 WHETHER HAVE YOU EVER SEEN A 50 PERCENT MANAGEMENT FEE IN
10 A TRUST AGREEMENT WHETHER OR NOT IT'S BEEN OVERRIDDEN OR
11 HADN'T BEEN OVERRIDDEN. HAVE YOU EVER SEEN THAT?

12 THE WITNESS: I CAN'T SAY FOR SURE. I PRACTICED LAW
13 FOR 35 YEARS. I NEVER DRAFTED ONE MYSELF, BUT I CERTAINLY
14 CAN'T SAY. OH, I DID SEE ONE. I MEAN, I SAW ONE BIGGER
15 THAN THAT IN AN ESTATE IN WHICH I WAS INVOLVED. IT WAS --
16 THE CIRCUMSTANCES WERE DIFFERENT, BUT --

17 Q WAS IT WAS IT A CHARITABLE TRUST?

18 A NO, SORRY. NO. IT WASN'T A CHARITABLE TRUST.

19 Q MY QUESTION IS A CHARITABLE TRUST.

20 A I CAN'T SAY THAT I HAVE OR HAVEN'T, BUT I'VE
21 CERTAINLY NOT DRAFTED ONE MYSELF AND WOULDN'T.

22 Q YOU HAVE FILED A LAWSUIT THROUGH MR. GILCHRIST AND
23 MR. FEW ACCUSING MESSRS. CANNON, DALLAS, AND BRADLEY IN
24 ACTING IMPROPERLY WITH MR. BROWN'S FINANCES DURING HIS
25 LIFETIME?

1 A WELL, I DIDN'T. THE ESTATE AND TRUST AS THEIR
2 INTERESTS APPEAR DID.

3 Q THANK YOU. AND, SO, YOU AS THE FIDUCIARY, OBVIOUSLY,
4 HAVE CONCERNS ABOUT WHAT THOSE THREE GENTLEMEN WERE DOING
5 WITH MR. BROWN'S FINANCES DURING MR. BROWN'S LIFETIME?

6 A I DO.

7 Q DO YOU NOT THINK THAT THERE IS A POSSIBILITY THAT
8 THEY CAUSED THIS 50 PERCENT MANAGEMENT FEE TO BE PLACED IN
9 THE TRUST SO THEY COULD CONTINUE TO DO WHAT YOU'VE ALLEGED
10 THEY DID WHILE HE WAS ALIVE?

11 A I DON'T KNOW, BUT I DON'T THINK IT MATTERS BECAUSE
12 IT'S OVERRIDDEN BY THE OTHER PROVISION. THEY'RE GONE AND
13 IT'S NOW BEEN CORRECTED, AND IT'S NO LONGER A PART OF THE
14 TRUST.

15 Q WOULDN'T THE ATTEMPT TO INCLUDE THAT PROVISION, IF IT
16 WAS DRIVEN BY THOSE THREE GENTLEMEN, BE EVIDENCE OF UNDUE
17 INFLUENCE WHETHER THEY KNEW IT WAS OVERRIDDEN OR NOT?

18 A I THINK IT IS VERY WEAK BECAUSE IT'S OVERRIDDEN BY
19 ANOTHER PROVISION THAT SAYS THAT THIS CHARITY MUST BE --
20 MUST BE MANAGED CONSISTENT WITH 501(C)(3) OF THE CODE AND
21 IT DOES NOT DIRECT THAT MONEY TO THEM. IT IS A GENERAL
22 PROVISION IN THE BACK THAT WHATEVER THERE ARE -- 33
23 PROVISIONS BACK THERE -- IT IS WHOLLY ALWAYS HAPPENS THAT
24 CLIENTS OR ALMOST ALWAYS HAPPENS THAT CLIENTS NEVER READ
25 THOSE PROVISIONS NOR PAY ANY ATTENTION TO THEM AND

1 PARTICULARLY -- AND WHAT I AM REFERRING TO AS THE
2 ADMINISTRATIVE PROVISIONS IN THE BACK -- AND PARTICULARLY
3 IN THIS CASE WHERE IT IS ABSOLUTELY OVERRIDDEN BY THE
4 CHARITABLE DEMANDS OF THAT DOCUMENT. THAT DOCUMENT
5 DEMANDS THAT THE CHARITY MUST BE MANAGED CONSISTENT WITH
6 501(C)(3) AND THAT OVERRIDES EVERYTHING, AND WE ALL KNOW
7 THAT THAT IS WHAT YOU DO WHEN YOU HAVE A CHARITABLE TRUST.
8 YOU HAVE TO SAY EVERYTHING ELSE I SAID IN THIS DOCUMENT
9 FORGET IT IF IT'S GOING TO INTERFERE WITH THE CHARITABLE
10 INTENTIONS. SO, I AM NOT WORRIED ABOUT IT ALL. I DON'T
11 THINK IT'S --

12 Q MRS. POPE, THE FOCUS IS ON WHAT THOSE THREE GENTLEMEN
13 MIGHT HAVE BEEN DOING TO MR. BROWN AT THE TIME OF THE
14 EXECUTION OF THIS TRUST. WOULDN'T WE BE CONCERNED WHETHER
15 THEY THOUGHT THAT PROVISION WAS VALID?

16 A IF YOU WANT ME TO TELL YOU ABOUT A CONVERSATION I HAD
17 WITH MR. CANNON REGARDING SORT OF THAT --

18 Q NOT PARTICULARLY, NO.

19 A -- I WILL.

20 THE COURT: THAT'S NOT RESPONSIVE.

21 THE WITNESS: YOU KNOW, NO, I'M NOT CONCERNED ABOUT
22 IT.

23 Q WOULDN'T IT BE COUNTER-INTUITIVE TO A MAN WITH
24 CHARITABLE INTENTIONS TO ALLOW THE PAYMENT OF UP TO
25 50 PERCENT MANAGEMENT FEES ON TOP OF TRUSTEE FEES IN A

1 CHARITABLE TRUST?

2 A I DON'T KNOW ENOUGH ABOUT THE ENTERTAINMENT INDUSTRY
3 TO KNOW FOR SURE ABOUT WHAT THE FULL EXTENT OF MANAGEMENT
4 FEES -- THE WHOLE MANAGEMENT FEE THING. FOR EXAMPLE, THE
5 PUBLISHERS CHARGE 50 PERCENT OF ROYALTIES. SO, I DON'T
6 KNOW WHETHER THAT CLAUSE RELATED TO THAT OR, YOU KNOW, I
7 HAVEN'T ANALYZED IT IN THAT WAY. I'M NOT WHOLLY FAMILIAR
8 WITH THE ENTERTAINMENT INDUSTRY AND THE CLAUSE IS NOW
9 GONE. SO, I DON'T THINK ABOUT IT IN THAT WAY.

10 Q BUT, YET, YOU'VE ALREADY FORMED YOUR OPINION THAT
11 IT'S INCONSEQUENTIAL WITHOUT HAVING DONE THAT STUDY?

12 A I'M SORRY?

13 Q YOU'VE ALREADY FORMED YOUR OPINION THAT THAT
14 PROVISION IS INCONSEQUENTIAL WITHOUT HAVING MADE THAT
15 STUDY OF THE ENTERTAINMENT INDUSTRY?

16 A WELL, I JUST MADE IT A GO AWAY. BOB AND AMENDED THE
17 TRUST IMMEDIATELY TO MAKE IT GO AWAY. IT'S GONE. THERE
18 IS NOTHING TO THINK ABOUT ANYMORE.

19 Q MRS. POPE, DON'T YOU UNDERSTAND THAT THE QUESTION
20 WITH RESPECT TO UNDUE INFLUENCE IS NOT WHAT YOU AND BOB
21 DID TO MAKE IT GO AWAY BUT WHETHER THOSE THREE GENTLEMEN
22 HAD MR. BROWN INCLUDED SO THAT IF THEY WEREN'T REPLACED BY
23 THE TWO OF YOU THEY COULD TAKE ADVANTAGE OF IT?

24 A I -- THAT'S -- I DON'T KNOW.

25 Q IF YOU HAD NOT REPLACED MR. CANNON, MR. DALLAS, AND

1 MR. BRADLEY, DO YOU THINK THEY WOULD HAVE READ THE
2 DOCUMENT THE SAME WAY YOU DO?

3 THE COURT: SHE CAN'T ANSWER THAT.

4 THE WITNESS: I DON'T KNOW.

5 Q DO YOU BELIEVE THAT THE DOCUMENT AS ORIGINALLY
6 DRAFTED BENEFITTED THOSE -- POSSIBLY BENEFITTED THOSE
7 THREE GENTLEMEN AS MUCH AS, IF NOT MORE, THAN THE CHARITY?

8 A NO. ABSOLUTELY I DO NOT THINK IT DID. PROPERLY
9 MANAGED IT COULD NOT POSSIBLY HAVE.

10 THE COURT: PROPERLY MANAGED IT COULD NOT POSSIBLY?
11 WHAT DOES THAT MEAN?

12 THE WITNESS: WHAT IT MEANS, YOUR HONOR, IS THAT ANY
13 FIDUCIARY CAN STEAL FROM A TRUST. ANY FIDUCIARY CAN
14 BREACH HIS FIDUCIARY DUTY. A FIDUCIARY MANAGING THAT
15 TRUST COULD NOT POSSIBLY HAVE BENEFITTED IN THE WAY THAT
16 YOU'RE DESCRIBING BECAUSE HE WOULD HAVE BEEN BOUND BY THE
17 501(C)(3) RULES AND THE MANDATE WITHIN THE DOCUMENT THAT
18 IT BE MANAGED CONSISTENT WITH CHARITABLE RULES. NO, SO, I
19 DO NOT BELIEVE --

20 Q AND IS THE 50 PERCENT MANAGEMENT FEES, IS THAT
21 COMPATIBLE WITH 501(3)(C)?

22 A IT IS WHOLLY COMPATIBLE IN THAT DOCUMENT BECAUSE THE
23 501(C)(3) LANGUAGE OVERRIDES ANY OTHER LANGUAGE WITHIN THE
24 DOCUMENT AS IT RELATES TO THE CHARITABLE TRUST.

25 THE COURT: THAT'S NOT MY QUESTION. I'M ASKING IS A

1 50 PERCENT MANAGEMENT FEE COMPATIBLE OR NOT COMPATIBLE TO
2 WITH 501(3)(C)?

3 THE WITNESS: (C)(3). IT MAY OR MAY NOT BE.

4 THE COURT: THANK YOU.

5 Q YOU HAVE CONFIDENCE THAT MR. DALLAS, MR. BRADLEY, AND
6 MR. CANNON WOULD HAVE CONFIDENTLY MANAGED THE TRUST?

7 A NO.

8 Q MRS. POPE, LET ME JUST LET YOU LOOK AND SEE IF YOU
9 THINK THESE ARE THE WILL AND TRUST DOCUMENTS THAT --

10 THE COURT: LET'S MARK THEM FOR IDENTIFICATION FOR
11 THE RECORD.

12 MR. MEDLIN: THAT'S WHAT I AM TRYING TO DO, YOUR
13 HONOR. I AM MAKING SURE SHE THINKS THOSE ARE THE RIGHT
14 ONES.

15 THE WITNESS: EXCEPT FOR A COUPLE OF HANDWRITTEN
16 NOTES AND SOME FAX MARKS AND SOME BATESTAMPS IT APPEARS --
17 THEY APPEAR TO BE COPIES OF MR. BROWN'S AUGUST 1, 2000
18 WILL AND AUGUST 1, 2000 TRUST WITH SCHEDULES -- THE REAL
19 SCHEDULES A, B, AND C.

20 THE COURT: LET'S MARK THAT AS EXHIBIT 4.

21 MR. MEDLIN: ALL I AM TRYING TO DO IS MAKE SURE THAT
22 WE HAVE THE COPIES OF THE DOCUMENTS IN THIS FILE THAT I
23 PRESUME ARE IN THE PROBATE COURT FILE.

24 (WHEREUPON, MEDLIN'S EXHIBIT NO. 4 WAS MARKED FOR
25 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

1 THE COURT: ANY OBJECTION TO NO. 4?

2 MR. BAILEY: IS IT THE WILL AND THE TRUST?

3 MR. MEDLIN: WILL AND TRUST TOGETHER.

4 THE COURT: THANK YOU. ARE YOU READY, LISA?

5 THE COURT REPORTER: I'M READY.

6 Q AND JUST TO MAKE IT CLEAR FOR THE RECORD ARTICLE 10,
7 PARAGRAPH TWO, OF THAT TRUST READS, THE STATED INTENT OF
8 THIS TRUST AGREEMENT AND VARIOUS TRUSTS ESTABLISHED OR TO
9 BE ESTABLISHED DOES NOT PREVENT MY TRUSTEES FROM MAKING OR
10 DIRECTING AN ALLOCATION OF UP TO 50 PERCENT OF THE GROSS
11 INCOME FROM THIS TRUST FOR THE PAYMENT OF ADMINISTRATIVE
12 AND MANAGERIAL EXPENSES INCURRED ON BEHALF OF THIS TRUST
13 AS IN THE SOLE DISCRETION OF MY TRUSTEE MAY BE ADVISABLE.

14 THAT, YOU UNDERSTAND, IS THE LANGUAGE THAT WE'RE
15 TALKING ABOUT?

16 A OKAY. WHERE ARE YOU, PLEASE?

17 MR. MICHEL: BATESTAMP NUMBER 39, MRS. POPE.

18 THE WITNESS: YEA. THE STATED INTENTS OF THIS TRUST
19 AGREEMENT AND VARIOUS TRUSTS ESTABLISHED OR TO BE
20 ESTABLISHED DOES NOT PREVENT MY TRUSTEES FROM MAKING OR
21 DIRECTING AN ALLOCATION OF UP TO 50 PERCENT OF THE GROSS
22 INCOME OF THIS TRUST FOR THE PAYMENT OF ADMINISTRATIVE AND
23 MANAGERIAL EXPENSES INCURRED ON BEHALF OF THIS TRUST AS IN
24 THE SOLE DISCRETION OF THE TRUST MADE ADVISABLE.

25 YES, THAT'S IN ARTICLE 10 , PARAGRAPH TWO, POWERS OF

1 THE TRUSTEE.

2 Q THANK YOU, MRS. POPE. IF THE LANGUAGE IS NOT
3 EFFECTIVE BECAUSE IT'S OVERRIDDEN BY THE GENERAL
4 CHARITABLE SAVINGS CLAUSE, WHY WOULD YOU NEED TO CORRECT
5 IT?

6 A WELL, LET ME EXPLAIN. THIS DOCUMENT WAS CREATED
7 DURING MR. BROWN'S LIFETIME AND WAS IN EXISTENCE FOR SIX
8 YEARS AND SEVERAL MONTHS BEFORE HIS DEATH. IT
9 CONTEMPLATED IN THE DISCRETION OF THE TRUSTEES MANAGEMENT
10 WHICH COULD HAVE BEEN FOR THE BENEFIT OF MR. BROWN DURING
11 THOSE SIX YEARS AND SEVERAL MONTHS BEFORE HE DIED. IT
12 ALSO CONTEMPLATED THAT THE JAMES BROWN "I FEEL GOOD" TRUST
13 WHICH IS THE CHARITABLE COMPONENT --

14 MR. MEDLIN: YOUR HONOR, I JUST ASKED HER WHY SHE
15 FELT --

16 THE COURT: SHE'S ANSWERING AS BEST SHE CAN.

17 THE WITNESS: -- WAS NOT NECESSARILY CREATED BEFORE
18 HIS DEATH. WHEN IT -- AND, SO, THIS COULD WELL HAVE
19 RELATED TO THE MANAGEMENT FEES OF HIS ROADSHOWS IF, FOR
20 EXAMPLE, MR. CANNON HAD HAD THEM PUT INTO THE TRUST RATHER
21 THAN INTO SEVENTH DECADE, THE MANAGEMENT OF THE ROYALTIES
22 WHICH WENT INTO GERONIMO WHICH WAS OWNED BY THE TRUST
23 DESPITE ALL OF THE STIPULATIONS. IT COULD HAVE RELATED TO
24 ALL OF THOSE THINGS THAT WERE HAPPENING WHEN MR. BROWN WAS
25 STILL ALIVE AND RUNNING HIS ENTERTAINMENT BUSINESS, AND

1 THEN AS YOU KNOW AT MR. BROWN'S DEATH OR WITH MR. BROWN'S
2 DEATH BEING THE TRIGGER THE TWO TRUSTS WOULD BE FORMED --
3 THE NON-CHARITABLE EDUCATIONAL TRUST AND THE "I FEEL GOOD"
4 TRUST AND, SO, IT IS IN THE LANGUAGE OF THE "I FEEL GOOD"
5 TRUST WHICH, AGAIN, WAS NOT ESTABLISHED WHILE HE WAS STILL
6 ALIVE, AND THAT IS IN ARTICLE SEVEN, AND THERE ARE OTHER
7 SAFEGUARDS, TOO, BUT ARTICLE SEVEN -- WHEN THE JAMES BROWN
8 "I FEEL GOOD" TRUST IS STARTED IT SAYS THAT -- IT HAS LOTS
9 OF PROTECTION IN THERE. THE TRUSTEES MUST NOT ENGAGE IN
10 SELF-DEALING. THE TRUSTEES PROHIBITED IN ENGAGING -- THAT
11 IS PARAGRAPH FOUR OF ARTICLE SEVEN. YOU KNOW, IT JUST
12 LOOKS LIKE A GOOD OL' PLAIN VANILLA CHARITABLE TRUST WHEN
13 IT IS FORMED, AND THEN THE MANAGEMENT FEE ISSUE IS ALWAYS
14 SUBJECT. WHEN YOU GIVE A TRUSTEE DISCRETION IT'S ALWAYS
15 SUBJECT TO THE RULE THAT YOU CAN'T ABUSE DISCRETION.

16 SO, I CAN'T SAY WHAT WAS GOING ON IN HIS
17 ENTERTAINMENT CAREER AT THE TIME. I SEE -- I WILL SAY
18 THAT I'VE SEEN A LOT OF 50 PERCENTS. THE WILLIAM MORRIS
19 AGENCY TOOK 50 PERCENT OF HIS ROAD ROYALTIES. SO, I AM
20 NOT HORRIFIED BY THAT, PARTICULARLY AS IT RELATED TO THE
21 ONGOING BUSINESS WHICH HE CONTEMPLATED PUTTING IN THE
22 TRUST DURING HIS LIFETIME.

23 THE COURT: WHY DID Y'ALL CHANGE IT IS THE QUESTION.

24 THE WITNESS: WE DID NOT. WE MODIFIED THE DOCUMENT
25 TO ENSURE -- WE MODIFIED THE DOCUMENT PURSUANT TO ARTICLE

1 SEVEN, SUBPARAGRAPH SIX. THE TRUSTEES SHALL HAVE THE
2 POWER TO AMEND THE TRUST IN ANY MANNER REQUIRED. NOW
3 REMEMBER, THIS IS AN IRREVOCABLE TRUST, BUT WE HAVE THE
4 POWER TO AMEND IT ONLY AS STATED HERE. THE TRUSTEES SHALL
5 HAVE THE POWER TO AMEND THE TRUST IN ANY MANNER REQUIRED
6 FOR THE SOLE PURPOSE OF ENSURING THAT THE TRUST QUALIFIES
7 AND CONTINUES TO QUALIFY AS AN EXEMPT ENTITY IN COMPLIANCE
8 WITH THE INTERNAL REVENUE CODE AS AMENDED.

9 SO, WHEN WE WERE APPOINTED ON NOVEMBER 20, TO PUT IT
10 MILDLY THE APPLICATION FOR RECOGNITION OF THIS CHARITY WAS
11 LONG OVERDUE AND WE WANTED VERY MUCH TO HAVE THIS CHARITY
12 QUALIFIED AND TO NOT EVEN HAVE TO HAVE ANY DISCUSSIONS
13 WITH THE I.R.S. ABOUT GETTING IT QUALIFIED. SO, JUST TO
14 BE SURE THAT WE WOULDN'T, WE ADOPTED AN AMENDMENT WHICH
15 WOULD LIMIT THE FEES OF ANY TRUSTEE OF THE CHARITABLE
16 TRUST, AND WE LIMITED IT IN A WAY THAT WE THOUGHT WAS NOT
17 WHOLLY INCONSISTENT WITH WHAT -- WITH MR. BROWN'S GENERAL
18 INTENTION THAT TRUSTEES BE PAID BUT WHICH RESPECTED THE --
19 RESPECTED THE RIGHT -- I MEAN, ENSURED THAT WE WOULD HAVE
20 NO PROBLEMS WITH THE I.R.S. AND, SO, WE DID IT NOT BECAUSE
21 IT ABSOLUTELY HAD TO BE DONE BUT BECAUSE WE REALLY CARED
22 ABOUT GETTING THE CHARITABLE QUALIFICATION AND GETTING IT
23 AS QUICKLY AS POSSIBLE.

24 Q AND, MRS. POPE, NOT THAT WE NEED TO, BUT JUST TO
25 CLARIFY, YOU SAID THAT THE WILLIAM MORRIS AGENCY AND

1 OTHERS MAY CHARGE 50 PERCENT. THOSE WOULD COME OUT OF
2 MR. BROWN'S POCKET WHILE HE WAS ALIVE; CORRECT?

3 A WELL, I AM NOT SURE I AGREE WITH THAT.

4 Q THE 50 PERCENT MANAGEMENT FEE IF PAID WOULD UNDER
5 YOUR SCENARIO COME MOSTLY OUT OF THE POCKET OF THE
6 CHARITIES ONCE MR. BROWN DIED; CORRECT?

7 A WE DON'T EVEN KNOW WHETHER THERE WOULD BE ONE. THERE
8 ISN'T ONE.

9 Q IF THERE WERE?

10 A WELL, YOU KNOW, IF IT WERE AN ABUSE OF DISCRETION IT
11 COULDN'T COME OUT.

12 Q YOU HAVE ON BEHALF OF THE ESTATE AND TRUST BROUGHT AN
13 ACTION AGAINST MR. DALLAS, MR. BRADLEY, AND MR. CANNON?

14 A WE HAVE.

15 Q ALLEGING, AMONG OTHER THINGS, THAT THEY PRACTICED
16 UNDUE INFLUENCE ON MR. BROWN?

17 A AT TIMES.

18 Q AND, YET, YOU'RE NOT CONCERNED THAT THEY COMMITTED
19 UNDUE INFLUENCE AGAINST MR. BROWN IN THE EXECUTION --
20 PREPARATION AND EXECUTION OF HIS 2000 WILL AND TRUST.

21 A NO, I'M NOT CONCERNED ABOUT IT. I THINK THAT THERE
22 IS SO MANY OVERRIDING FACTS WHICH SUPPORT THE VALIDITY OF
23 THESE DOCUMENTS INCLUDING THE FACT THAT THIS TRUST WAS A
24 MATTER -- HAS BEEN A MATTER OF PUBLIC RECORD FOR NEARLY
25 NINE YEARS, I AM NOT CONCERNED ABOUT IT.

1 Q BUT YOU CAN UNDERSTAND HOW SOMEONE MIGHT SEE THAT AS
2 EVIDENCE THAT YOU BROUGHT AN ACTION ALLEGING UNDUE
3 INFLUENCE?

4 A I CAN'T CONTROL WHAT OTHER PEOPLE SEE. I JUST KNOW
5 WHAT I KNOW ABOUT MR. BROWN'S DOCUMENTSES.

6 Q AND, SO, YOU'RE CERTAIN THAT ALTHOUGH YOU BELIEVE
7 THOSE GENTLEMEN PRACTICED UNDUE INFLUENCE ON MR. BROWN
8 DURING HIS LIFETIME THEY DID NOT PRACTICE UNDUE INFLUENCE
9 ON HIM DURING THE EXECUTION OF THE WILL?

10 A I DO NOT BELIEVE THAT THE FACTS SUPPORT ANY CONTEST
11 TO EITHER THIS WILL OR THIS TRUST. I DO NOT BELIEVE IT IS
12 REASONABLE.

13 Q AGAIN, JUST TO CLARIFY, MRS. POPE, EVEN THOUGH YOU
14 BELIEVE THEY COMMITTED UNDUE INFLUENCE DURING HIS
15 LIFETIME, YOU DON'T BELIEVE THEY COMMITTED UNDUE INFLUENCE
16 IN THE EXECUTION OF THE DOCUMENT?

17 A I DO NOT BELIEVE THEY DID.

18 Q EXCUSE ME. THE 2000 WILL AND TRUST.

19 A I DO NOT BELIEVE THEY DID.

20 Q EVEN WITH THE 50 PERCENT MANAGEMENT FEE?

21 THE COURT: SHE'S ALREADY ANSWERED IT, MR. MEDLIN.

22 SHE'S ANSWERED IT 10 TIMES. MOVE ALONG.

23 MR. MEDLIN: THANK YOU, YOUR HONOR.

24 WHEN DID THEY PRACTICE UNDUE INFLUENCE ON HIM DURING
25 HIS LIFETIME?

1 THE WITNESS: I BELIEVE THEY PRACTICED UNDUE
2 INFLUENCE ON HIM IN THE CREATION OF THE OCTOBER 18, 2006
3 LETTER.

4 Q AND THAT'S IT?

5 A THERE WERE CONCEALED ACTIONS WHICH I DON'T -- I DON'T
6 KNOW EXACTLY WHETHER YOU CLASSIFY THEM AS -- HOW YOU
7 CLASSIFY THEM. I BELIEVE THAT THE 5 MILLION-DOLLAR CHECK
8 TO MR. CANNON IN 1999 WHICH I LOOKED AT AGAIN LAST NIGHT
9 WAS IMPROPER. I WOULD LET MY LAWYERS CHARACTERIZE IT. I
10 HAVE SO FAR SEEN NO EVIDENCE THAT MR. BROWN EVEN KNEW OF
11 THE 5 MILLION-DOLLAR CHECK AND LOTS OF EVIDENCE THAT HE
12 DIDN'T KNOW OF IT -- LOTS OF EVIDENCE THAT HE HAD NO
13 KNOWLEDGE OF THE 5 MILLION-DOLLAR 1999 CHECK.

14 SO, I HAVE SEEN LOTS OF EVIDENCE OF WRONGDOING ON
15 MR. CANNON'S PART. I WOULD LIKE TO, YOU KNOW, BE ABLE TO
16 LOOK AT EACH TRANSACTION MORE, BUT EXCEPT FOR THE
17 OCTOBER 18, 2006 LETTER MANY OF THEM ARE IN THE NATURE OF
18 CONCEALED ACTIONS OF MR. CANNON.

19 Q INCLUDING ACTIVITIES WITH THE MORGAN STANLEY ACCOUNT,
20 I ASSUME?

21 A THOSE THINGS. IT SEEMED THAT HE -- AND MR. COPSIDAS'
22 LETTER CONFIRMED THAT MR. BROWN PLACED A LOT OF TRUST IN
23 MR. CANNON, AND ACCORDING TO MR. COPSIDAS HE CONTINUED TO
24 PLACE THAT TRUST IN MR. CANNON UP UNTIL THE SUMMER OF
25 2006. I DON'T YET KNOW WHAT HAPPENED THEN, AND HE

1 CONTINUED TO PLACE TRUST IN MR. DALLAS UNTIL HIS DEATH,
2 AND THAT IS -- I BELIEVE MR. COPSIDAS' LETTER IS AMONG THE
3 AFFIDAVITS THAT WE HAVE PLACED IN THE RECORD HERE, BUT I
4 THINK THERE IS A DIFFERENCE. I WOULD RATHER LET OUR
5 LAWYERS CHARACTERIZE IT, BUT I'M SURE THE OCTOBER 18
6 LETTER IS UNDUE INFLUENCE, AND I THINK IT IS IMPROPER, BUT
7 THE OTHERS I HAVEN'T STOPPED -- I THINK THERE IS
8 WRONGDOING. I WOULD RATHER MY LAWYER CHARACTERIZE EXACTLY
9 WHAT IT IS, BUT NONE OF IT BOTHERS ME WITH RESPECT TO THE
10 VALIDITY OF MR. BROWN'S '99 WILL OR 2000 WILL -- NOT A
11 SCINTILLA.

12 Q AND I AM GOING TO ASSUME THAT WE'RE TALKING ABOUT THE
13 SAME THING, MRS. POPE, BUT JUST TO CLARIFY FOR THE RECORD
14 WHEN WE'RE DISCUSSING UNDUE INFLUENCE, WE'RE TALKING ABOUT
15 A PERPETRATOR CAUSING SOMEONE TO DO THAT WHICH HE DOES NOT
16 WANT TO DO?

17 A NO, MR. MEDLIN. I DON'T THINK THAT'S THE DEFINITION
18 IN A WILL MATTER. IT IS BENEFITING FROM IT, AND THEY'RE
19 NOT GOING TO BENEFIT FROM IT.

20 Q SO, YOU THINK THE DEFINITION OF UNDUE INFLUENCE
21 APPLIES ONLY TO BENEFICIARIES?

22 A I THINK THE CLEAR ABILITY OF THE PERPETRATOR TO
23 BENEFIT FROM THE UNDUE INFLUENCE IS AN IMPORTANT
24 COMPONENT, AND MR. CANNON AND MR. DALLAS AND
25 MR. BRADLEY -- HAD THEY -- HAD THEY PERFORMED THEIR

1 FIDUCIARY DUTY CORRECTLY COULD NOT HAVE BENEFITTED FROM
2 THIS, AND THAT IS VERY DIFFERENT FROM A LATER QUESTION OF,
3 YOU KNOW, DID THEY DO WRONG THINGS.

4 Q WOULD THEY HAVE BENEFITTED IF THEY HAD TAKEN
5 50 PERCENT MANAGEMENT FEES AND GOTTEN AWAY WITH IT?

6 A IT DEPENDS ON WHETHER IT WAS APPROPRIATE TO THE TIME
7 AND WHETHER THEY ABUSED THEIR DISCRETION UNDER THE
8 DOCUMENTS. I AM NOT -- I DON'T LOVE THAT PROVISION IN THE
9 DOCUMENTS, BUT I AM NOT BOTHERED BY IT. I AM NOT GOING TO
10 TAKE 50 PERCENT.

11 Q WHO ARE THE BENEFICIARIES OF THE '99 TRUST?

12 A (NO RESPONSE.)

13 Q DO YOU RECALL OR DO YOU NEED A COPY?

14 A I MIGHT NEED A COPY, BUT, MR. MEDLIN, YOU'D BE BETTER
15 TO ANSWER THIS BECAUSE OF THE NEW DEFINITION OF
16 BENEFICIARIES IN THE TRUST CODE, BUT I'LL DO MY BEST IF
17 YOU REALLY PUT ME TO THE TEST.

18 Q MRS. POPE, IF YOU'D LIKE, I'D BE HAPPY TO ANSWER ALL
19 YOUR QUESTIONS FOR YOU.

20 THE COURT: WHY IS THAT RELEVANT TO WHETHER OR NOT
21 THE SETTLEMENT AGREEMENT IS REASONABLE AND FAIR?

22 MR. MEDLIN: YOUR HONOR --

23 THE COURT: HOW IS THAT RELEVANT?

24 MR. MEDLIN: YOUR HONOR, SHE HAS CLAIMED THAT ONE OF
25 THE PROBLEMS WITH OUR SETTLEMENT AGREEMENT IS THAT WE

1 DON'T HAVE THE PROPER PARTIES AND I WANT TO EXPLORE THAT
2 IF YOU DON'T MIND.

3 THE COURT: I DO NOT MIND.

4 MR. MEDLIN: THANK YOU.

5 THE COURT: THAT'S ALL I WAS ASKING.

6 MR. MEDLIN: THANK YOU.

7 THE COURT: HOLD ON A SECOND. LOOK AT THE DOCUMENT.
8 DO WE NEED TO MARK THIS ONE? THIS IS NO. 6?

9 THE COURT: YOUR HONOR, LET ME FIRST -- MRS. POPE'S
10 PROBABLY FAMILIAR WITH THIS -- JUST TO MAKE SURE WE GOT A
11 CORRECT COPY.

12 THE COURT: WHATEVER THE COURT REPORTER SAYS IT IS.

13 THE COURT REPORTER: FIVE.

14 THE COURT: THANK YOU. I GOT ONE AHEAD.

15 (WHEREUPON, MEDLIN'S EXHIBIT NO. 5 WAS MARKED FOR
16 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

17 Q MRS. POPE, I'M SORRY. I DIDN'T MEAN TO PUT YOU TO
18 WORK. I AM JUST TRYING TO MAKE SURE THAT THE COPIES ARE
19 AS ACCURATE --

20 A I AM JUST LAUGHING BECAUSE EXCEPT FOR THE FAX MARKS
21 WHEN I FAXED THIS TO YOU AT 2:58 ON CHRISTMAS EVE OF 2007
22 AND WHAT LOOKS LIKE SOME POST-IT NOTES, I BELIEVE IT IS
23 THE APPROPRIATE COPY OF THE '99 TRUST AND THE '99 WILL.
24 THAT IS JUNE 15, '99?

25 Q IN FACT, THERE IS A VERY LEGITIMATE REASON THAT YOU

1 WERE FAXING PEOPLE ON CHRISTMAS EVE. WAS THAT --

2 A THERE IS. THERE IS.

3 Q WE DIDN'T GET IT UNTIL --

4 A RIGHT. AND THAT'S ANOTHER REASON WHY YESTERDAY'S

5 QUESTION ABOUT DEANNA -- I DON'T THINK SHE'S A TRUSTEE

6 UNDER THERE. YOU WERE ASKING ME ABOUT WHAT IF SHE WERE A

7 TRUSTEE UNDER THE '99 WILL. I DON'T BELIEVE SHE IS. I

8 DIDN'T HAVE IT YESTERDAY. I COULD BE WRONG. LET ME

9 DOUBLE CHECK. I BELIEVE SHE WASN'T. IT WAS MS. OVERTON

10 WHO WAS, BUT I DON'T BELIEVE DEANNA IS NAMED. LET ME

11 LOOK. NO, SHE WAS NAMED AND THEN HER NAME WAS STRICKEN.

12 SO, YOU KNOW, YOU WERE ASKING ME A SERIES OF QUESTIONS

13 ABOUT WHAT IF SHE WERE STILL TRUSTEES OF THE '99 TRUST,

14 AND I JUST WANTED TO CLARIFY THAT.

15 Q THANK YOU. MRS. POPE, WHO ARE THE BENEFICIARIES OF

16 THAT '99 TRUST? LET ME -- RATHER THAN PUT YOU THROUGH ALL

17 THAT TROUBLE, WHO ARE THE CHARITABLE BENEFICIARIES OF THAT

18 '99 TRUST?

19 A WELL, THE CHARITIES INTENDED TO BENEFIT FROM THE

20 JAMES BROWN "I FEEL GOOD" TRUST CREATED AN ARTICLE WHICH

21 WOULD BE CREATED AT MR. BROWN'S DEATH IN ARTICLE FIVE OF

22 THE 1999 DOCUMENT ARE USC AIKEN, USC SALKEHATCHIE AND

23 VOORHEES COLLEGE DENMARK. I CAN EXPLAIN TO YOU WHY THERE

24 MIGHT BE A LITTLE CONFUSION ABOUT THE TERM BENEFICIARIES

25 OR I CAN TELL YOU THEY'RE CLEARLY INTENDED TO BENEFIT AND

1 I BELIEVE THEY'RE NECESSARY PARTIES.

2 Q SO, THOSE ARE THE CHARITABLE BENEFICIARIES?

3 A WELL, AS YOU KNOW, PROFESSOR MEDLIN, THE PROBATE CODE
4 -- THE TRUST CODE ACTUALLY SAYS THAT CHARITIES DON'T HAVE
5 BENEFICIARIES AS SUCH BUT THAT BECAUSE THE CHARITIES HAVE
6 RIGHTS EQUIVALENT TO BENEFICIARIES TO ENFORCE AND SO
7 FORTH, SO, I MEAN, WE COULD GO BACK AND FORTH OVER THE
8 DEFINITION, BUT THEY ARE CLEARLY INTENDED TO BENEFIT, AND
9 WE COULD, OF COURSE, GO BACK AND FORTH OVER THEIR STATUS
10 -- THEIR DEFINITIONAL STATUS CHANGED WHEN THE TRUST CODE
11 WAS ADOPTED, BUT THEY ARE THE CHARITIES THAT ARE INTENDED
12 TO BENEFIT FROM THE JAMES BROWN "I FEEL GOOD" TRUST UNDER
13 THE JUNE 15, 1999 DOCUMENT -- REVOCABLE TRUST AND
14 REMEMBERING THAT THAT WAS REVOCABLE AND COULD HAVE BEEN
15 REVOKED PRIOR TO HIS DEATH.

16 Q THE POOR CHILDREN AREN'T THE BENEFICIARIES OF THAT
17 TRUST?

18 A OF THE TRUST? HOLD ON. LET ME JUST LOOK. NO, NOT
19 OF THE TRUST, I DON'T THINK. I MEAN, GIVE ME A MINUTE.
20 NO. I DON'T THINK. THEY ARE DEVISEES UNDER THE WILL.

21 Q NO, NO, NO, NOT MR. BROWN'S CHILDREN.

22 A OH, THE POOR CHILDREN. I THOUGHT YOU SAID THE FOUR
23 CHILDREN.

24 Q LET ME PLEASE CLARIFY THAT FOR THE RECORD, MRS. POPE.

25 A SORRY. WELL, I DON'T -- YOU KNOW, I MEAN, WE CAN

1 MINCE WORDS HERE ALL DAY LONG. IT IS INTENDED THAT THE
2 EDUCATIONAL TRUST -- IT'S WHAT IT IS. I MEAN, THERE ARE
3 SCHOLARSHIPS FOR -- I MEAN, WITHIN ONE YEAR FROM THE DATE
4 OF MY DEATH -- NO, NO. I MEAN, HERE IS WHAT IT SAYS.
5 WITHIN ONE YEAR FROM THE DATE OF MY DEATH AND ANNUALLY
6 THEREAFTER MY TRUSTEES SHALL PAY FROM THE NET INCOME AND
7 SUCH PRINCIPAL AS SET OUT ABOVE IN AS NEARLY EQUAL
8 PROPORTIONATE SHARES AS POSSIBLE TO SUCH QUALIFYING
9 DIVISIONS OR ORGANIZATIONS OF FUNDS ADMINISTERED BY USC
10 AIKEN, USC SALKEHATCHIE, AND VOORHEES SO AS TO PROVIDE FOR
11 THE TUITION, EDUCATIONAL EXPENSES, AND FINANCIAL
12 ASSISTANCE OF POOR STUDENTS WHO ARE QUALIFIED AND
13 DESERVING WHO SEEK AND HAVE NEED OF SUCH ASSISTANCE TO
14 OBTAIN AND FURTHER THEIR EDUCATION AT THESE INSTITUTIONS.
15 MY TRUSTEES MAY UPON THEIR DISCRETION INCLUDE ANY OF MY
16 HEIRS AND ISSUE HERE IN DEFINE FOR PURPOSES OF FULFILLING
17 THIS TERM.

18 Q WHILE YOU'RE AT IT, MRS. POPE, WOULD YOU READ
19 PARAGRAPH ONE JUST ABOVE THAT ARTICLE FIVE?

20 A PARAGRAPH ONE?

21 Q YES.

22 A SURE. PURPOSE OF THE JAMES BROWN "I FEEL GOOD"
23 TRUST. IT IS MY INTENT THAT THE NET INCOME OF SUCH
24 PORTIONS OF PRINCIPAL OF THIS TRUST AS DETERMINED BY MY
25 TRUSTEES SHALL BE USED SOLELY FOR THE TUITION, EDUCATIONAL

1 EXPENSES, AND FINANCIAL ASSISTANCE OF AND FOR POOR
2 STUDENTS WHO ARE ATTENDING OR DESIROUS OF ATTENDING USC
3 AIKEN, USC SALKEHATCHIE, AND VOORHEES COLLEGE AS MORE
4 FULLY SET OUT BELOW. THIS STATED INTENT DOES NOT PREVENT
5 MY TRUSTEES FROM ALLOCATING UP 50 PERCENT OF THE GROSS
6 INCOME FROM THIS TRUST FOR THE PAYMENT OF ADMINISTRATIVE
7 AND MANAGERIAL EXPENSES ON BEHALF OF THE TRUST.

8 Q THANK YOU.

9 A UH-HUH.

10 Q DON'T YOU THINK MR. BROWN INTENDED TO BENEFIT THE
11 POOR CHILDREN WHO WOULD RECEIVE THE EDUCATION?

12 A WELL, HE INTENDED TO BENEFIT BOTH THE COLLEGES AND
13 NEEDY AND DESERVING STUDENTS -- BOTH. I MEAN, MONEY TO
14 VOORHEES FOR SCHOLARSHIPS BENEFITS BOTH.

15 Q AND DO YOU THINK THAT HE MEANT TO BENEFIT THOSE
16 INSTITUTIONS EQUALLY IN HIS SCALE OF BENEFICIARIES OR
17 MORESO THAN THE POOR CHILDREN WHO WOULD GET THE EDUCATION?

18 A I CAN'T -- I CAN ONLY KNOW WHAT HE SAID IN HIS
19 DOCUMENTS JUST AS YOU DO. I BELIEVE THAT THE DOCUMENTS
20 ARE VALID. I BELIEVE THAT THAT'S A SUBTLE QUESTION OF
21 INTERPRETATION. I MUST LEARN HIS INTENT FROM THE
22 DOCUMENTS.

23 Q WELL, MRS. POPE, YOU'VE LOOKED AT THOUSANDS OF
24 DOCUMENTS --

25 A I HAVE.

1 Q -- TO DETERMINE MR. BROWN'S INTENT. I JUST THOUGHT
2 MAYBE YOU RUN ACROSS SOMETHING THERE?

3 A WELL, I'VE RUN ACROSS LOTS OF THINGS, BUT THE
4 DOCUMENT, I BELIEVE, SPEAKS FOR ITSELF.

5 Q OKAY. YOU DO UNDERSTAND THAT THE PROPOSED SETTLEMENT
6 WOULD UPHOLD THE 2000 WILL AND TRUST?

7 A I DO NOT UNDERSTAND IT THAT WAY.

8 Q WHAT YOU REALLY HAVE A PROBLEM WITH IS THE ALLOCATION
9 OF THE FUNDS BETWEEN THE CHARITIES AND THE SETTLING
10 PARTIES?

11 A I DO NOT UNDERSTAND THOSE DOCUMENTS THAT WAY.

12 Q WELL, DID YOU NOT READ IN THOSE DOCUMENTS THAT THE
13 CONTESTS AGAINST THE 2000 WILL AND TRUST WILL BE
14 DISMISSED?

15 A I CAN'T FIGURE OUT FROM THOSE DOCUMENTS HOW IT'S
16 SUPPOSED TO WORK, AND ALL OF OUR EFFORTS TO WORK WITH YOU
17 TO TRY TO FIGURE IT OUT HAVE BEEN UNSUCCESSFUL.

18 Q DID YOU READ IN THE DOCUMENT THAT THE WILL AND TRUST
19 CONTEST WILL BE DISMISSED?

20 MS. HAYES: YOUR HONOR, FOR THE RECORD CAN WE CLARIFY
21 WHICH DOCUMENT HE'S REFERRING TO?

22 MR. MEDLIN: THE ONE SHE'S TALKING, TRESSA, IS THE
23 ONE I'M TALKING ABOUT IS THE --

24 THE COURT: WELL, IDENTIFY IT.

25 MR. MEDLIN: -- SETTLEMENT DOCUMENT.

1 THE COURT: IT IS THE SETTLEMENT DOCUMENT.

2 MS. HAYES: THANK YOU.

3 THE WITNESS: I READ THAT AND COULD NOT UNDERSTAND
4 WHAT IT MEANT IN LIGHT OF THIS ACTION. IF YOU'D LIKE FOR
5 ME TO EXPLAIN, I WILL.

6 Q SURE. WELL, IF YOU ASSUME THAT THE PARTIES INTEND TO
7 DISMISS THE WILL AND TRUST CONTEST SO THAT THE 2000 WILL
8 AND THE 2000 TRUST ARE VALID, THEN THE 2000 PLAN OVERRIDES
9 THE '99 PLAN AS I BELIEVE YOU TESTIFIED YESTERDAY. WE
10 WOULDN'T WORRY ABOUT ANY BENEFICIARIES OF PREVIOUS
11 OVERRIDDEN ESTATE PLANS, WOULD WE?

12 A I DISAGREE. GIVING ANYTHING TO HEIRS OVERRIDES TWO
13 ESTATE PLANS. GIVING A NICKLE TO HEIRS OVERRIDES TWO
14 ESTATE PLANS.

15 Q ISN'T YOUR CONCERN NOT WITH THE DOCUMENTS THAT WE
16 WILL UPHOLD BUT WITH WHAT THE ATTORNEY GENERAL PLANS TO DO
17 WITH HIS SHARE OF THE PROCEEDS AS A RESULT OF THOSE
18 DOCUMENTS?

19 A I HAVE MULTIPLE -- MULTIPLE, MULTIPLE CONCERNS ABOUT
20 BOTH THE FORM AND SUBSTANCE OF THE DOCUMENT AND I CAN TELL
21 YOU ABOUT THEM IF YOU WANT, BUT I DO NOT BELIEVE -- I
22 BELIEVE THAT THE SETTLEMENT CONSTITUTES AN ATTEMPT TO
23 OVERRIDE TWO VALID ESTATE PLANS.

24 Q IF THERE WERE NO SETTLEMENT AND THE 2000 WILL AND
25 TRUST ARE UPHOLD AS YOU WISH, WOULD THE '99 BENEFICIARIES

1 RECEIVE ANY BENEFIT?

2 A WELL, AGAIN, MY JOB IS TO UPHOLD THE 2000 TRUST. WE
3 NEED USC AIKEN, VOORHEES, AND USC SALKEHATCHIE HERE TO
4 ANSWER THE VERY QUESTIONS THAT YOU'RE ASKING BECAUSE THAT
5 IS WHY -- WHEREAS WE GENERALLY BELIEVE THAT MR. BROWN IN
6 TWO SEPARATE VALID ESTATE PLANS MADE HIS GENERAL INTENT
7 KNOWN, USC AIKEN, USC SALKEHATCHIE, AND VOORHEES NEED TO
8 BE HERE TO SPEAK FOR THEMSELVES ABOUT THIS AND COULD BE A
9 VERY IMPORTANT PART OF ANY SETTLEMENT THAT WAS REACHED
10 BECAUSE THE 2000 WILL HAS A GENERAL EDUCATIONAL INTENT FOR
11 GEORGIA AND SOUTH CAROLINA. WELL, AIKEN, SALKEHATCHIE,
12 AND VOORHEES ARE ALL IN SOUTH CAROLINA AND, SO, THEY COULD
13 BE AN EFFECTIVE PART OF A REAL SETTLEMENT WITH ALL OF THE
14 REAL PARTIES TOGETHER, BUT I KNOW THAT BOTH DOCUMENTS
15 EXPRESS HIS INTENTION TO BENEFIT THE NEEDY, TO GIVE A HAND
16 -- TO GIVE A WAY OUT, NOT A HANDOUT AS HE HIMSELF SAID,
17 BUT I BELIEVE THAT VOORHEES NEEDS TO BE HERE TO SPEAK FOR
18 ITSELF AND WE HAVE SOUGHT THAT FOR MONTHS.

19 I DIDN'T ANSWER AS FULLY AS I MIGHT'VE YESTERDAY. WE
20 HAVE SOUGHT THAT WITH THE FIRST MOTION TO DISMISS IN THIS
21 CASE. WE SAID WE NEED VOORHEES HERE. WE NEED
22 SALKEHATCHIE HERE. WE NEED USC AIKEN HERE TO DEFEND
23 THEMSELVES AND NOT JUMP OVER TWO VALID ESTATE PLANS.

24 Q MRS. POPE, YOU PETITIONED THIS COURT TO SELL PERSONAL
25 PROPERTY AT THE CHRISTIE'S SALE?

1 A I DID.

2 Q DID YOU NAME THOSE THREE INSTITUTIONS IN YOUR
3 PETITION?

4 A I DID NOT.

5 Q AND, YET, AS WE DISCUSSED YESTERDAY IF THAT TRUST IS
6 STILL VALID WHICH WOULD BE THE ONLY REASON TO INCLUDE
7 THOSE THREE INSTITUTIONS, IF THEY ARE EVEN BENEFICIARIES.

8 A MR. MEDLIN --

9 THE COURT: HOLD ON. STRIKE THAT. THAT'S NOT EVEN A
10 QUESTION.

11 MR. MEDLIN: YES, YOUR HONOR. I'LL GET TO THE
12 QUESTION.

13 IF THOSE THREE INSTITUTIONS HAVE AN INTEREST UNDER
14 THE '99 TRUST, ISN'T IT POSSIBLE THAT THE CHRISTIE'S SALE
15 SOLD SOME PROPERTY THAT BELONGED TO THOSE INSTITUTIONS?

16 THE WITNESS: NO.

17 Q WHY NOT?

18 A BECAUSE THE DIFFERENCE IS THE PROPER MANAGEMENT OF
19 THE ESTATE AND A COURT-ORDERED SALE WILL BE OKAY WHOEVER
20 THE BENEFICIARIES ARE. WHAT IS THE PROBLEM WITH THE
21 SETTLEMENT IS IT JUMPS OVER TWO VALID ESTATE PLANS --

22 MR. MEDLIN: YOUR HONOR, THIS IS NOT RESPONSIVE.

23 THE WITNESS: -- AND GIVES PROPERTY TO
24 NON-BENEFICIARIES. THAT'S THE PROBLEM WITH THE
25 SETTLEMENT. THAT'S WHY VOORHEES NEEDS TO BE HERE.

1 SALKEHATCHIE NEEDS TO BE HERE. AIKEN NEEDS TO BE HERE.

2 THE COURT: ALL RIGHT. WE'VE DISCUSSED SALKEHATCHIE,
3 VOORHEES, AIKEN. PLEASE MOVE ALONG. I DON'T KNOW HOW YOU
4 CAN MAKE ANY MORE RECORD ON THAT.

5 MR. MEDLIN: YOUR HONOR, I AM TRYING TO GET AN ANSWER
6 AS TO --

7 THE COURT: ASK THE QUESTION AGAIN. ONE MORE TIME.

8 MR. MEDLIN: THANK YOU, YOUR HONOR.

9 ISN'T IT POSSIBLE THAT SOME OF THE PERSONAL PROPERTY
10 THAT WAS SOLD AT THE CHRISTIE'S SALE BELONGED TO THE '99
11 TRUST?

12 THE WITNESS: NO.

13 Q WHY NOT?

14 A BECAUSE IT -- EVEN IF IT DID BELONG -- DID YOU SAY
15 BELONGED TO THE '99 TRUST? NO, I DON'T THINK IT DID. I
16 JUST DON'T.

17 Q WHY NOT?

18 A I DON'T BELIEVE IT DID. I MEAN, YOU KNOW.

19 Q WHY NOT?

20 A BECAUSE I DON'T THINK IT WAS EVER TRANSFERRED TO THE
21 TRUST. THERE IS NO EVIDENCE THAT IT WAS. I DON'T BELIEVE
22 IT. YOU MAY HAVE A DIFFERENT OPINION. I DON'T.

23 THE COURT: SHE'S ANSWERED IT. MOVE ALONG.

24 Q YOU PETITIONED IN JANUARY OF 2008 FOR THE PAYMENT OF
25 FEES -- EXCUSE ME. THE ORDER WAS HANDED DOWN IN JANUARY

1 OF 2008; CORRECT?

2 A I THINK WE PETITIONED --

3 Q YES.

4 A -- IN DECEMBER --

5 Q YES, SORRY ABOUT THAT.

6 A -- OF 2007, YES, WHEN WE TERMINATED OUR SERVICE AS
7 SPECIAL ADMINISTRATORS.

8 Q DID YOU NAME THOSE THREE COLLEGES AS PARTIES IN THAT
9 ACTION?

10 A NO AND I WOULD NOT HAVE THOUGHT IT WAS NECESSARY. I
11 REALLY WOULDN'T HAVE THOUGHT IT WAS NECESSARY TO NAME
12 ANYBODY EXCEPT FOR THE HOSTILE ENVIRONMENT.

13 THE COURT: GOOD TIME TO BREAK? WE'VE BEEN GOING --
14 OR WE CAN GO A FEW MORE MINUTES. EVERYBODY OKAY,
15 COMFORTABLE?

16 MS. HAYES: I NEED A BREAK, YOUR HONOR. MR. BAILEY
17 IS OKAY IF I CAN STEP OUT IF NOBODY ELSE NEEDS A BREAK,
18 BUT I NEED A BREAK.

19 THE COURT: I UNDERSTAND. I WILL TAKE A 10 OR
20 15-MINUTE BREAK.

21 (WHEREUPON, A BREAK WAS TAKEN.)

22 THE COURT: MR. MEDLIN?

23 MR. MEDLIN: THANK YOU, YOUR HONOR.

24 Q MRS. POPE, HAVE YOU AND BOB APPOINTED A THIRD
25 TRUSTEE?

1 A NO. WE WORKED WITH THE ATTORNEY GENERAL TO TRY TO
2 APPOINT ONE AND THAT FELL APART.

3 Q BUT DOESN'T THE 2000 TRUST REQUIRE THREE TRUSTEES?

4 A IT DOES, BUT THE NOVEMBER 20 ORDER EXONERATED US FROM
5 THAT OBLIGATION. I HOPE IT IS JUST TEMPORARY. IT REALLY
6 NEEDS THREE TRUSTEES, BUT FOR NOW THERE ARE ONLY TWO.

7 Q BUT IF YOU WERE TRYING TO CARRY OUT MR. BROWN'S
8 ESTATE PLAN, WOULDN'T YOU HAVE WANTED TO HAVE HAD THE
9 THIRD TRUSTEE?

10 A IF I WERE FREE TO DO IT XAVIER STARKS WOULD BE THE
11 THIRD TRUSTEE TODAY. WE MET WITH HIM. WE LIKED HIM. WE
12 WERE READY TO ADD HIM AND THEN THINGS FELL APART.

13 Q IS XAVIER STARKS THE THIRD PERSON IN THE SMALL
14 UNIVERSE OF PEOPLE WHO CAN DEFEND THE ESTATE PLAN OF
15 MR. BROWN?

16 A I BELIEVE SO. I LIKED HIM. I DIDN'T KNOW HIM BEFORE
17 THEN. HE WAS NOMINATED BY THE ATTORNEY GENERAL, BUT I
18 THOUGHT HE WAS WONDERFUL. HE RESPONDED IMMEDIATELY AND
19 WENT WITH US TO BEECH ISLAND. HE WAS VERY ENTHUSIASTIC.
20 I MEAN, HE'LL PROBABLY NOT WANT ME TO SAY ALL OF THIS
21 BECAUSE HE NEVER VOLUNTEERED, BUT HE WAS VERY ENTHUSIASTIC
22 ABOUT THE DEFENSE OF THE ESTATE PLAN AS WE SORT OF
23 DESCRIBED IT TO HIM. HE WAS YOUNG. HE WAS BRIGHT. HE
24 WAS A LAWYER -- A LOT OF LAWYERS, BUT DURING THIS
25 PARTICULAR PHASE OF ADMINISTRATION I DIDN'T THINK THAT

1 WOULD BE HURTFUL.

2 I WISH HE WERE HERE TODAY. IF I THOUGHT FOR A MINUTE
3 JUDGE EARLY WOULD APPOINT HIM TODAY I WOULD BE ELATED.

4 Q SO, MR. STARKS WOULD BE CAPABLE OF DEFENDING
5 MR. BROWN'S ESTATE PLAN?

6 A ALONG WITH US, HE WOULD, AND, AGAIN, HE WAS THE
7 ATTORNEY GENERAL'S NOMINEE.

8 Q CAN I FINISH MY QUESTION, MRS. POPE?

9 A EXCUSE ME.

10 Q IF THE TWO OF YOU WEREN'T SERVING AS TRUSTEE, WOULD
11 HE BE CAPABLE OF DOING IT?

12 A I DON'T THINK SO.

13 Q SO, IT REQUIRES THE TWO OF YOU TO DO IT?

14 A I DO. I THINK FOR THIS PARTICULAR PHASE BECAUSE OF
15 ALL OF OUR EXPERIENCE AND OUR DEEP DEDICATION TO DEFENDING
16 THE ESTATE PLAN WE'RE REALLY THE ONLY ONES. WE COULD USE
17 SOME HELP, BUT I THINK WE'RE IT. I MEAN, I TAKE THAT
18 BACK. I THINK THERE ARE TWO OTHER PEOPLE CAPABLE OF -- I
19 MEAN, WHO REALLY BELIEVE IN THE ESTATE PLAN, BUT THEY ARE
20 -- I MEAN, TWO OTHER PEOPLE, BUT THEY'RE DISABLED FROM
21 DOING IT AND THAT'S MR. DALLAS AND MR. BRADLEY. THEY ARE
22 NOT ABLE FOR OTHER PROBLEMS TO EFFECTIVELY DEFEND THE
23 ESTATE PLAN.

24 Q WOULDN'T EVERY FIDUCIARY'S ROLE BE TO DEFEND AN
25 ESTATE PLAN IF IT WERE REASONABLE TO BELIEVE THAT IT WAS A

1 VALID ESTATE PLAN?

2 A YES, BUT THE MANDATE WOULD NOT BE AS STRONG AS IT IS
3 UNDER MR. BROWN'S DOCUMENTS.

4 Q MRS. POPE, YOU HAVE ASSERTED IN BOTH AFFIDAVITS AND
5 PLEADINGS THAT TOMI RAE BROWN IS NOT THE WIFE OF JAMES
6 BROWN; CORRECT?

7 A WE THINK IT IS MORE LIKELY THAN NOT THAT SHE IS NOT
8 THE LEGAL SPOUSE.

9 Q SO BASED ON YOUR ANSWER YOU BELIEVE PEOPLE COULD
10 DISAGREE ABOUT THAT?

11 A WE'VE ASKED THE COURT TO MAKE SOME LEGAL
12 DETERMINATIONS BEFORE WE PROCEED WITH CONSIDERING A
13 SETTLEMENT AND THE COURT HAS REFUSED.

14 MR. MEDLIN: YOUR HONOR, IF I MAY MARK A COPY OF THE
15 LICENSE AND CERTIFICATE FOR MARRIAGE.

16 THE COURT REPORTER: SIX.

17 THE COURT: WE'RE NOT GOING TO TRY THAT CASE HERE
18 TODAY. SHE'S GIVING HER OPINION ON IT. ARE WE TRYING
19 THAT CASE TODAY?

20 MR. MEDLIN: WELL, YOUR HONOR, WE'RE TRYING TO
21 DETERMINE THE REASONABLENESS OF THE SETTLEMENT, BUT I
22 THINK --

23 THE COURT: WE ALL KNOW THAT'S HOTLY DISPUTED.

24 MR. MEDLIN: WELL, BUT, YOUR HONOR, I THINK --

25 THE COURT: I'LL LET YOU MAKE YOUR RECORD.

1 MR. MEDLIN: I'LL TRY TO MAKE THIS AS BRIEF AS
2 POSSIBLE, YOUR HONOR.

3 (WHEREUPON, MEDLIN'S EXHIBIT NOS. 6 - 8 WERE MARKED
4 FOR IDENTIFICATION ONLY.)

5 THE COURT: ANY OBJECTION BY ANYBODY?

6 MR. BAILEY: I'D LIKE TO TAKE A LOOK AT THE DOCUMENTS
7 THAT HAVE BEEN PRESENTED TO MRS. POPE TO SEE IF THEY'RE
8 CERTIFIED COPIES.

9 THE COURT: ANY OBJECTIONS TO THESE DOCUMENTS?

10 MR. MICHEL: YOUR HONOR, WHAT WAS PASSED UP TO YOU
11 WAS AN ESTATE PACKET. I'M SORRY.

12 MR. BAILEY: YOUR HONOR, WE WOULD OBJECT TO THE
13 DOCUMENTS BEING INTRODUCED INTO EVIDENCE BECAUSE THEY'RE
14 NOT CERTIFIED COPIES OF THESE RECORDS.

15 THE COURT: ANY OTHER OBJECTION? OVERRULED.

16 MR. BYRD: IF YOUR HONOR, PLEASE.

17 THE COURT: ANY OTHER OBJECTIONS?

18 MR. BYRD: YES, SIR.

19 THE COURT: MR. BYRD?

20 MR. BYRD: WHAT, APPARENTLY, COUNSEL IS GETTING READY
21 TO DO IS TO TRY TO ESTABLISH IN THE RECORD THE STATUS OF
22 HYNIE RAE BROWN. NOW, HE IS GOING TO PUT IN WHAT HE HAS
23 AND WHAT THEIR POSITION IS, BUT WHAT WE GOING TO END UP IT
24 SEEMS TO ME HAVING TO TRY THAT CASE OUT IF HE IS GOING TO
25 START TO PUT HIS SIDE OF IT IN, AND I WOULD OBJECT TO

1 DOING THAT, YOUR HONOR.

2 MR. MEDLIN: WE'RE JUST TRYING TO SHOW THAT THERE IS
3 A CONTROVERSY, YOUR HONOR.

4 THE COURT: I THINK EVERYBODY WILL STIPULATE THERE IS
5 A CONTROVERSY. ANYBODY DISAGREE WITH THAT?

6 MR. BYRD: NO, SIR. I CERTAINLY DON'T DISAGREE WITH
7 IT. MY OBJECTION IS PUTTING THESE DOCUMENTS IN.

8 THE COURT: YOUR OBJECTION IS SUSTAINED.

9 Q AND, MRS. POPE, YOU AGREE THAT THERE IS A
10 CONTROVERSY?

11 A YES.

12 THE COURT: THANK YOU, MR. BYRD. THAT'S THE MOST
13 EFFICIENT OBJECTION WE'VE HAD.

14 (WHEREUPON, THE COURT REPORTER SPEAKS WITH THE
15 JUDGE.)

16 THE COURT: NO, IT DOES NOT COME IN.

17 MR. ROSEN: YOUR HONOR, HAVE ALL OF THE PARTIES
18 STIPULATED?

19 THE COURT: WELL, I DIDN'T HEAR ANY DISAGREEMENT. SO
20 I ASSUME BY NOT SAYING ANYTHING EVERYBODY AGREES THAT IT
21 IS, CERTAINLY, A CONTROVERSIAL ISSUE IN THE LITIGATION.
22 DOES ANYBODY HAVE ANY DISAGREEMENT WITH THAT? NO ONE --

23 MS. HAYES: YOUR HONOR, I AM NOT STIPULATING THAT
24 IT'S A GOOD FAITH CONTROVERSY OR A MERITORIOUS
25 CONTROVERSY. WE ACKNOWLEDGE THAT THERE IS A DISPUTE AS TO

1 WHETHER OR NOT MR. BROWN AND MS. HYNIE WERE MARRIED. AS
2 FAR AS THE DOCUMENTS THEMSELVES, I MEAN --

3 THE COURT: THEY DID NOT COME IN THE RECORD.

4 MS. HAYES: YES, YOUR HONOR. THANK YOU.

5 MR. ROSEN: YOUR HONOR, CAN WE BE ALLOWED LATER -- I
6 HAVE CERTIFIED COPIES. I'LL INTRODUCE THOSE.

7 THE COURT: I AM NOT GOING TO TRY THAT CASE HERE:

8 Q MRS. POPE, WOULD YOU AGREE THAT THE CONTROVERSY IS IN
9 GOOD FAITH.

10 A NO.

11 THE COURT: THE FACT IS SHE DOESN'T AGREE WITH IT.
12 SHE DOESN'T HAVE TO AGREE OR DISAGREE. I MEAN, I'LL TAKE
13 -- I'LL MAKE THAT FINDING.

14 MR. MEDLIN: ALL RIGHT, YOUR HONOR. THANK YOU.

15 THE COURT: PROFESSOR MEDLIN, I HAVE SAT UP HERE FOR
16 I DON'T KNOW HOW MANY TIMES IN THE TRIAL OF THIS CASE. I
17 KNOW WHAT I THINK IS IN CONTROVERSY. WHETHER OR NOT IT'S
18 GOOD FAITH OR NOT, I'LL MAKE THAT DETERMINATION AS TO WHEN
19 I DECIDE WHETHER OR NOT TO APPROVE THIS SETTLEMENT. IT'LL
20 ALL BE PUT IN THE RECORD.

21 MR. MEDLIN: YOUR HONOR, WE HAVE EVERY CONFIDENCE IN
22 YOU IN THE END. WE'RE JUST TRYING TO MAKE SURE THAT THE
23 RECORD IS COMPLETE.

24 THE COURT: I DON'T KNOW HOW IT COULD BE ANY MORE
25 COMPLETE. AT THE CONCLUSION, I MEAN, IF Y'ALL WANT TO

1 INCLUDE THE OTHER CASES AND I THINK WE MAY AS PART OF THE
2 RECORD -- ALL OF THE FILINGS IN THE OTHER ACTIONS -- I'LL
3 ENTERTAIN THAT REQUEST.

4 MR. ROSEN: YOUR HONOR, WOULD YOU ALLOW ME TO MAKE A
5 PROFFER OF THE CERTIFIED COPIES OF THESE DOCUMENTS LATER
6 ON AT THE END OF THE DAY?

7 THE COURT: ABSOLUTELY.

8 MR. ~BYRD CAN PROFFER WHATEVER HE MAY HAVE THAT'S
9 CONTRADICTORY TO IT, BUT I AM NOT GOING TO TRY THE TOMI
10 RAE HYNIE BROWN CASE TODAY. MOVE ALONG.

11 Q MRS. POPE, LET ME JUST ASK ONE MORE QUESTION ABOUT
12 THAT, PLEASE, WITH YOUR HONOR'S INDULGENCE.

13 THE COURT: ABOUT TOMI RAE HYNIE?

14 MR. MEDLIN: ABOUT THE QUESTION OF WHETHER IT'S A
15 CONTROVERSY.

16 THE COURT: ONE MORE QUESTION. SHE'S ALREADY
17 ANSWERED IT.

18 Q THIS IS A COPY OF A MOTION FOR PARTIAL SUMMARY
19 JUDGMENT?

20 A YES.

21 THE COURT: THAT WAS FILED BY WHO?

22 MR. MEDLIN: FILED BY MR. BAILEY --

23 THE COURT: OKAY.

24 Q -- ON BEHALF OF BOTH THE ESTATE AND TRUST, MRS. POPE?

25 A LET ME JUST LOOK. LET'S SEE. THIS IS A MOTION FOR

1 PARTIAL SUMMARY JUDGMENT WHICH WE FILED IN THIS CASE,
2 MCMASTER VERSUS DALLAS, 1647. IT IS DATED JANUARY 20,
3 2009. WHAT IS THE QUESTION?

4 Q JUST ASK YOU TO READ PARAGRAPH 14.

5 A OKAY. PARAGRAPH -- WELL, COULD I READ 13, TOO?

6 Q I WOULD JUST LIKE FOR YOU TO READ 14.

7 A OKAY. FOURTEEN. THE PURPORTED SETTLEMENT FINDS AS
8 FACTS NUMEROUS STATEMENTS WHICH ARE EITHER FALSE OR
9 DISPUTED MATERIAL FACTS NOW PENDING. THAT SAYS THE FACTS
10 ARE IN DISPUTE.

11 Q I JUST ASKED YOU TO READ IT, MRS. POPE. THANK YOU.

12 A YES.

13 THE COURT: YOU WANT TO READ SOME OTHER PORTIONS?

14 THE WITNESS: YEA.

15 THE COURT: YOU MAY.

16 THE WITNESS: THIS IS A MOTION FOR PARTIAL SUMMARY
17 JUDGMENT IN WHICH WE ASK THE COURT TO --

18 MR. MEDLIN: YOUR HONOR, MAY I ASK BEFORE -- WE'RE
19 SIMPLY TRYING TO SHOW THAT IT'S A GOOD FAITH CONTROVERSY.

20 THE COURT: I UNDERSTAND THAT, BUT THE RULES SAY IF
21 YOU PUT IN A WRITTEN DOCUMENT AND YOU PUBLISH SOMETHING
22 FROM IT SHE HAS THE RIGHT THE TO PUBLISH SOMETHING --

23 MR. MEDLIN: BUT, YOUR HONOR, IF SHE IS GOING TO GET
24 INTO THE QUESTION THAT YOU WON'T LET ME ASK, THEN --

25 THE COURT: JUST SIMPLY -- YOU GOT ANOTHER STATEMENT

1 YOU WANT TO READ OUT OF THAT DOCUMENT?

2 THE WITNESS: RIGHT, JUST THE PARAGRAPH BEFORE. THE
3 PURPORTED SETTLEMENT WAS ENTERED INTO WITHOUT ANY DUE
4 DILIGENCE ON BEHALF OF THE ESTATE/TRUST OF JAMES BROWN.

5 THE COURT: THANK YOU.

6 Q MRS. POPE, DO YOU UNDERSTAND THE PROVISIONS OF
7 SECTION 62-3-912 OF THE PROBATE CODE?

8 A PROFESSOR, I WOULDN'T WANT TO SAY THAT WITHOUT
9 LOOKING AT WHAT YOU'RE TALKING ABOUT.

10 Q I THOUGHT AS MUCH.

11 THE COURT: SIXTY-TWO-THREE-WHAT?

12 MR. MEDLIN: 912.

13 THE WITNESS: LET ME SEE IF I HAVE THAT CODE WITH ME.
14 I DON'T. IF YOU'LL SHOW ME YOURS.

15 Q SURE. TO REQUIRE THE PERSONAL REPRESENTATIVE TO
16 ABIDE BY THE TERMS OF THE PRIVATE SETTLEMENT AGREEMENT.

17 A NOT IF ALL COMPETENT -- ALL COMPETENT SUCCESSORS ARE
18 NOT PARTIES.

19 MR. LEVENSON: YOUR HONOR, I AM GOING TO OBJECT TO
20 THE RESPONSE. THE QUESTION IS ARE YOU FAMILIAR WITH IT.

21 THE WITNESS: I THOUGHT HE WAS ASKING ME THE
22 QUESTION.

23 THE COURT: RE-ASK THE QUESTION.

24 Q DO YOU UNDERSTAND THAT SECTION TO REQUIRE YOU AS
25 PERSONAL REPRESENTATIVE TO ABIDE BY THE TERMS OF A PRIVATE

1 SETTLEMENT?

2 A NO.

3 Q WHY?

4 A NOT ANY PRIVATE SETTLEMENT. NO, I DO NOT.

5 Q WHY NOT?

6 A BECAUSE THIS TALKS ABOUT WRITTEN CONTRACTS EXECUTED
7 BY ALL WHO ARE AFFECTED BY ITS PROVISIONS AND IT TALKS
8 ABOUT AGREEMENTS ENTERED INTO BY COMPETENT SUCCESSORS, AND
9 MR. BUCHANAN AND I ARE THE PRIMARY COMPETENT SUCCESSORS TO
10 THE ESTATE OF JAMES BROWN, AND, SO, I DON'T THINK THIS
11 REQUIRES US TO DO ANYTHING AS PERSONAL REPRESENTATIVES
12 BECAUSE THERE IS -- AND THERE ARE OTHER -- MANY, MANY
13 OTHERS PROBLEMS. I AM NOT SURE THIS APPLIES TO CHARITIES.
14 THERE ARE 100 OTHER REASONS. I'LL DISCUSS THEM IF YOU'D
15 LIKE.

16 Q WELL, WHY DON'T YOU THINK THEY APPLY TO CHARITIES?

17 A WELL, HERE IS WHY. THE CHARITABLE TRUST IS CREATED
18 IN AN IRREVOCABLE TRUST WHICH WAS CREATED MORE THAN SIX
19 YEARS BEFORE MR. BROWN'S DEATH AND WHICH WE BELIEVE --
20 WHICH WE BELIEVE CANNOT NOW BE CHALLENGED AND ALL OF THIS
21 TALK YESTERDAY ABOUT WHAT TRUSTEES HAVE TO DO RELATED TO
22 TRUSTEES OF TESTAMENTARY TRUSTS. MR. BROWN'S TRUST IS NOT
23 A TESTAMENTARY TRUST IT IS AN IRREVOCABLE TRUST WHICH WE
24 BELIEVE IS PAST THE POINT OF CHALLENGE.

25 SO, WE DO NOT BELIEVE THAT THAT PROVISION OR ANY OF

1 THE OTHER PROVISIONS THAT WERE CITED CAN CHANGE THE RESULT
2 AND WE DO NOT BELIEVE THAT THE ATTORNEY GENERAL OR ANYONE
3 HAS THE RIGHT TO OVERRIDE A STATUTE OF LIMITATIONS WHICH
4 PREVENTS THE CHALLENGE TO MR. BROWN'S TRUST.

5 Q IF THE 2000 WILL WERE NOT VALID AND THE 2000 TRUST --
6 WELL, IF THE 2000 WILL WERE NOT VALID, THEN THERE WOULD BE
7 NO POUR OVER INTO THE 2000 IRREVOCABLE TRUST; CORRECT?

8 A IF THE 2000 TRUST WERE HELD INVALID?

9 Q NO, NO. I'M SORRY. LET ME --

10 A I'M SORRY. I MEAN, IF THE 2000 WILL WERE HELD
11 INVALID --

12 Q CORRECT.

13 A -- WOULD THERE BE A POUR OVER?

14 Q RIGHT.

15 A NO, BUT IT ALREADY HAS ASSETS.

16 Q BUT ONLY THOSE ASSETS --

17 A THAT ARE IN IT.

18 Q -- THAT BELONG TO THE TRUST AND ANY OTHER ASSETS.
19 WOULD PASS BY INTESTACY OR SOME EARLIER WILL?

20 A I CAN'T ANSWER WHAT WOULD HAPPEN.

21 Q IT WOULDN'T GO TO --

22 A YOUR POSITION WAS THAT IT WOULD PASS TO THE HEIRS. I
23 DEFINITELY DON'T AGREE WITH THAT.

24 Q IT WOULDN'T GO TO THE 2000 TRUST?

25 A YOU KNOW, AGAIN, THIS IS SO HYPOTHETICAL.

1 Q WELL, HOW WOULD IT?

2 THE COURT: GENTLEMEN, LADIES, LET'S BE FACT-SPECIFIC
3 TO THIS CASE. I AM NOT TRUSTED INTERESTED IN A LAW SCHOOL
4 EXAM.

5 MR. MEDLIN: YOUR HONOR, I AM ASKING --

6 THE COURT: WELL, ASK THE QUESTION AS TO THIS CASE.

7 Q IF THE 2000 WILL IS NOT VALID, HOW WILL THE ASSETS IN
8 THE PROBATE ESTATE PASS TO THE 2000 TRUST?

9 A IF THE 2000 TRUST IS VALID AND THE WILL IS NOT
10 VALID -- IS THAT THE QUESTION? THEN IT WILL BECOME A HUGE
11 ISSUE OF WHAT'S IN THE TRUST.

12 THE COURT: MA'AM, THE QUESTION IS WHAT WOULD HAPPEN
13 TO THE ASSETS PASSING UNDER THE WILL IF THE WILL IS
14 INVALIDATED?

15 THE WITNESS: I'M NOT SURE.

16 THE COURT: OKAY.

17 THE WITNESS: I GUESS THE '99 WILL TO THE '99 TRUST
18 WHICH LOOKS ALMOST LIKE THE 2000 TRUST --

19 Q AND IF THE --

20 A -- AND THEN THEY COULD BE CONSOLIDATED.

21 Q AND IF THE '99 WILL WERE NOT VALID, WOULD THE 2000
22 TRUST OR THE '99 TRUST --

23 A WELL, ACTUALLY, I BELIEVE THERE IS AN '83 WILL.

24 Q AND HOW WILL THAT '83 WILL POUR OVER INTO SUBSEQUENT
25 '99 TRUST AND 2000 TRUST?

1 A AGAIN, BECAUSE THERE ARE FOUR DOCUMENTS, NOT TWO --
2 JUST NOT JUST TWO WILLS, BUT WE GOT FOUR DOCUMENTS ONE OF
3 WHICH IS IRREVOCABLE AND WE BELIEVE UNDISPUTABLE, YOU
4 KNOW, THEY'RE GEOMETRIC THE NUMBER OF COMBINATIONS THAT
5 YOU CAN MAKE OF OUTCOMES. IF YOU WANT TO TRY TO GO
6 THROUGH THEM, I'LL BE GLAD TO.

7 Q NO. I AM JUST GOING TO ASK THIS QUESTION. IF THE
8 '93 WILL WERE VALID, HOW -- AND THE '99 AND 2000 WILLS
9 WERE NOT -- HOW COULD PROPERTY PASS TO THE 2000 TRUST
10 UNDER A '93 WILL?

11 A WELL, YESTERDAY YOU SUGGESTED THAT JAMES BROWN
12 ENTERPRISES COULD ALREADY BE IN THE '99 TRUST. THERE IS
13 CERTAINLY AN ARGUMENT THAT JAMES BROWN ENTERPRISES, INC.,
14 IS ALREADY IN THE 2000 TRUST AND I THINK A PRETTY GOOD
15 ARGUMENT, BY THE WAY. SO, IT WOULD GET -- IT WOULD HAVE
16 THOSE THINGS, AND AS YOU KNOW JAMES BROWN ENTERPRISES IS
17 AT LEAST IN SOME WAY A BENEFICIAL 66 2/3'S PERCENT OWNER
18 OF THE ROYALTIES -- NOT OWNER IN TITULAR BUT PERHAPS
19 EQUITABLY. SO, ALL OF THAT WOULD STILL BE IN THE 2000
20 TRUST OR AT LEAST ARGUABLY. WE WOULD ARGUE IT.

21 THE COURT: MRS. POPE, DID I HEAR YOU TO SAY -- I
22 THINK I WROTE IT DOWN. THAT THERE ARE A GEOMETRIC NUMBER
23 OF OUTCOMES?

24 THE WITNESS: WELL, BECAUSE YOU HAVE THE POSSIBILITY
25 OF RETAINING THE VALID TRUST BUT FINDING THE WILL INVALID

1 AND THE TRUST IS ALREADY FUNDED AND WE HAVEN'T FINISHED
2 DECIDING WHAT'S IN IT BUT WE KNOW IT COULD HAVE AS MUCH AS
3 J.B.E., INC. AND BEECH ISLAND AND WE KNOW IT HAS GERONIMO,
4 SO THEN INSTEAD OF JUST BEING ABLE TO THROW OUT A WILL YOU
5 COULD THROW OUT THE WILL BUT THE TRUST WOULD STILL BE
6 THERE AND BE VALID AND THE SETTLEMENT ACKNOWLEDGES THAT
7 IT'S VALID.

8 THE COURT: SO, YOU DID ANSWER A GEOMETRIC NUMBER OF
9 OUTCOMES?

10 THE WITNESS: OKAY. I MEAN LIKE INSTEAD OF SAYING
11 THERE ARE TWO THINGS WE CAN CAN TOSS OUT -- WILL NUMBER
12 ONE AND WILL NUMBER TWO -- WE'VE GOT TOSS OUT WILL NUMBER
13 ONE BUT KEEP THE TRUST, TOSS OUT WILL NUMBER ONE AND THE
14 TRUST, TOSS OUT WILL NUMBER TWO BUT KEEP THE TRUST. I
15 MEAN, YOU KNOW, THERE ARE JUST ALL SORTS OF COMBINATIONS
16 BECAUSE OF THE FUNDING OF THE 2000 TRUST. I DON'T MEAN TO
17 BE OVERLY COMPLICATED.

18 THE COURT: I DIDN'T MEAN THAT AS A CRITICISM. I AM
19 JUST ASKING IS THAT --

20 THE WITNESS: YEA.

21 THE COURT: -- HOW YOU YOU DESCRIBED IT --

22 THE WITNESS: YEA.

23 THE COURT: -- AS A GEOMETRIC NUMBER OF OUTCOMES?

24 THE WITNESS: YEA, I THINK BECAUSE OF THE POSSIBILITY
25 OF THE 2000 TRUST BEING WHOLLY VALID AND WELL FUNDED BUT

1 THE WILL ITSELF COULD BE THROWN OUT.

2 THE COURT: THANK YOU.

3 Q AND THAT WOULD RESULT IN MORE LITIGATION, MORE
4 EXPENSE, MRS. POPE?

5 A WE HOPE IT WILL RESULT IN MORE SAVINGS FOR WHAT
6 MR. BROWN WANTED. I THINK IT'S BEING MISCHARACTERIZED. I
7 THINK THE DEFENSE -- THOSE DOCUMENTS MANDATED THAT WE
8 DEFEND CONTESTS AND I BELIEVE THEY'RE GOING TO PAY OFF.

9 Q IN THE ASSUMPTION THAT THE 2000 WILL AND THE '99 WILL
10 ARE FOUND INVALID FOR UNDUE INFLUENCE, IF WE HAVE A
11 GEOMETRIC POSSIBILITY OF RESULTS, WOULDN'T THAT FURTHER
12 COMPLICATE THE LITIGATION?

13 A WHAT'S COMPLICATED THE LITIGATION IS PEOPLE CLAIMING
14 TO BE HEIRS WILL NOT EVEN TAKE THE D.N.A. TEST SO WE CAN
15 EVEN FIND OUT IF THEY'RE HEIRS. THAT'S WHAT IS
16 COMPLICATING THE LITIGATION. THAT COULD BE OVER IN 60
17 DAYS AND WE COULD FIGURE OUT WHO IS HEIRS ARE AND THEN
18 REALLY MOVE FORWARD.

19 THE COURT: WELL, MA'AM, IN ALL DUE RESPECT TO YOU,
20 MRS. POPE, WOULD YOU PLEASE ANSWER HIS QUESTION WHICH
21 WAS -- ASK IT AGAIN.

22 Q IF THE '99 WILL AND THE '99 TRUST WERE BOTH FOUND
23 INVALID, WOULDN'T THE RESULTING GEOMETRIC POSSIBILITIES
24 RESULT IN COMPLEX AND MORE INVOLVED LITIGATION?

25 A NOT NECESSARILY.

1 Q LET ME ASK THE QUESTION THAT I DON'T THINK I GOT AN
2 ANSWER TO A MINUTE AGO, YOUR HONOR, IF I MAY. IF THE 2000
3 WILL AND '99 WILL ARE FOUND INVALID, ARE YOU SAYING THAT
4 THE '93 WILL IF VALID CAN POUR ASSETS OVER INTO THE 2000
5 TRUST?

6 THE COURT: I THINK SHE SAID THE '83.

7 Q I THINK IT IS A '93 WILL, BUT WHATEVER WILL -- THE
8 EARLIER WILL.

9 A I HAVEN'T STUDIED THE EARLIER WILL. I'M SORRY. I
10 JUST CAN'T -- I CAN STUDY IT, IF YOU'D LIKE, DURING THE
11 BREAK, BUT I HAVEN'T REALLY EVER THOUGHT THAT WE WOULD GET
12 PAST THE TWO VALID WILLS AND TRUSTS THAT WE HAVE. MY
13 THINKING DID NOT GO THAT DEEPLY.

14 Q DOESN'T THE POUR OVER STATUTE REQUIRE THE TRUST TO BE
15 IN EXISTENCE BEFORE OR AT THE SAME TIME THE WILL IS
16 EXECUTED?

17 A I'M NOT SURE.

18 Q ISN'T YOUR REAL PROBLEM THAT THE ATTORNEY GENERAL --
19 ISN'T YOUR REAL PROBLEM, MRS. POPE, THAT THE ATTORNEY
20 GENERAL IS AGREEING TO THE SETTLEMENT AND YOU DISAGREE
21 WITH THE ATTORNEY GENERAL'S AGREEING TO THE SETTLEMENT?

22 A I DON'T HAVE ANY PROBLEMS. JAMES BROWN'S PROBLEM IS
23 THAT HE NEEDS SOMEONE TO DEFEND HIS ESTATE PLAN AND THE
24 COURT HAS DESIGNATED US AND THE ATTORNEY GENERAL IS UNABLE
25 TO DO THAT AND I'M HERE TO DO THAT ALONG WITH

1 MR. BUCHANAN.

2 Q YOU ALSO ARE CONCERNED ABOUT THE SETTLEMENT BECAUSE I
3 BELIEVE YOU TESTIFIED ON JANUARY 30 THERE NEEDED TO BE A
4 PROPER TRANSITION FOR FIDUCIARIES?

5 A ON JANUARY 30 THAT WAS A CONCERN. AFTER HAVING
6 STUDIED THE SETTLEMENT THAT REMAINS A CONCERN, BUT IT'S
7 WAY DOWN THE LINE WITH THE OTHER CONCERNS BECAUSE I
8 BELIEVE THE SETTLEMENT IS SO TERRIBLE THAT THE TRANSITION
9 IS JUST --

10 Q BUT IT'S A CONCERN?

11 A OF COURSE, YES, AMONG ABOUT 10 CONCERNS.

12 Q DID YOU SEEK PROFESSIONAL ADVICE ABOUT A METHODOLOGY
13 OF TRANSITION?

14 A WELL, WE PRESENTED -- TO THE EXTENT THAT MR. BUCHANAN
15 AND I ARE PROFESSIONALS WE PRESENTED ONE AND, YOU KNOW,
16 IT'S NOT ROCKET SCIENCE THAT THE FIRST THING YOU DO IS
17 IDENTIFY WHO YOU'RE TRANSITIONING TO AND THAT STILL HASN'T
18 BEEN DONE.

19 Q NOW, THE QUESTION IS MORE ARTFULLY ASKED, MRS. POPE,
20 DID YOU SEEK THE ADVICE OF A PROFESSIONAL FIDUCIARY IN
21 COMING UP WITH YOUR TRANSITION CONCERNS?

22 A NO, AND I'LL EXPLAIN, IF YOU'D LIKE.

23 Q WELL, I REALLY WOULDN'T, BUT I THINK THE JUDGE IS
24 GOING TO LET YOU.

25 THE COURT: IF YOU WANT TO. YOU DON'T HAVE TO. I

1 MEAN, I'VE HEARD TRANSITION.

2 THE WITNESS: JUST THAT WE BELIEVE THAT WE HAVE THE
3 BEST UNDERSTANDING. AFTER TWO YEARS OF DEEP AND INVOLVED
4 EXPERIENCE WITH THE ESTATE AND TRUST AND THE LITIGATION
5 WE'RE THE BEST ABLE TO UNDERSTAND WHAT WOULD BE NECESSARY
6 IN A TRANSITION. I CAN'T THINK OF ANY PROFESSIONAL WHO
7 COULD HAVE HELPED US OR WHO COULD IF IT WERE MANDATED.

8 Q BUT YOU YOURSELF HAVE BROUGHT AN EMERGENCY MOTION TO
9 SEEK TRANSITION OF PART OF YOUR DUTIES TO A SPECIAL
10 ADMINISTRATOR AND A SPECIAL TRUSTEE.

11 A I'M SORRY?

12 Q YOU YOURSELF HAVE JUST RECENTLY BROUGHT -- YOU AND
13 BOB HAVE RECENTLY BROUGHT AN EMERGENCY MOTION TO
14 TRANSITION PART OF THE ADMINISTRATION OF THE ESTATE TO A
15 SPECIAL ADMINISTRATOR AND SPECIAL TRUSTEE?

16 A THAT'S CORRECT. AND I'LL EXPLAIN, IF YOU'D LIKE.

17 Q NO, I JUST REALLY WOULD LIKE --

18 A TO TRANSITION THE MANAGEMENT SO THAT WE MAY
19 EFFECTIVELY DEFEND THE ESTATE AND THE ESTATE CAN BE
20 PROTECTED. THE ESTATE AND TRUST CAN BE PROTECTED.

21 Q WHO IS THE SPECIAL ADMINISTRATOR SPECIAL TRUSTEE?

22 A WE ASK THAT THE COURT APPOINT A COMPETENT,
23 INDEPENDENT, AVAILABLE SPECIAL TRUSTEE. WE DID NOT
24 NOMINATE SOMEONE BECAUSE WE FELT THAT EVERYTHING WE DO IS
25 SO HIGHLY CRITICIZED THAT JUST SUGGESTING SOMEONE WOULD

1 POISON THE WELL.

2 Q SO, THE PROBLEM WITH OUR TRANSITION PLAN -- THE
3 NUMBER ONE PROBLEM YOU JUST MENTIONED IS WE HAVEN'T
4 DISCLOSED A FIDUCIARY, BUT IT'S OKAY FOR YOU NOT TO WITH
5 YOUR PLAN?

6 A I WHOLLY DISAGREE WITH EVERYTHING YOU SAID.

7 Q OKAY. YOU'VE ALSO PLEADED IN DOCUMENTS THAT ANY
8 SPECIAL ADMINISTRATOR OR SPECIAL TRUSTEE SHOULD NOT HAVE
9 DESIRE OR GOAL OF BECOMING THE PERMANENT FIDUCIARY; IS
10 THAT CORRECT?

11 A AT TIMES I HAVE THOUGHT THAT WOULD BE CRITICAL.

12 Q IN FACT, THAT WAS THE PROBLEM YOU HAD WITH
13 MR. BAUKNIGHT'S APPOINTMENT AS SPECIAL ADMINISTRATOR AND
14 SPECIAL TRUSTEE?

15 A WELL, WHAT WAS DIFFERENT ABOUT THAT AND WHAT WE'RE
16 SEEKING -- WHAT'S DIFFERENT ABOUT THAT AND WHAT WE'RE
17 SEEKING NOW IS THAT MR. BAUKNIGHT WAS ASKED TO EVALUATE A
18 SETTLEMENT.

19 MR. MEDLIN: YOUR HONOR, I DIDN'T ASK HER TO COMPARE
20 THAT --

21 THE COURT: SIR, YOU ASKED THE QUESTION.

22 MR. MEDLIN: THAT'S NOT THE QUESTION I ASKED, YOUR
23 HONOR.

24 THE WITNESS: WELL, WE FELT THAT SOMEONE WHO WAS
25 ASKED TO EVALUATE THE SETTLEMENT WHO WAS IN A POSITION TO

1 TAKE OVER IF HE APPROVED THE SETTLEMENT WOULD AT A MINIMUM
2 BE TROUBLESOME.

3 Q SO, IT'S NOT A GOOD IDEA TO HAVE A SPECIAL FIDUCIARY
4 WHO AS PART OF A RECOMMENDATION WOULD INCLUDE THE REMOVAL
5 OF THE CURRENT FIDUCIARIES IF THAT SPECIAL FIDUCIARY HAD
6 THE GOAL OR --

7 MS. HAYES: OBJECT TO THE FORM.

8 THE COURT: I DON'T UNDERSTAND THAT QUESTION.

9 Q WELL, LET ME ASK THE QUESTION THIS WAY. WEREN'T YOU
10 AND MR. BUCHANAN SPECIAL ADMINISTRATORS AND SPECIAL
11 TRUSTEES?

12 A WE WERE.

13 Q DIDN'T PART OF YOUR SERVICE RESULT IN THE TERMINATION
14 OF THE SERVICE OF THE PERMANENT TRUSTEES AND PERSONAL
15 REPRESENTATIVES?

16 A IT RESULTED IN THEIR RESIGNATIONS.

17 Q AND DIDN'T THAT SERVICE ALSO RESULT IN THE IMMEDIATE
18 APPOINTMENT OF YOU AND MR. BUCHANAN AS PERMANENT TRUSTEES
19 AND PERSONAL REPRESENTATIVES?

20 A UNFORTUNATELY, YES.

21 Q MRS. POPE, YOU -- SPEAKING OF FORTUNATELY OR NOT
22 FORTUNATELY, YOUR HONOR, I AM GOING TO ASK YOUR
23 INDULGENCE. I'D LIKE TO ASK A FEW MORE QUESTIONS ABOUT
24 THE FEE STRUCTURE THAT WE GOT INTO YESTERDAY, NOT TO GET
25 INTO THE SPECIFIC NUMBERS BUT TO GET INTO JUST A COUPLE OF

1 CONCEPTUAL ISSUES FOR TWO REASONS, YOUR HONOR. FIRST,
2 AGAIN, SHE HAS RAISED THE ISSUE OF FEES AS PART OF ANY
3 SETTLEMENT AS BEING AN ESSENTIAL PART AND COMPONENT OF
4 THAT. SECONDLY, SHE AND BOB ARE FIDUCIARIES AND THEIR FEE
5 STRUCTURE SHOULD BE TRANSPARENT, AND I'LL TRY MY BEST TO
6 AVOID, YOUR HONOR, ASKING SPECIFIC QUESTIONS ABOUT DOLLAR
7 AMOUNTS, BUT I DO HAVE A COUPLE OF MORE QUESTIONS ABOUT
8 THE CONCEPT THAT SHE RAISED YESTERDAY.

9 THE COURT: YOU CAN ASK ABOUT CONCEPT, BUT BEAR IN
10 MIND WHERE WE WENT YESTERDAY AND I AM NOT GOING TO MAKE
11 HER GIVE YOU AN EXACT FIGURE TODAY. SHE'S GIVEN YOU
12 HOURS. SHE'S GIVEN YOU A RATE. SHE'S ASKED FOR
13 REASONABLE FEES, BUT I AM BEING PATIENT. GO AHEAD.

14 Q MRS. POPE, YOUR PIE CHART YESTERDAY SHOWED A
15 5 PERCENT COMMISSION FOR PERSONAL REPRESENTATIVES?

16 A IT DID, BUT AS I EXPLAINED IT HAD BY IT A 2 PERCENT
17 FOR LEGAL FEES AND ADMINISTRATIVE EXPENSES AND WE THINK
18 THAT COULD FLOW -- YOU KNOW, THERE IS NOTHING MAGIC
19 ABOUT -- BUT WE THINK IT'S REASONABLE IF THIS IS CARRIED
20 TO THE CONCLUSION FOR THERE TO BE A 7 PERCENT DEFENSE OF
21 MR. BROWN'S ESTATE PLAN, P.R. COMMISSIONS AND LEGAL FEES.
22 YEA, WE THINK THAT IS, AGAIN, REASONABLE.

23 Q DOES THAT INCLUDE ANY TRUSTEE'S FEE?

24 A I'M SORRY?

25 Q DOES THAT FIGURE INCLUDE ANY TRUSTEE'S FEE?

1 A OH, IT WOULD INCLUDE EVERYTHING. YES. THE PIE CHART
2 RELATES TO THE WILL AND THE TRUST.

3 Q OKAY. SO, THAT'S THE TOTAL THAT YOU ESTIMATE?

4 A SITTING HERE TODAY THAT -- 7 PERCENT OF THE VALUE OF
5 THE TWO ENTITIES AND WE THINK OF THAT SORT OF OVER A THREE
6 TO FIVE YEAR PERIOD BECAUSE WE'VE BEEN HERE TWO YEARS
7 ALREADY AND WHEN I TOOK THE JOB AT FIRST I AS ONLY SPECIAL
8 ADMINISTRATOR I SAID TO MYSELF IT LOOKS LIKE A LITTLE BIT
9 OF WORK FOR TWO TO FIVE YEARS AND NOW IT'S TWO AND IT'S A
10 LOT OF WORK. SO...

11 Q HAVE YOU BEEN KEEPING RECORDS THAT SEGREGATE THE TIME
12 SPENT AS PERSONAL REPRESENTATIVE AND THE TIME SPENT AS
13 TRUSTEE?

14 A NO. NEITHER WE NOR THE \$940,000 OF LEGAL FEES FOR
15 THE YEAR THAT MR. DALLAS AND BRADLEY SERVED ATTEMPTED TO
16 DO THAT, AND, SO, THAT WOULD BE -- THEY'RE SO INTEGRATED.
17 THE ESTATE PLAN IS SO INTEGRATED THAT THAT WOULD BE
18 VIRTUALLY IMPOSSIBLE, AND IF YOU'D LIKE ME TO JUST TELL
19 YOU HOW A TYPICAL DAY IS I'LL BE GLAD TO, BUT IT WOULD BE
20 VIRTUALLY IMPOSSIBLE TO DO.

21 Q NOT REALLY. APPARENTLY, THEY'RE VERY BUSY?

22 A THEY ARE.

23 Q THE ALLOCATION COULD BECOME PROBLEMATIC, THOUGH, IF
24 THE ESTATE PLAN IS UPHELD AND ALL OF THE ASSETS ARE
25 DETERMINED TO BE IN THE TRUST?

1 A COLLECTING MY REASONABLE FEE IS THE LEAST OF MY
2 WORRIES. DEFENDING THE ESTATE PLAN OF JAMES BROWN IS VERY
3 IMPORTANT TO ME.

4 Q AND IF A PERSONAL REPRESENTATIVE RESIGNED BEFORE
5 COMPLETION OF HER DUTIES, WOULD SHE BE ENTITLED TO THE
6 FULL 5 PERCENT COMMISSION THAT THE STATUTE ALLOWS?

7 A I THINK IT WOULD DEPEND ON WHO SHE WAS AND WHAT SHE
8 WAS RESIGNING FROM.

9 Q WELL, LET'S PROPOSE THE POSSIBILITY THAT YOU AND
10 MR. BUCHANAN RESIGNED TODAY. WOULD YOU BE ENTITLED TO A
11 FULL 5 PERCENT COMMISSION UNDER THE STATUTE?

12 A I HAVE NEVER THOUGHT OF OUR COMMISSION ANY WAY OTHER
13 THAN THE WAY MR. BROWN SAID IT IN HIS DOCUMENTS THAT WE
14 WOULD BE ENTITLED TO REASONABLE COMPENSATION. SO, I'VE
15 NEVER THOUGHT OF THE FULL 5 PERCENT. THAT WAS NOT WITHIN
16 MY THINKING.

17 Q I'M SORRY. I WAS JUST GOING BY THE PIE CHART AND YOU
18 DO --

19 A WELL, AS I TOLD YOU I WAS TRYING TO GIVE -- TO CREATE
20 AN EASY UNDERSTANDING OF HOW DEVASTATING THIS PROPOSAL IS
21 TO MR. BROWN'S ESTATE PLAN.

22 Q LET ME JUST -- EVEN THOUGH YOU MAY NOT HAVE THOUGHT
23 ABOUT IT BEFORE, LET ME ASK THE QUESTION AGAIN. IF YOU
24 AND MR. BUCHANAN RESIGNED TODAY DO YOU THINK THAT YOU
25 WOULD BE ENTITLED TO THE FULL STATUTORY PERSONAL

1 REPRESENTATIVE'S FEE?

2 A I HAVE NEVER TIED ANYTHING I DID TO A FULL ANYTHING.
3 WE HAVE ALWAYS TIED WHAT WE DO TO REASONABLE. SO, THAT'S
4 THE ANSWER.

5 Q DO YOU THINK IT WOULD BE REASONABLE TO RECEIVE A
6 5 PERCENT COMMISSION?

7 A I HAVEN'T WORKED IT ALL THE WAY THROUGH.

8 Q WELL, LET'S TALK ABOUT THAT THEN JUST A LITTLE BIT.
9 IF I UNDERSTAND YOUR READING OF THE JANUARY OF 2008 ORDER
10 YOU'RE ALLOWED TO BILL AS A DEPOSIT AGAINST YOUR ULTIMATE
11 COMMISSION; IS THAT CORRECT?

12 A ARE YOU TALKING ABOUT THE JANUARY -- JUDGE EARLY'S
13 FIRST ORDER?

14 Q YES.

15 A YES, BUT WE HAVEN'T, AS YOU SEE. WE'RE NOT EVEN --
16 WE'RE LIKE NOWHERE CLOSE. IT'S NOT EVEN ANY CHANCE THAT
17 THAT IS GOING TO HAPPEN FOR LIKE YEARS AND YEARS.

18 Q BUT THE CONCEPT IS -- IS A DEPOSIT AGAINST AN
19 ULTIMATE COMMISSION?

20 A THAT'S TRUE.

21 Q WHICH ASSUMES THAT THE DEPOSITION WOULD BE LESS THAN
22 THE COMMISSION; CORRECT?

23 A I THINK SO, BUT, AGAIN, I DON'T THINK -- YOU KNOW, I
24 JUST HAVEN'T FINISHED THINKING THAT THROUGH.

25 Q WELL, LET'S --

1 A IF I COULD PLEASE BE GIVEN TIME TO THINK THOSE ISSUES
2 THROUGH, YOU KNOW, I --

3 THE COURT: SHE'S TESTIFIED ABOUT REASONABLENESS,
4 ABOUT THE 5 PERCENT, ABOUT THE 2 PERCENT. LET'S MOVE
5 ALONG. I REALLY AND TRULY --

6 MR. MEDLIN: YOUR HONOR, JUST ONE MORE QUESTION,
7 PLEASE.

8 THE COURT: ONE MORE.

9 Q IF --

10 THE COURT: DEPENDING ON WHAT IT IS.

11 MR. MEDLIN: IT IS GOING TO BE ABOUT THE FEES, BUT IT
12 IS A CONCEPTUAL QUESTION.

13 THE COURT: WELL, ASK IT.

14 MR. MEDLIN: JUST ONE.

15 IF THE STATUTORY COMMISSION WERE LESS THAN THE
16 DEPOSIT, WHAT WOULD HAPPEN IN THAT CASE?

17 THE WITNESS: I DON'T KNOW.

18 Q THANK YOU. MRS. POPE, ISN'T WHAT YOU'RE REALLY DOING
19 IN YOUR ZEAL TO PROTECT MR. BROWN'S ESTATE PLAN AND THE
20 CHARITIES PROFESSING A WILLINGNESS TO FIGHT TO THE BITTER
21 END THROUGH THE COURT OF -- SUPREME COURT -- DESPITE THE
22 ATTORNEY GENERAL'S ENTRY INTO THE SETTLEMENT AND HIS
23 DESIRE THAT THIS CASE BE OVER?

24 A ABSOLUTELY NOT. THAT IS FALSE, TOTALLY FALSE.

25 Q WELL, YOU DID SAY THAT YOU WERE GOING TO APPEAL

1 YESTERDAY IF THE SETTLEMENT IS APPROVED?

2 A I SAID THAT IF WE REACH A SETTLEMENT WITH THE MINORS
3 WHO ARE BENEFICIARIES OF THE JAMES BROWN --

4 MR. MEDLIN: YOUR HONOR, THAT'S NOT RESPONSIVE.

5 THE COURT: SHE CAN ANSWER THE QUESTION. YOU ASKED
6 IT.

7 MR. MEDLIN: THAT'S NOT THE QUESTION I ASKED, YOUR
8 HONOR.

9 THE COURT: WELL, YOU ASKED HER ABOUT APPEAL.

10 MR. MEDLIN: ABOUT THIS SETTLEMENT.

11 THE WITNESS: YES. AND I'LL TELL YOU -- I WANT TO
12 SPEAK TO THE ISSUE OF WHY THIS SETTLEMENT IF APPROVED
13 SITTING HERE TODAY MUST BE APPEALED. THE MINOR
14 BENEFICIARIES OF THE JAMES BROWN EDUCATION TRUST ARE NOT
15 EVEN PARTIES --

16 MR. MEDLIN: YOUR HONOR, WITH ALL DUE RESPECT --

17 THE WITNESS: -- TO THE AGREEMENT. NO, THIS IS
18 IMPORTANT.

19 THE COURT: I'LL DETERMINE WHAT'S BEEN HEARD.

20 THE WITNESS: THERE ARE CHILDREN WHO ARE LISTED AS
21 MINORS WHO ARE NO LONGER MINORS, WHO ARE NOT PARTIES TO
22 THE SETTLEMENT. THERE IS NO SIGNED AGREEMENT. THERE ARE
23 NOT PROPER PARTIES BEFORE THIS COURT HEARING THIS -- THIS
24 STATEMENT TODAY. THERE IS NO AGREEMENT FOR ANYONE TO LOOK
25 AT.

1 IN OUR OPINION THE ATTORNEY GENERAL HAS AUTHORITY TO
2 ENFORCE A CHARITABLE TRUST BUT DOES NOT HAVE AUTHORITY TO
3 GIVE AWAY EITHER A CHARITABLE TRUST OR AN ESTATE OR A
4 NON-CHARITABLE TRUST WITHOUT -- WITHOUT THE CONSENT OF THE
5 P.R. TRUSTEES AND IF THE ATTORNEY GENERAL HAS THAT
6 AUTHORITY WE SHOULD HAVE A LEGAL RULING AHEAD BECAUSE IT
7 -- THAT VERY IMPORTANT RULING BY A COURT WHICH WE HAVE, BY
8 THE WAY, ASKED THIS COURT TO RULE ON COULD SAVE EVERYBODY
9 TIME AND MONEY AND THE PROPERTY, WHILE THAT VERY CRITICAL
10 QUESTION IS BEING ANSWERED, COULD BE PRESERVED BY A
11 SPECIAL ADMINISTRATOR AND SPECIAL TRUSTEE.

12 I BELIEVE IN SETTLEMENTS. AS YOU WILL NOTICE OUR
13 BULLETPPOINTS SPECIFICALLY SAY WE NEED TO GET THE PROPER
14 PARTIES TOGETHER, WE NEED TO HAVE A MEDIATOR, WE NEED THAT
15 MEDIATOR TO CONDUCT ONLY SUCH DISCOVERY AS IS NECESSARY OR
16 APPROPRIATE TO EFFECTING A SETTLEMENT, AND THAT COULD ALL
17 BE DONE VERY EFFICIENTLY OVER THE NEXT 90 TO 120 DAYS IF
18 WE WOULD BE RELIEVED OF THE DUTY AND THE ATTACKS
19 ASSOCIATED WITH MANAGING THIS WONDERFUL BUT TROUBLED GROUP
20 OF ASSETS, AND IN THE MEANTIME WE SHOULD GIVE A RIGHT OF
21 FIRST OFFER TO MR. GRAHAM WINDSOR GROUP SO WE COULD FIGURE
22 OUT WHAT THE ESTATE IS WORTH -- TRUST -- ESTATE AND TRUST
23 ARE WORTH.

24 Q MRS. POPE, AGAIN, LET ME TRY TO ASK THE QUESTION MORE
25 ARTFULLY. YOU DISAGREE WITH THE ATTORNEY GENERAL ABOUT

1 THE PROPRIETY OF THIS PROPOSED SETTLEMENT; CORRECT?

2 A I DO.

3 Q THANK YOU. THAT'S ALL I HAVE, YOUR HONOR.

4 THE COURT: THANK YOU. MR. JONES, ANY QUESTIONS?

5 MR. LEVENSON HAS ALREADY ASKED HIS. YOURS. HE ASKED HIS
6 LAST TIME.

7 MR. JONES: HE WAS CUT OFF, YOUR HONOR.

8 THE COURT: HE WAS NOT CUT OFF. HE HAD AN
9 OPPORTUNITY TO GO THIS WEEK AND HE SAID HE WAS THROUGH AND
10 PASSED IT ON TO MR. MEDLIN.

11 YOU GOT MORE? I MEAN YOU TALK ABOUT RULE -- THE MODE
12 OF TESTIMONY. I MEAN, ONCE ONE PARTY GETS THROUGH THE
13 NEXT ONE GOES. I ASSUMED HE WAS THROUGH WHEN HE DIDN'T
14 HAVE ANYTHING.

15 MR. JONES: I WAS LOOKING FOR CLARIFICATION FOR MR.
16 LEVENSON. I UNDERSTAND --

17 MR. LEVENSON: THAT WAS MY FAULT. IT WAS NOT MY
18 INTENTION TO END THE EXAMINATION OF MRS. POPE BUT
19 PROFESSOR MEDLIN WAS GOING TO GO IN THE MIDDLE. IF YOUR
20 HONOR IS NOT GOING TO ALLOW ME, I'LL CERTAINLY GIVE THE
21 QUESTIONS TO SOMEONE ELSE.

22 THE COURT: NO, SIR. I AM NOT GOING TO DO YOU LIKE
23 THAT. I HADN'T TREATED ANY OF YOU LIKE THAT. I THOUGHT
24 YOU WERE THROUGH. ALL RIGHT. WHO'S GOT ABOUT 10 MINUTES
25 WORTH OF QUESTIONS? ANYBODY?

1 MR. LEVENSON, YOU GET STARTED. WE'RE GOING TO GO FOR
2 A LITTLE WHILE. THEN WE'LL BREAK FOR LUNCH.

3 MR. LEVENSON: YES, SIR.

4 THE COURT: GENTLEMEN, PLEASE, NO SENSE IN ASKING THE
5 SAME QUESTIONS THAT'S ALREADY BEEN ANSWERED.

6 MR. JONES: YES, SIR. I UNDERSTAND.

7 THE COURT: MR. LEVENSON --

8 MR. LEVENSON: YES, SIR.

9 THE COURT: -- IS THAT A FAIR WAY TO DO IT?

10 MR. BAILEY: EXCUSE ME, YOUR HONOR. BECAUSE I WAS
11 NOT PRESENT FOR THE JANUARY 30TH HEARING I UNDERSTOOD THAT
12 MR. LEVENSON HAD ALREADY QUESTIONED MRS. POPE.

13 THE COURT: THAT'S WHAT I JUST TALKED ABOUT, BUT I'M
14 LETTING EVERYBODY MAKE A RECORD. I HAVE ALLOWED MRS. POPE
15 TO ANSWER QUESTIONS. I AM GOING TO ALLOW MR. LEVENSON IF
16 HE HAS ANY ADDITIONAL QUESTIONS. OBJECTION IS NOTED MR.
17 BAILEY.

18 CROSS-EXAMINATION

19 BY MR. LEVENSON:

20 Q HAVE YOU BEEN INVOLVED IN NEGLIGENCE CASES FROM
21 AUTOMOBILE ACCIDENT TYPE WHERE ONE PARTY CLAIMS A
22 DEFENDANT IS NEGLIGENT AND THE OTHER PARTY CLAIMS NO
23 NEGLIGENCE?

24 A NO.

25 Q NEVER BEEN INVOLVED IN THOSE KIND OF CASES? YOU'VE

1 HEARD OF THEM, THOUGH?

2 A OH, I'VE HEARD OF THEM.

3 Q HOW DO THOSE CASES SETTLE WITHOUT A DETERMINATION OF
4 WHETHER THE DEFENDANT IS NEGLIGENT?

5 A FIRST THE PEOPLE HAVE AN ADEQUATE OPPORTUNITY TO JOIN
6 THE PROPER PARTIES. THAT'S ESSENTIAL TO A SETTLEMENT.
7 THEN THE PARTIES ARE GIVEN AN OPPORTUNITY TO ANSWER AND
8 SET FORTH THEIR POSITIONS IN THE PLEADINGS AND THEN THERE
9 IS A PERIOD OF REASONABLE DISCOVERY AND THEN QUESTIONS OF
10 LAW AND SUMMARY JUDGMENT ISSUES ARE DECIDED, PARTICULARLY
11 IF THERE ARE CRITICAL LEGAL ISSUES. I DO READ THE ADVANCE
12 SHEETS. SO, I SEE A LOT OF WRECK CASES. THERE WILL BE A
13 LEGAL ISSUE LIKE OF COVERAGE OR SOMETHING LIKE THAT WHICH
14 EVERYBODY STOPS AND HAS TO GO FIND OUT THE ANSWER TO, AND
15 THEN THEY PROCEED TO TRIAL AND THEY CAN SETTLE AT ANY
16 POINT ALONG THE WAY IF ALL OF THE PARTIES -- PROPER
17 PARTIES -- JOIN IN THE SETTLEMENT AND IF THEY'RE MINORS
18 THE MINOR SETTLEMENT PROVISIONS ARE CAREFULLY CARRIED OUT.

19 Q OKAY. DO YOU UNDERSTAND, MRS. POPE, THAT WHERE THERE
20 IS A COMPROMISE EACH PARTY HAS A CONTENTION AS TO FACTS
21 AND BELIEFS AS TO THE STATE OF THE LAW AND THOSE BELIEFS
22 ARE COMPROMISED BY EACH PARTY CHANGING THEIR VIEW TOWARDS
23 SOMETHING BETWEEN THE OPPOSING 180-DEGREE OPPOSED VIEWS?

24 A DO I AGREE THAT A COMPROMISE IS IN GENERAL WITH NO
25 RELATION TO ANYTHING WE HAVE GOING ON HERE IS WHERE PEOPLE

1 MODIFY -- I MEAN, PEOPLE GIVE IN DESPITE THEIR VIEWS? ARE
2 WE TALKING GENERALLY OR IN MY EXPERIENCE AS A FIDUCIARY
3 LITIGATOR OR WHAT ARE WE TALKING ABOUT HERE?

4 Q I'LL WITHDRAW THE QUESTION. I'LL WITHDRAW THE
5 QUESTION. MRS. POPE --

6 A YES.

7 Q -- YOU SAID THE IRREVOCABLE TRUST IS PAST THE POINT
8 OF CHALLENGE.

9 A I THINK --

10 Q DID YOU SAY THAT, MRS. POPE?

11 A YES, AND I BELIEVE IT.

12 Q OKAY. YES, MA'AM. NOW, WITH RESPECT TO THAT
13 STATEMENT, DO YOU BELIEVE THAT THERE ARE A SET OF FACTS
14 OUT THERE WHICH WOULD GIVE A REASONABLE PERSON THE BELIEF
15 THAT IT IS NOT PAST THE POINT OF CHALLENGE?

16 A I DO NOT.

17 Q ALL RIGHT. LET ME ASK YOU ABOUT THIS THEN. IS IT
18 NOT TRUE THAT AS OF THE DATE OF DEATH OF MR. JAMES BROWN
19 THE THIRD TRUSTEE HAD NOT QUALIFIED OR TAKEN
20 RESPONSIBILITY OF THE 2000 IRREVOCABLE TRUST ASSUMING IT
21 WAS TO HAVE BECOME EFFECTIVE ON AUGUST 1, 2000?

22 A COULD YOU STATE THAT SO I --

23 Q YES, MA'AM.

24 A I KNOW THE ANSWER, BUT I DON'T KNOW WHETHER IT'S YES
25 OR NO DEPENDING ON --

1 Q I'LL WITHDRAW THE QUESTION. I'LL ASK IT AGAIN,
2 MRS. POPE. MRS. POPE, DO YOU AGREE THAT THERE IS A POINT
3 OF VIEW OUT THERE THAT BECAUSE JUDGE BRADLEY DID NOT
4 QUALIFY OR TAKE RESPONSIBILITY AS TRUSTEE FOR SIX YEARS
5 THE TRUST IS NOT PAST THE POINT OF CHALLENGE?

6 A I DO NOT BELIEVE THAT.

7 Q OKAY.

8 A BECAUSE -- IF I COULD TELL YOU WHY.

9 THE COURT: YOU MAY.

10 THE WITNESS: BECAUSE THE DOCUMENTS IN THE RECORD ARE
11 SIGNED BY JUDGE BRADLEY SHOWING THAT HE DID, IN FACT,
12 ACCEPT THE TRUSTEESHIP ON AUGUST 1 OF 2000. NOW, HOW WELL
13 HE PERFORMED HIS DUTIES IS A DIFFERENT QUESTION.

14 Q MY QUESTION IS IS THERE A BODY OF FACTS OUT THERE
15 WHICH WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT JUDGE
16 BRADLEY DID NOT QUALIFY AS REFERENCED IN THE VERY DOCUMENT
17 THAT WAS SIGNED THAT YOU REFERENCED IN YOUR EARLIER
18 EXAMINATION?

19 A NO.

20 Q OKAY. DO YOU HAVE THE DOCUMENT THAT YOU REFERENCED
21 WHERE JUDGE BRADLEY IS STIPULATED BY THE OTHER TWO
22 TRUSTEES NOT HAVE TO HAVE QUALIFIED AS A TRUSTEE?

23 A THAT WAS -- THE REFERENCE --

24 Q DO YOU HAVE THE DOCUMENT IS THE QUESTION.

25 THE COURT: HOLD ON NOW, MR. LEVENSON. LET'S --

1 MR. LEVENSON: I AM TRYING TO ASK VERY SPECIFIC
2 QUESTIONS, JUDGE.

3 MRS. POPE: WELL, LET'S -- COULD WE GET THE DOCUMENT?

4 Q I'M ASKING YOU IF YOU HAVE IT. IF YOU DON'T, I WILL
5 GET IT FOR YOU.

6 THE WITNESS:

7 A OKAY. IF YOU WOULD JUST GET IT FOR ME, THAT WOULD BE
8 EASIER.

9 Q THAT WAS MY QUESTION.

10 A LET'S JUST GET IT.

11 THE COURT: ALL RIGHT. ALL RIGHT. COME ON. LET'S
12 BE RESPECTFUL OF EACH OTHER.

13 MR. LEVENSON: DID YOU PUT IT UP THERE WITH YOUR
14 WITNESS? I CAN DIG IT OUT.

15 MR. MEDLIN: I DON'T --

16 THE COURT: WHAT ARE YOU LOOKING FOR?

17 MR. LEVENSON: THE DECEMBER 26, 2006 DOCUMENT THAT
18 PURPORTS TO BEAR THE SIGNATURES OF DEANNA BROWN THOMAS,
19 MR. DALLAS, AND MR. CANNON.

20 THE COURT: WHAT IS THAT DOCUMENT? IS IT A TRUST
21 AGREEMENT?

22 MR. LEVENSON: IT IS A SINGLE PAGE LETTER.

23 THE WITNESS: I DON'T HAVE IT.

24 THE COURT: HANG ON A SECOND. LET MY KEEPER OF THE
25 RECORDS --

1 MR. MICHEL: I DON'T HAVE THAT DOCUMENT. IS IT FILED
2 WITH ANYTHING?

3 MR. LEVENSON: IT IS FILED WITH BUNCH OF MRS. POPE'S
4 PLEADINGS. THAT'S WHY I THOUGHT SHE WOULD HAVE IT.

5 THE COURT: WELL, SHE MAY HAVE IT, BUT THERE'S JUST
6 SO MUCH STUFF FILED LET'S JUST TAKE A SECOND AND BREATHE
7 DEEPLY.

8 MRS. POPE: WOULD YOU LIKE ME TO GO DOWN AND LOOK
9 THROUGH MY FILES --

10 THE COURT: NO, MA'AM.

11 THE WITNESS: -- TO SEE IF I CAN HELP HIM?

12 THE COURT: NO, MA'AM. WE'RE GOING TO FIND IT.

13 MR. LEVENSON: SO SORRY, JUDGE.

14 THE COURT: THAT'S OKAY. NO PROBLEM. DO YOU KNOW
15 WHAT IT WAS ATTACHED TO? WE'VE GOT THE COMPUTER AND WE
16 CAN PROBABLY FIND IT. WHAT DOCUMENT OR WHAT PLEADING OR
17 DATE?

18 MR. LEVENSON: NO, SIR, I DON'T. I DON'T KNOW WHAT
19 IT WAS ATTACHED TO. IT IS ONE OF MRS. POPE'S AND
20 MR. BUCHANAN'S MOST RECENT AFFIDAVITS IN THE LAST MONTH OR
21 SO.

22 THE COURT: BUT ALSO DURING MR. BRADLEY'S TESTIMONY
23 AS WELL.

24 MR. LEVENSON: OH, IT WAS DEFINITELY INTRODUCED INTO
25 EVIDENCE WITH JUDGE BRADLEY AND MR. DALLAS. THAT WAS A

1 YEAR AGO OR SO.

2 MR. ROSEN: YOUR HONOR, ARE THE EXHIBITS HERE OF THE
3 PREVIOUS HEARING?

4 THE COURT: THE EXHIBITS ARE HERE IN THE MCMASTER
5 CASE. I CAN HAVE IT AFTER LUNCH.

6 MR. ROSEN: THAT'S WHAT I WAS SAYING. IF WE COULD
7 HAVE THE COURT'S EXHIBITS FROM PREVIOUS HEARINGS -- I KNOW
8 THEY'RE VOLUMINOUS, BUT --

9 MR. LEVENSON: I'M SORRY. I DO HAVE IT.

10 THE COURT: WE'LL DEAL WITH THAT AT LUNCH TIME. ALL
11 RIGHT. EVERYBODY READY TO GO.

12 (WHEREUPON, LEVENSON'S EXHIBIT NO. 2 WAS MARKED FOR
13 IDENTIFICATION ONLY.)

14 MR. LEVENSON: I'M MARKING THE DOCUMENT LEVENSON 2.

15 Q MRS. POPE, IS THAT THE DOCUMENT THAT WE WERE JUST
16 DISCUSSING?

17 MR. BAILEY: I'M SORRY. WHAT WAS THAT NUMBER?

18 MR. LEVENSON: LEVENSON 2. THAT'S WHAT THE COURT
19 REPORTER MARKED IT AT.

20 A THAT IS ONE, I BELIEVE, OF TWO DOCUMENTS --

21 Q MRS. POPE, MY QUESTION IS --

22 THE COURT: MR. LEVENSON, NOW WAIT A MINUTE. WAIT A
23 MINUTE. PLEASE DON'T INTERRUPT HER.

24 MR. LEVENSON: VERY WELL, YOUR HONOR. I WILL NOT
25 INTERRUPT HER, BUT I WILL OBJECT TO THE RESPONSES OF THE

1 ANSWER.

2 THE COURT: WELL, YOU ASKED THE QUESTION. SHE'S
3 ANSWERING IT AS BEST SHE CAN.

4 THE WITNESS: THIS IS THE DOCUMENT DATED DECEMBER 28,
5 2006. IT IS A DOCUMENT THAT APPEARS TO BE SIGNED BY
6 DEANNA BROWN, ALBERT THOMAS -- I MEAN, ALBERT DALLAS, AND
7 DAVID CANNON.

8 Q IS THAT --

9 A YOUR QUESTION IS THAT WHAT YOU AND I WERE TALKING
10 ABOUT?

11 Q THAT IS THE QUESTION. IS THAT THE DOCUMENT TO WHICH
12 YOU AND I REFERRED MOMENTS AGO WHEN THE JUDGE ASKED ME TO
13 LOCATE THE DOCUMENT?

14 A I BELIEVE SO. I AM HESITATING BECAUSE THERE IS
15 ANOTHER DOCUMENT --

16 Q WE'RE NOT TALKING ABOUT --

17 A -- THAT RELATES TO YAMMA THE SAME DAY.

18 Q BUT WE'RE NOT TALKING ABOUT ANOTHER DOCUMENT --

19 A BUT YOU JUST TOLD ME --

20 Q WE'RE TALKING ABOUT THAT DOCUMENT.

21 A SURE.

22 THE COURT: ALL RIGHT. GENTLEMEN, MR. LEVENSON --

23 MR. LEVENSON: WELL, JUDGE --

24 THE COURT: LISTEN TO ME. VERY SIMPLE --

25 MR. LEVENSON: YES, SIR.

1 THE COURT: -- DIRECTION. WHEN SHE'S TALKING, PLEASE
2 DON'T INTERRUPT HER.

3 THE WITNESS: RIGHT.

4 MR. LEVENSON: YES, SIR.

5 THE COURT: WHEN HE'S TALKING DON'T INTERRUPT HIM.
6 WHEN I'M TALKING DON'T INTERRUPT ME.

7 MR. ROSEN: EVERYBODY KNOWS THAT, YOUR HONOR.

8 THE COURT: WELL, APPARENTLY, THEY DON'T. I MEAN,
9 I'M TRYING. DON'T MAKE ME FUSS. PLEASE.

10 Q DO WE UNDERSTAND WHAT WE'RE TALKING ABOUT? NOT ANY
11 OTHER DOCUMENT OTHER THAN THE DOCUMENT THAT YOU HAVE IN
12 FRONT OF YOU MARKED LEVENSON 2.

13 A YES.

14 Q CAN WE CONFINE OUR QUESTION AND ANSWER TO THAT
15 DOCUMENT?

16 A I CAN CONFINE MY ANSWERS --

17 Q YES, MA'AM. NOW --

18 A -- IF YOU'LL CONFINE YOUR QUESTIONS.

19 Q -- WITH RESPECT TO THAT DOCUMENT CAN YOU READ FOR US,
20 PLEASE, THE REFERENCE TO THE FAILURE OF QUALIFICATION OF
21 JUDGE BRADLEY AS THE TRUSTEE?

22 A I CAN. THE DOCUMENT SAYS IT HAVING COME TO THE
23 ATTENTION OF THE TRUSTEES THAT ALFRED BRADLEY NAMED
24 TRUSTEE IRREVOCABLE TRUST AGREEMENT OF JAMES BROWN DATED
25 AUGUST 01, 2000 HAS FAILED TO QUALIFY AND ACCEPT

1 RESPONSIBILITY AS TRUSTEE BY UNANIMOUS AGREEMENT OF THE
2 OTHER TWO NAMED TRUSTEES, ALBERT H. DALLAS AND DAVID G.
3 CANNON, DEANNA BROWN ISSUE BY APPOINTED TRUSTEE TO SERVE
4 IN LIEU OF THE NAMED ALFRED A. BRADLEY WITH ALL RIGHTS AND
5 OBLIGATIONS AS TRUSTEE AS IF ORIGINALLY NAMED BY GRANTOR
6 JAMES BROWN BY SIGNATURE ATTACHED BELOW. THE UNDERSIGNED
7 DEANNA BROWN ACCEPTS THE RESPONSIBILITY AND DUTIES OF
8 TRUSTEE IRREVOCABLE TRUST OF JAMES BROWN DATED AUGUST 1,
9 2000, THIS 28TH DAY OF SEPTEMBER 2006.

10 Q THANK YOU. NOW, DO YOU AGREE OR DISAGREE THAT THE
11 TRUST DATED AUGUST 1, 2000 -- THE PURPORTED TRUST REQUIRED
12 PARTICIPATION BY ALL THREE TRUSTEES AS TO ALL MATTERS?

13 A NO.

14 Q DO YOU BELIEVE THAT THERE IS AN ARGUMENT THAT COULD
15 HAVE BEEN MADE BY A PERSON THAT THAT WAS A REASONABLE
16 INTERPRETATION OF THAT TRUST?

17 A NO.

18 Q OKAY. DO YOU BELIEVE THEN THAT A PERSON SUCH AS MY
19 CLIENT OR ANY ONE OF THEM COULD HAVE ARGUED THAT THERE WAS
20 A FACTUAL BASIS TO BELIEVE THAT THE TRUST HAD NOT BEEN
21 PLACED BEYOND THE POINT OF CHALLENGE WHEN FOR SIX-PLUS
22 YEARS ALL THREE TRUSTEES HAD NOT BEEN QUALIFIED OR
23 ACCEPTED THE RESPONSIBILITIES OF THE TRUSTEE?

24 A WELL, I DISAGREE WITH A FACT -- SOME FACTS THAT
25 YOU'VE PUT INTO YOUR QUESTION. WOULD YOU LIKE FOR ME TO

1 TELL YOU WHAT THEY ARE?

2 Q IF YOU'RE ASKING ME WHETHER I WOULD LIKE YOU TO THE
3 ANSWER IS NO. OKAY. I WOULD LIKE YOU TO ANSWER MY
4 QUESTION IF YOU CAN.

5 A I CAN'T REMEMBER.

6 Q VERY WELL.

7 A I DON'T AGREE WITH YOUR QUESTION.

8 Q VERY WELL.

9 A BUT I CAN TELL YOU WHY --

10 THE COURT: NO, MA'AM. IF YOU DON'T AGREE, YOU DON'T
11 AGREE. I DON'T KNOW HOW YOU CAN TELL WHAT SOMEBODY ELSE
12 WAS THINKING OR WHAT THEY COULD FEEL.

13 Q MRS. POPE, YOU INDICATED EARLIER IN YOUR EXAMINATION
14 THIS WHOLE PROCESS IS SUCH AN ABUSE OF JAMES BROWN.

15 A YES.

16 Q OKAY. WHO ARE THE ABUSERS?

17 A IT'S THE PROCESS THAT HAS DENIED MR. BROWN THE RIGHT
18 AND RESPECT THAT THE LAW OF SOUTH CAROLINA ACCORDS A
19 COMPETENT TESTATOR AND I THINK THE BEST WAY TO DESCRIBE IT
20 IS TO LOOK AT THE SUCCESSIVE RUSSELL VERSUS WACHOVIA CASES
21 TO SEE HOW IMPORTANT IT IS TO GRANT RESPECT TO COMPETENT
22 TESTATORS, AND MR. BROWN WAS ALL ABOUT RESPECT AND THAT'S
23 ALL I WANT FOR HIM.

24 Q SO, THE ANSWER TO MY QUESTION IS YOU CANNOT IDENTIFY
25 FOR US TODAY THE NAMES OR THE GENERAL DESCRIPTION OF THE

1 ABUSERS? THAT'S MY QUESTION.

2 A I DON'T --

3 Q CAN YOU DO THAT AS A YES OR NO? CAN YOU DO THAT?

4 A YES, BUT I DON'T THINK THE TERM ABUSER WOULD APPLY TO
5 ANY INDIVIDUAL. I THINK IT IS THE COMBINATION OF THE
6 PROCESS AND THE ACTIONS THAT HAVE RESULTED IN THE ABUSE,
7 NOT THAT A PERSON WOULD BE DESCRIBED AS AN INDIVIDUAL
8 ABUSER.

9 Q ARE YOU SUGGESTING THAT THE PROCESS BY WHICH THIS
10 COURT HAS MANAGED THE ISSUES OF THE ESTATE AND TRUST OF
11 JAMES BROWN HAVE ABUSED JAMES BROWN?

12 A THE -- WITH RESPECT TO --

13 MR. LEVENSON: YOUR HONOR, THAT IS, RESPECTFULLY, A
14 YES OR NO ANSWER FROM WHICH AN EXPLANATION COULD FOLLOW.

15 THE COURT: SHE CAN ANSWER IT HOWEVER SHE WANTS TO.

16 THE WITNESS: IN PART. IN PART.

17 Q PLEASE EXPLAIN IF YOU WISH, MRS. POPE.

18 A I BELIEVE THAT THIS PARTICULAR CASE, MCMASTER VERSUS
19 DALLAS, IS A TERRIBLE PROBLEM. IT'S A DUE PROCESS
20 PROBLEM. IT IS A JURISDICTIONAL PROBLEM. BOB BUCHANAN IS
21 IN FEDERAL COURT TODAY AND NOT HERE TO DEFEND JAMES BROWN
22 BECAUSE NO ONE -- BECAUSE WE WERE UNABLE TO HAVE PROPER
23 NOTICE OR A DAY WHEN HE COULD BE HERE. SO, I THINK THIS
24 PARTICULAR PROCEEDING, MCMASTER VERSUS DALLAS, HAS BEEN
25 CONDUCTED IN A WAY THAT ABUSES THE RESPECT TO WHICH JAMES

1 BROWN SHOULD BE -- THAT SHOULD BE ACCORDED TO JAMES BROWN.

2 I DO NOT SAY THAT IT'S ANYONE IN PARTICULAR. IT'S
3 THE WHOLE PROCESS HAS RESULTED IN A TERRIBLE ABUSE OF
4 JAMES BROWN.

5 Q WELL, I AM NOT RUNNING THIS PROCESS, AM I?

6 A IN PART YOU ARE, MR. LEVENSON. IN LARGE PART.

7 Q WELL, LAY IT ON ME. TELL ME HOW I'VE ABUSED THE
8 PROCESS, MRS. POPE.

9 A I REALLY DON'T -- BY ATTACKING MR. BUCHANAN AND ME AT
10 EVERY TURN IN ORDER TO ACHIEVE A RESULT WHICH IS TO RUN US
11 OFF AND PREVENT US FROM DEFENDING MR. BROWN'S ESTATE
12 PLAN --

13 Q ALL RIGHT, MRS. POPE.

14 A -- WHICH WE HAVE A STATUTORY AND LEGAL AND UNDER THE
15 DOCUMENTS MANDATE TO DO. TO EQUATE, MR. LEVENSON, WITH
16 DISCREDITING AND DENIGRATING ME WITH FAILING TO PROPER --
17 I MEAN, SOLELY FOR THE PURPOSE OF ACHIEVING A RESULT WHICH
18 IS TO ACQUIRE FOR YOUR CLIENTS ASSETS TO WHICH WE FIRMLY
19 BELIEVE THEY ARE NOT ENTITLED.

20 Q VERY WELL. MRS. POPE -- AND SINCE THE QUESTION HAS
21 NOW TURNED TO MY ROLE AS AN ABUSER OF THE PROCESS, DO YOU
22 RECALL A CONVERSATION ON OR ABOUT CHRISTMAS EVE OF 2007
23 THAT YOU MADE TO ME PERSONALLY?

24 A I CERTAINLY -- I CAN'T RECALL THE DETAILS, BUT I
25 DEFINITELY REMEMBER THAT DAY. YOU AND I WERE THE ONLY

1 PEOPLE WORKING.

2 Q AND DO YOU REMEMBER THAT THE SUBSTANCE OF THE
3 CONVERSATION WAS THAT STAN JACKSON, FORMER COUNSEL FOR
4 DALLAS AND BRADLEY, HAD EITHER REFUSED OR HAD RECENTLY
5 RELENTED TO PROVIDING A COPY OF THE 1999 WILL AND TRUST?

6 A I DO.

7 Q AND DO YOU REMEMBER A CONVERSATION IN WHICH I SAID TO
8 YOU, MRS. POPE, DUE TO THE SHORTNESS OF TIME AND THE
9 MOMENTARY EXPIRATION OF THE STATUTE OF LIMITATIONS WE WERE
10 GOING TO HAVE TO FILE A --

11 A I DEFINITELY REMEMBER.

12 Q -- WILL AND TRUST CONTEST?

13 A I DEFINITELY REMEMBER THAT AND IT WAS CLEAR TO ME
14 THAT IF YOU HAD FILED SOLELY TO PROTECT THE STATUTE AND
15 HAD NOT PROCEEDED AFTER THAT AND HAD TIME TO LOOK AT IT
16 AND UNDERSTAND A LITTLE BIT, I WOULD HAVE BEEN -- BOB AND
17 I, I BELIEVE, WOULD HAVE NOT WANTED TO ENFORCE THE IN
18 TERRORUM CLAUSE. IT'S CONTINUING AND THE RUSSELL VERSUS
19 WACHOVIA CASE SPEAKS TO THAT. IT'S CONTINUING AFTER YOU
20 REALIZED YOU SHOULDN'T HAVE. IF YOU FILED IT SOLELY TO
21 PROTECT THE RIGHTS OF YOUR CLIENT, WE WOULDN'T BE HERE
22 WITH A PROBLEM A YEAR AND A HALF OR A YEAR AND TWO MONTHS
23 LATER. I UNDERSTAND. WE DID HAVE THAT CONVERSATION.

24 Q BUT THAT ACT OF FILING THE PLEADINGS TO SOME EXTENT
25 BROUGHT US HERE WAS NOT TO YOUR VIEW AN ABUSE OF THE

1 PROCESS.

2 A BECAUSE IT WAS SOLELY FOR THE PURPOSE OF PROTECTING
3 THE STATUTE OF LIMITATIONS TO GIVE YOU TIME TO DETERMINE
4 IF THERE WAS PROBABLE CAUSE. IF YOU HAD STOPPED IN
5 JANUARY OF 2008, I WOULD HAVE SAID ABSOLUTELY NO, NO,
6 DON'T TRY TO ENFORCE THE IN TERROREM CLAUSE; THAT THEY HAD
7 TO FILE TO PROTECT THEMSELVES BECAUSE MR. JACKSON HAD NOT
8 PRODUCED THOSE DOCUMENTS.

9 Q HOW DO YOU --

10 A I UNDERSTOOD THAT ISSUE AT THE TIME.

11 Q HOW DO YOU CONSTRUE THAT PLEADING AND THE ACTIONS
12 TAKEN SUBSEQUENT TO BRING EVIDENCE TO THE COURT OF A BASIS
13 FOR THE WILL AND TRUST CONTEST? HOW DO YOU CONSTRUE THAT
14 TO BE AN ATTACK ON YOU AND MR. BUCHANAN?

15 A WELL, THE ATTACKS ON MR. BUCHANAN ON ME DIDN'T START
16 UNTIL AFTER AUGUST 10 BY YOU. YOU NEVER ATTACKED ME
17 BEFORE AUGUST 10 OF 2008. YOU BEGAN AFTER THE SETTLEMENT.

18 Q SO, TO THE EXTENT THAT I'M AN ABUSER OF THE PROCESS,
19 WHAT DID I ON BEHALF OF MY CLIENTS DO AFTER WE FORMED A
20 SETTLEMENT AGREEMENT WHICH IS BEFORE THE COURT TODAY --
21 WHAT DID I DO TO ABUSE THE PROCESS?

22 A I WOULD NOT LIKE TO CALL YOU AN ABUSER. YOU CALLED
23 MY LAWYER THE OTHER NIGHT AND SAID IT WAS GOING TO GET
24 NASTY IN HERE IF I DIDN'T GET OUT OF HERE -- IF I DIDN'T
25 RESIGN. THAT'S ONE OF THE THINGS. NOT MY LAWYER SITTING

1 HERE, BUT MY LAWYER IN ANOTHER CASE.

2 MR. LEVENSON: JUDGE, MRS. POPE --

3 THE COURT: ALL RIGHT. LET'S TAKE A BREAK. LET ME
4 SEE THE LAWYERS IN CHAMBERS.

5 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

6 THE COURT: MRS. POPE, I AM GOING TO ASK YOU TO STEP
7 DOWN FOR ME. ALL RIGHT. LET THE RECORD REFLECT THAT WE
8 HAD AN IN-CHAMBERS DISCUSSION AS WE TOOK THE LUNCH BREAK
9 CONCERNING LOGISTICS, AND WE'RE GOING TO NOW LET MRS. POPE
10 STAND DOWN AND OVER THE EVENING THERE ARE SOME
11 STIPULATIONS THAT HAVE BEEN PRESENTED TO EACH SIDE AND
12 THEY'RE GOING TO CONSIDER THOSE OVER THE EVENING AND
13 DEPENDING ON WHAT WE DO WITH THOSE WILL DEPEND ON WHAT THE
14 TESTIMONY WILL BE TOMORROW, BUT WITH THAT SAID WE'RE NOW
15 GOING TO CALL ANY OTHER WITNESSES THAT YOU MAY NEED TO
16 CALL AND OR PUT ANY -- OR OFFER ANY EVIDENCE THAT YOU MAY
17 WANT TO OFFER.

18 MR. MEDLIN: YOUR HONOR, IF I MAY, WITH YOUR
19 PERMISSION MAY I HAND OUT THE COPIES OF THE PROPOSED
20 STIPULATION SO THAT THE LAWYERS WILL HAVE A CHANCE TO LOOK
21 AT IT?

22 THE COURT: CERTAINLY.

23 MR. MEDLIN: THERE ARE ACTUALLY TWO SEPARATE
24 STIPULATIONS.

25 THE COURT: AND FOR THE RECORD SINCE MRS. POPE IS IN

1 THE MIDDLE OF HER EXAMINATION, UNLESS ANYBODY HAS ANY
2 OPPOSITION TO THIS -- IF YOU DO, LET ME HEAR IT, BUT I
3 HAVE GIVEN HER PERMISSION AND GIVEN HER LAWYERS PERMISSION
4 TO TALK WITH HER CONCERNING THE STIPULATION AND WITH
5 MR. BUCHANAN AND ALSO WITH HER IN REGARDS TO PREPARING FOR
6 ANY POTENTIAL WITNESSES FOR TOMORROW WITH INSTRUCTIONS NOT
7 TO DISCUSS HER TESTIMONY.

8 ANYBODY HAVE ANY PROBLEM WITH THAT, PLEASE ADVISE THE
9 COURT.

10 IS THAT CORRECT, MR. BAILEY? THOSE ARE THE TWO AREAS
11 YOU WANTED TO BE ABLE TO TALK TO HER ABOUT.

12 MS. HAYES: YOUR HONOR, MAY WE CONFER WITH MRS. POPE?
13 THANK YOU.

14 (WHEREUPON, THE ATTORNEY CONFERRED WITH THE CLIENT.)

15 MS. HAYES: YOUR HONOR, JUST BECAUSE MR. BUCHANAN IS
16 NOT HERE, THAT'S ANOTHER CONCERN. WE ASK THAT SHE BE
17 RELEASED FROM CROSS EXAMINATION OR THAT CROSS EXAMINATION
18 CONTINUE AND BE CEASED AND THEN WE'RE GOING TO CALL HER IN
19 OUR CASE AS OUR WITNESS.

20 THE COURT: WELL, YOU CAN CALL HER IN YOUR CASE, BUT
21 I CAN'T RELEASE HER FROM CROSS EXAMINATION. SHE CAN
22 DISCUSS THE STIPULATION. SHE CAN DISCUSS PREPARING FOR
23 OTHER WITNESSES TOMORROW.

24 MS. HAYES: WE ALSO HAVEN'T MET -- WE'RE NOT SURE
25 WHICH WITNESS IS COMING UP NEXT, BUT WE HAVEN'T BEEN ABLE

1 TO CONSULT WITH HER ABOUT ANY OF THESE MATTERS.

2 THE COURT: WELL, ANY WITNESSES.

3 MS. HAYES: WE JUST -- I GUESS WE HAVE AN OBJECTION

4 TO GOING FORWARD WITH NEW WITNESSES WHILE HER TESTIMONY IS

5 HELD IN ABEYANCE BECAUSE WE NEED TO CONSULT ABOUT ALL OF

6 THAT, YOUR HONOR.

7 THE COURT: WELL, MA'AM, I AM TRYING TO DO Y'ALL A

8 FAVOR. I CAN CALL HER BACK UP HERE AND WE CAN KEEP GOING.

9 YOU AND MR. BAILEY STEP IN THERE AND Y'ALL DECIDE WHICH

10 WAY YOU WANT TO DO IT.

11 MS. HAYES: THANK YOU, YOUR HONOR.

12 THE COURT: AND WITH MRS. POPE.

13 MS. HAYES: THANK YOU, YOUR HONOR. AND JUST FOR THE

14 RECORD, WE WEREN'T ABLE TO TALK WITH HER DURING LUNCH. SO

15 WE JUST WANT TO UPDATE HER. THANK YOU.

16 THE COURT: I AM NOT FUSSING. DON'T TAKE MY TONE AS

17 FUSSING.

18 (WHEREUPON, A BREAK WAS TAKEN.)

19 MR. BAILEY: YOUR HONOR, WE AGREED THAT MRS. POPE

20 SHOULD CONTINUE TO TESTIFY.

21 THE COURT: THANK YOU. COME ON BACK UP, MRS. POPE.

22 THE COURT: MR. LEVENSON?

23 MR. LEVENSON: THANK YOU, JUDGE.

24 CONTINUED CROSS-EXAMINATION

25 BY MR. LEVENSON:

1 Q MRS. POPE, DO YOU AGREE THAT THERE ARE FACTS THAT
2 COULD BE PRESENTED AT A TRIAL TO THE FINDER OF FACT THAT
3 WOULD RESULT IN THE ATTORNEY GENERAL RECEIVING ALL OF THE
4 BENEFITS FROM THE ESTATE AND TRUST MEANING THE CHARITABLE
5 TRUST?

6 A NO.

7 Q OKAY. ARE THERE FACTS WHICH EXIST THAT WOULD ALLOW A
8 FINDER OF FACT TO BELIEVE THAT THE TRUST SHOULD BE SET
9 ASIDE SUCH THAT A COMPLETE INTESTACY SHOULD BE GRANTED?

10 A I DON'T BELIEVE SO.

11 Q THERE ARE NO SET OF FACTS WHICH WOULD ALLOW A FINDER
12 OF FACT OR A JURY TO MAKE THAT DETERMINATION; IS THAT YOUR
13 VIEW?

14 A I DON'T BELIEVE THAT IT WILL MAKE IT TO A JURY.

15 Q SO, YOU BELIEVE THAT IT WOULD BE ADJUDICATED AS A
16 MATTER OF LAW?

17 A LARGELY AFTER DISCOVERY.

18 Q WELL, TO THE EXTENT THAT THERE IS DISCOVERY THAT
19 NEEDS TO BE DONE TO GET IT TO THE JUDGE TO DECIDE AS A
20 MATTER OF LAW, WOULDN'T THAT SUGGEST THERE ARE SOME FACTS
21 OUT THERE WHICH MIGHT WEIGH IN FAVOR OF SUCH AN
22 ADJUDICATION THAT WOULD RESULT IN ALL OF THE ESTATE GOING
23 TO THE HEIRS?

24 A I DO NOT BELIEVE SO.

25 Q WELL, TELL ME WHY YOU BELIEVE THAT TO BE TRUE.

1 A BECAUSE --

2 Q WHAT FACTS DO YOU KNOW PERSONALLY?

3 A WELL, I BELIEVE THAT THERE ARE SOME SERIOUS LEGAL
4 ISSUES THAT NEED -- THAT COULD BE DECIDED AS EARLY AS NOW,
5 AND WE'VE ASKED THE COURT TO DECIDE THEM, AND THOSE
6 INCLUDE THE STATUTES OF LIMITATIONS TO CONTEST THE TRUST,
7 AND I JUST FIRMLY BELIEVE -- AND WE HAVEN'T PUT THAT
8 EXHIBIT INTO EVIDENCE, BUT THAT THERE IS NO REASONABLE
9 BASIS FOR CONTESTING THE VALIDITY OF THE 2000 TRUST.
10 THEREFORE, I DON'T -- WITH THAT IN MIND I DON'T SEE ANY
11 POSSIBILITY THAT IT WOULD ALL BE LOST OR THAT IT WOULD GET
12 TO A JURY.

13 THE OTHER VERY IMPORTANT THING IS THAT I DON'T
14 BELIEVE THAT THE HEIRS ARE PROPERLY JOINED, AND I DON'T
15 BELIEVE WE EVEN KNOW WHO THEY ARE, AND THAT'S CRITICAL TO
16 PROCEEDING, AND I THINK THAT CAN BE DETERMINED AS A MATTER
17 OF LAW WHO HAS THE RIGHT TO PROCEED. THAT WOULD BE A VERY
18 EASY PROCEDURE. THAT WOULD -- AND THEN AFTER THAT I THINK
19 A HEARING ON PROBABLE CAUSE WHICH WE, BY THE WAY, FILED ON
20 NOVEMBER 27, 2007 WE FILED AN ACTION ASKING THAT THERE BE
21 A DETERMINATION THAT THERE IS NO PROBABLE CAUSE. I THINK
22 THAT WOULD -- THOSE THREE STEPS WOULD MAKE IT VERY -- NOT
23 ONLY UNLIKELY, BUT IN MY OPINION IT WOULDN'T HAPPEN THAT
24 IT WOULD EVER MAKE IT TO A JURY.

25 ALSO, THE QUESTION OF LUKICH. I CAN'T -- I'M NOT THE

1 SUPREME COURT, BUT THAT IS A CRITICAL MATTER. THAT COULD
2 PREVENT EVER GETTING TO DISCOVERY, MUCH LESS SUMMARY
3 JUDGMENT STAGE. SO, NO, I DON'T -- I DON'T THINK THERE IS
4 ANY POSSIBILITY THAT IT WILL ALL BE SET ASIDE.

5 Q DO YOU RECALL PROFESSOR MEDLIN READING TO YOU FROM
6 YOUR OWN SUMMARY JUDGMENT FILED JANUARY 20, 2009 IN WHICH
7 YOU INDICATED THERE WERE MATERIAL FACTS IN DISPUTE?

8 A I THINK IF YOU READ THE WHOLE DOCUMENT YOU WOULD
9 UNDERSTAND THAT WE DO NOT BELIEVE THAT -- WE BELIEVE -- IT
10 NEEDS TO BE READ WITH OUR MOTION TO DISMISS WHICH SHOULD
11 HAVE BEEN HEARD LONG BEFORE THE MOTION FOR SUMMARY
12 JUDGMENT, AND THE MOTION TO DISMISS SAYS THAT MS. HYNIE
13 BROWN IS NOT A PROPER PARTY; THAT THE CHILDREN ARE NOT THE
14 HEIRS AS THEY ASSERT; AND, SO, THAT SUMMARY JUDGMENT IS
15 JUST A BACKUP DOCUMENT IF THE COURT DOES NOT GRANT OUR
16 MOTIONS TO DISMISS WHICH THE COURT SO FAR AS REFUSED TO
17 HEAR. WE DON'T BELIEVE WE'RE GOING TO GET TO THE SUMMARY
18 JUDGMENT ON A NUMBER OF THEM, BUT I CAN'T PREDICT WHAT THE
19 COURT WILL DO.

20 AGAIN, THE SUMMARY JUDGMENT WAS A BACKUP DOCUMENT
21 BECAUSE -- I MEAN, WE WOULD NEVER NORMALLY HAVE FILED A
22 SUMMARY JUDGMENT EVEN BEFORE THE PARTIES WERE SERVED AND
23 PROPERLY JOINED, BUT THE -- THE OUT-OF-CONTROL PRESSURE
24 UNDER THIS -- WHAT'S BEEN HAPPENING IN THIS CASE -- HAS
25 MADE IT NECESSARY FOR US TO DO WHATEVER WAS NECESSARY TO

1 PROTECT THE INTEREST OF MR. BROWN'S ESTATE PLAN. WE KNOW
2 UNDER SOUTH CAROLINA LAW THAT THAT SUMMARY JUDGMENT CANNOT
3 BE HEARD UNTIL AFTER DISCOVERY, BUT WE BELIEVE THAT THE
4 SAME THINGS RAISED IN THE SUMMARY JUDGMENT SHOULD HAVE
5 BEEN HEARD ON THE MOTION TO DISMISS.

6 Q LET ME ASK MY QUESTION MORE PRECISELY, IF I CAN.
7 WITH RESPECT TO THE SETTLEMENT WHEN YOU SAY IN THIS
8 PLEADING THAT THE SETTLEMENT FINDS AS FACTS NUMEROUS
9 STATEMENTS WHICH ARE EITHER FALSE OR DISPUTED MATERIAL
10 FACTS --

11 A OH, THAT'S TRUE THAT THE SETTLEMENT DOES THAT, BUT
12 THAT'S DIFFERENT FROM SUMMARY JUDGMENT. IF YOU LOOK UP AT
13 THE TOP, I BELIEVE -- I'LL BE SURPRISED IF IT DOESN'T SAY
14 THAT THIS MOTION FOR SUMMARY JUDGMENT IS MADE SUBJECT TO
15 AND RESERVING AND WITHOUT WAIVING ALL OF OUR OTHER
16 OBJECTIONS INCLUDING THAT THE COURT SHOULD HAVE HEARD OUR
17 MOTION TO DISMISS BEFORE WE EVEN HAD TO PUT IN AN ANSWER,
18 BUT BECAUSE OF THE STEAM-ROLLING SORT OF PROCESS THAT HAS
19 TAKEN PLACE INCLUDING THE LATEST MOTION NOT EVEN SERVED ON
20 US BECAUSE WE WERE TOLD WE WERE INTENTIONALLY NOT SERVED
21 BECAUSE WE WERE NOT PARTIES, THAT KIND OF STEAM ROLLING
22 HAS REQUIRED US IN ORDER TO PROTECT THE INTEREST OF
23 MR. BROWN TO FILE EVERYTHING BECAUSE WE CAN'T TELL WHAT'S
24 GOING TO HAPPEN.

25 Q FOR THE SAKE OF THIS RECORD, MRS. POPE, THIS

1 REFERENCE TO DISPUTED MATERIAL FACTS RELATES TO THE
2 MATTERS INCLUDED IN THE PROPOSED SETTLEMENT AGREEMENT;
3 TRUE OR FALSE?

4 A FALSE IN THE DOCUMENT IN ITS ENTIRETY. IF I COULD
5 HAVE THE DOCUMENT I COULD EXPLAIN TO YOU WHY IT'S FALSE.

6 THE COURT: LET HER SEE IT, PLEASE.

7 Q IF YOU WOULD, OKAY. GO RIGHT AHEAD. I'M SORRY.

8 THE COURT: PLEASE DESCRIBE THE DOCUMENT.

9 MR. LEVENSON: YOUR HONOR, THIS --

10 THE WITNESS: THIS IS OUR MOTION FOR PARTIAL SUMMARY
11 JUDGMENT.

12 THE COURT: DATED?

13 THE WITNESS: DATED JANUARY 20, 2009. THIS MOTION AT
14 ITS BEGINNING IS MADE SUBJECT TO AND AFTER ALL PENDING
15 MOTIONS AND DEMANDS FOR DISMISSAL, STAY, RECUSAL, OR OTHER
16 RELIEF PREVIOUSLY FILED SOME OF WHICH ARE OUTLINED BELOW
17 AND THEN WE SPECIFICALLY OUTLINED THE PROBLEM THAT WE HAVE
18 AND WE KNEW WHEN THIS WAS FILED THAT SUMMARY JUDGMENT IS
19 INAPPROPRIATE UNTIL THE END OF DISCOVERY, BUT BY
20 JANUARY 20 IT HAD BECOME ABUNDANTLY CLEAR THAT OUR MOTIONS
21 TO DISMISS WERE NOT GOING TO BE HEARD. OUR MOTIONS TO
22 STAY WERE NOT GOING TO BE HEARD. OUR MOTIONS TO ADD
23 PROPER PARTIES WERE NOT GOING TO BE HEARD, AND, SO, WE
24 FELT THAT WE HAD TO GET IN THE RECORD WHATEVER WAS
25 NECESSARY TO PROTECT THE INTEREST OF MR. BROWN'S ESTATE

1 PLAN AND THAT -- AND AMONG THAT THOSE THINGS, WE ASKED
2 CRITICAL IMPORTANT QUESTIONS THAT THE COURT -- AND WE SAID
3 THAT THE COURT LACKS JURISDICTION TO HEAR OR APPROVE A
4 SETTLEMENT WHICH RELATES TO THE ESTATE AND TRUST WHICH AS
5 HERE -- AND IT GOES ON TO SAY ALL SORTS OF LEGAL QUESTIONS
6 THAT WE THINK RELATE TO THE LEGALITY OF THE SETTLEMENT
7 THAT THE COURT CAN DETERMINE AHEAD OF TIME, AND THEN WE
8 PUT THAT THIS MOTION IS MADE SUBJECT TO ALL PRIOR MOTIONS.
9 IT'S MADE SUBJECT TO OUR MOTION TO INTERVENE AND DISMISS.
10 AS YOU'LL RECALL WE WERE ORIGINALLY NOT EVEN MADE PARTIES
11 TO THIS LAWSUIT. IT'S SUBJECT TO OUR MOTION TO DISMISS
12 TOMI RAE HYNIE AS A PARTY DATED 11/24/08. IT'S MADE
13 SUBJECT TO A MOTION OF MR. CANNON ABOUT THE ATTORNEY
14 GENERAL WHICH WE DON'T SUPPORT BUT MADE SUBJECT TO THAT.
15 IT'S MADE SUBJECT TO MR. CANNON'S MOTION TO RECUSE WHICH
16 HAS NOW BEEN RESOLVED. IT'S MADE SUBJECT TO OUR MOTION TO
17 DISMISS DATED DECEMBER 19, 2008. IT'S MADE SUBJECT TO OUR
18 MOTION TO DISMISS INDIVIDUAL PARTIES. IT'S MADE SUBJECT
19 TO OUR MOTION TO REALIGN AND FOR PARTIAL SUMMARY JUDGMENT
20 AND FOR MEDIATION AFTER PROPER JOINDER OF PARTIES AND
21 DISCOVERY WHICH WAS DATED JANUARY 9, 2009, ELEVEN DAYS
22 BEFORE THIS DOCUMENT.

23 WE DID WHAT WAS NECESSARY BECAUSE NONE OF THESE --
24 NONE OF THESE THINGS WHICH IN THE NORMAL COURSE WOULD HAVE
25 BEEN HEARD LONG BEFORE, LONG BEFORE WE WOULD GET TO THE

1 MERITS. WE ALSO FILED A SUMMARY JUDGMENT BECAUSE WE
2 BELIEVE THAT AFTER DISCOVERY IF ALL OF THESE PARTIES
3 AREN'T ALREADY DISMISSED BEFORE AND THE IN TERROREM CLAUSE
4 IS NOT APPLIED, THEN MAYBE. SO, I THINK IF YOU LOCK AT
5 THE DOCUMENT AT A WHOLE -- AS A WHOLE, YOU CAN SEE THAT WE
6 KNOW THAT THERE ARE THINGS THAT THAT STATEMENT -- I MEAN,
7 THAT AGREEMENT SAYS THAT ARE -- THAT THEY'RE MATERIAL
8 STATEMENTS THAT WE THINK ARE WRONG -- DEAD WRONG -- BUT
9 THAT'S WAY AFTER EVERYTHING ELSE THAT WE HAVE TRIED TO
10 SEEK TO GET THE ATTENTION OF THE COURT TO GET THE PARTIES
11 TOGETHER BEFORE WE PROCEED.

12 Q DO YOU AS A PRACTITIONER OVER 35 YEARS AS YOU'VE
13 MENTIONED NUMEROUS TIMES, DON'T YOU THINK IT WOULD BE
14 DIFFICULT FOR YOU TO ARGUE TO THE COURT IN A SUMMARY
15 JUDGMENT PROCEEDING THAT THERE ARE NO FACTS IN DISPUTE
16 WHEN YOUR OWN PLEADING SAYS THERE ARE MATERIAL FACTS IN
17 DISPUTE RELATED TO THIS SETTLEMENT?

18 A I DO NOT BECAUSE I BELIEVE BEFORE WE GET TO SUMMARY
19 JUDGMENT THERE WILL BE SO MANY PARTIES DISMISSED THAT AND
20 SO MANY FACTS THAT WILL BE AS A MATTER OF LAW THAT THE
21 COURT CAN DECIDE AS A MATTER OF LAW THAT LOOKING AT ALL OF
22 THE MATERIAL FACTS IN THE LIGHT MOST FAVORABLE TO THE
23 NON-MOVING PARTY WE WILL PREVAIL.

24 Q VERY WELL. I'LL MOVE ON. MRS. POPE, CORRECT ME IF I
25 HAVE MISQUOTED YOU. YOU DON'T HAVE TO BE A -- TO BE

1 CREDIBLE, TO BE AN IMPORTANT SOURCE OF INFORMATION,
2 UNQUOTE. DID YOU SAY THAT?

3 A I HAVE SAID THAT.

4 Q IN THIS COURTROOM YESTERDAY, I BELIEVE?

5 A I WOULDN'T BE SURPRISED. I MEAN, I DON'T -- I AM NOT
6 BOTHERED BY THAT, AND, BY THE WAY, THE ATTORNEY GENERAL
7 HAS SAID THAT TO ME A LOT WHEN HE WAS USING AFFIDAVITS OF
8 CANNON -- I MEAN, I'M SORRY, DALLAS AND BRADLEY TO TRY TO
9 GET RID OF US. HE -- THE ATTORNEY GENERAL SPECIFICALLY
10 SAID THAT BECAUSE MR. DALLAS AND MR. HAMMOND AND OTHERS
11 HAD KNOWN JAMES BROWN THAT THEY COULD PROVIDE VALUABLE
12 INFORMATION.

13 MR. ROSEN: YOUR HONOR, THE ANSWER IS NON-RESPONSIVE.

14 THE COURT: MRS. POPE, PLEASE, PLEASE LISTEN TO THE
15 QUESTION AND TRY TO RESPOND TO IT WITHOUT GOING ON AND ON
16 AND ON.

17 THE WITNESS: SORRY.

18 Q REGARDLESS OF WHAT THE ATTORNEY GENERAL'S OFFICE MAY
19 HAVE SAID TO YOU, YOU SAID THAT IN THIS COURT; CORRECT?
20 AND IT IS YOUR TESTIMONY THAT THE JUDGE IS EVALUATING HERE
21 TODAY; CORRECT?

22 A THAT'S CORRECT, AND I DO BELIEVE THAT YOU CAN GET
23 VALUABLE INFORMATION EVEN FROM NON-CREDIBLE PEOPLE. YES,
24 I BELIEVE THAT.

25 Q NOW --

1 A YOU HAVE TO BE CAREFUL, BUT YOU CAN DO IT.

2 Q -- WHAT INFORMATION DID YOU GET FROM MR. CANNON WHO
3 IS PRESENTLY SERVING A TERM IN THE STATE PRISON IN
4 COLUMBIA --

5 THE COURT: NO. HE IS HERE IN AIKEN, I THINK. I
6 DON'T KNOW WHERE HE IS.

7 MR. JONES: AIKEN.

8 MR. LEVENSON: I APOLOGIZE, JUDGE.

9 THE COURT: STRIKE THAT. I DON'T KNOW WHERE HE IS.
10 I KNOW HE REPORTED HERE TO AIKEN.

11 Q I BELIEVE -- WHO IS SERVING A TERM OF IMPRISONMENT
12 FOR A TERM OF SIX MONTHS FOR CONTEMPT OF COURT. WHAT
13 IMPORTANT INFORMATION DID YOU GET FROM MR. CANNON ON WHICH
14 YOU BASE ANY OF THE OPINIONS AS TO THE PROPRIETY OF THE
15 SETTLEMENT AGREEMENT?

16 MR. BAILEY: YOUR HONOR, I OBJECT TO THE QUESTION.
17 THIS HAS BEEN ASKED AND ANSWERED. MR. MEDLIN ASKED,
18 BASICALLY, THE SAME QUESTION. MRS. POPE RESPONDED THAT
19 DOCUMENTS WERE ITEMS THAT SHE RECOVERED THROUGH THIS --

20 THE COURT: SUSTAINED.

21 MR. LEVENSON: VERY WELL.

22 THE COURT: IT HAS. IT'S BEEN EXPLORED THOROUGHLY BY
23 PROFESSOR MEDLIN.

24 Q WHAT INFORMATION DID YOU GET FROM MR. DALLAS WHOSE
25 CREDIBILITY YOU HAVE QUESTIONED IN A NUMBER OF PLEADINGS

1 ON WHICH YOU BASE YOUR TESTIMONY HERE IN THIS COURT?

2 A I HAD A SUSTAINED AND PLEASANT WORKING RELATIONSHIP
3 WITH MR. DALLAS FROM SHORTLY BEFORE AUGUST 10 UNTIL HIS
4 RESIGNATION. I LEARNED MANY, MANY THINGS FROM MR. DALLAS.
5 I ALSO LEARNED SOME THINGS ABOUT MR. DALLAS THAT DID NOT
6 SUIT ME. AMONG OUR LAST CONVERSATIONS WERE MR. DALLAS ON
7 THE EVENING OF NOVEMBER 15 SAYING TO ME YOU'VE GOT TO KEEP
8 SUPPORTING ME AS P.R. AND TRUSTEE TO WHICH I SAID, BUDDY,
9 IT'S NOT WHAT YOU DO WHEN WE'RE TALKING TO EACH OTHER.
10 IT'S WHAT YOU DO WHEN WE'RE NOT TALKING TO EACH OTHER.

11 I LEARNED THOUSANDS OF THINGS FROM MR. DALLAS, AND I
12 PARTICULARLY LEARNED A LOT ABOUT JAMES BROWN. I LEARNED A
13 LOT ABOUT HIS RELATIONSHIP WITH HIS FAMILY. I LEARNED
14 ABOUT THE LAWSUIT THAT THE DAUGHTERS HAD BROUGHT AND HOW
15 MUCH THAT HAD HURT MR. BROWN. I LEARNED THAT -- ABOUT HIS
16 REPEATEDLY SAYING HE DIDN'T WANT HIS FAMILY TO LIVE OFF OF
17 HIS BACK. I LEARNED ABOUT HIS ATTITUDE. I LEARNED ABOUT
18 HIS RELATIONSHIPS.

19 I LEARNED -- I JUST LEARNED A WHOLE BUNCH ABOUT
20 MR. DALLAS, AND, OF COURSE, I LEARNED MORE FROM READING
21 MR. DALLAS' PRONOUNCEMENTS IN THE MEDIA LIKE THE VASECTOMY
22 AND OTHER THINGS, BUT I REALLY LEARNED A BUNDLE ABOUT
23 MR. BROWN AND I, OF COURSE, FILTER WHAT I LEARNED, BUT I
24 HAD SO MANY CONVERSATIONS WITH BUDDY DALLAS WHERE HE HAD
25 NO REASON TO DO ANYTHING OTHER THAN TELL THE TRUTH, AND

1 THEN THERE WERE SOME OTHER ISSUES, OF COURSE. I AM NOT
2 ENDORSING MR. DALLAS, BUT WHAT I AM SAYING IS THAT YOU
3 HAVE TO LEARN FROM PEOPLE WHEN WHAT THEY'RE SAYING -- WHEN
4 THERE IS NOTHING IN IT FOR THEM, IT'S WORTHY OF LISTENING.
5 I'M NOT -- AGAIN, I DO NOT ENDORSE MR. DALLAS, BUT I
6 LEARNED LOADS ABOUT JAMES BROWN FROM MR. DALLAS.

7 Q DO YOU BELIEVE THAT HE IS A RELIABLE SOURCE OF
8 INFORMATION WITH REGARD TO MR. BROWN'S FINANCIAL AFFAIRS?

9 A NO.

10 Q LET ME SHOW YOU YOUR LETTER TO MR. ~BYRD DATED
11 FEBRUARY 25, 2009.

12 I'M GOING TO MARK THIS, PLEASE, TO NUMBER 3 I MAY BE
13 UP TO. I'VE SHOWN THIS TO MS. HAYES, YOUR HONOR.

14 (WHEREUPON, LEVENSON'S EXHIBIT NO. 3 WAS MARKED FOR
15 IDENTIFICATION ONLY.)

16 Q DO YOU RECOGNIZE THAT, MA'AM?

17 A OH, YES. I RECOGNIZE IT.

18 Q WHAT IS IT, PLEASE? WHAT IS IT, PLEASE?

19 A OH, IT IS A LETTER WHICH BOB AND I WROTE IN RESPONSE
20 TO A TELEPHONE CALL FROM MR. ~BYRD IN WHICH HE SAID HIS
21 CLIENTS WANTED TO GET THINGS OVER WITH AND MR. ~BYRD ASKED
22 ME PARTICULARLY BECAUSE MR. ~BYRD IS A TAX LAWYER FROM THE
23 OLD DAYS TO HELP HIM UNDERSTAND WHAT MY YEAR-LONG
24 COMPLAINT HAD BEEN ABOUT THEIR NOT PROVIDING TAX
25 INFORMATION THAT WAS HOLDING UP THE ADMINISTRATION OF THE

1 ESTATE, AND MR. BROWN AND I -- I MEAN, MR.~BYRD AND I HAD
2 A CONVERSATION IN WHICH I TRIED TO EXPLAIN TO HIM HOW
3 CRITICAL IT WAS FOR US TO FIND OUT WHAT THE TRUSTEE'S
4 POSITION WAS ABOUT THESE TAX MATTERS -- NOT BECAUSE WE
5 THOUGHT IT WAS RELIABLE, BUT BECAUSE WE NEEDED IT TO HELP
6 FORM A POSITION, THE SAME AS WE NEED IT FROM HEYWARD
7 CARTER.

8 THESE TAXES ARE OVERDUE, AND MR.~BYRD EXPRESSED A
9 WILLINGNESS TO TRY TO GET THE INFORMATION MUCH OF WHICH
10 RESIDES, I BELIEVE, WITH MR. CANNON, AND I WAS DELIGHTED
11 AS WAS BOB THAT HE WAS EXPRESSING A WILLINGNESS TO BEGIN
12 TO SOLVE -- TO HELP GET US INFORMATION TO SOLVE THESE
13 CRITICAL TAX PROBLEMS.

14 Q WOULD YOU READ FOR -- I WOULD MOVE EXHIBIT NO. 3 INTO
15 EVIDENCE, PLEASE.

16 THE COURT: ANY OBJECTION?

17 MR. BAILEY: NONE, YOUR HONOR.

18 (WHEREUPON, LEVENSON'S EXHIBIT NO. 3 WAS ADMITTED
19 INTO EVIDENCE.)

20 Q NOW THAT IT'S BEEN ADMITTED, MRS. POPE, WOULD YOU
21 READ THE YELLOW HIGHLIGHTED PORTIONS FOR THE COURT?

22 A RIGHT. WE WERE PLEASED WHEN YOU CONTACTED US IN
23 EARLY FEBRUARY FOR WHAT WE UNDERSTOOD TO BE TWO REASONS:
24 TO EXPRESS YOUR CLIENT'S CONCERN OVER THE UNFAIRNESS OF
25 THE SETTLEMENT PROPOSED ON JANUARY 30. PAREN, WE ARE IN

1 FULL AGREEMENT WITH THAT. TWO, TO COMMUNICATE YOUR
2 CLIENT'S WILLINGNESS TO WORK ON TRYING TO STRAIGHTEN OUT
3 THE INCOME TAX MESS WHICH IS MAKING US UNABLE TO FILE 2007
4 RETURNS UNDERLINED WHICH ARE LONG OVERDUE AND WORK WITH
5 THE TAXING AUTHORITIES ON 2006 AND EARLIER YEARS. PAREN,
6 WE HAVE ALSO ASKED THAT THE SETTLING PARTIES WORK WITH US
7 ON THIS, BUT SO FAR THEY HAVE REFUSED.

8 Q VERY WELL. SO, WOULD IT BE FAIR TO SAY, MRS. POPE,
9 THAT YOU ARE URGING MR. BYRD'S CLIENTS MR. DALLAS AND
10 MR. BRADLEY -- NOT MR. CANNON WHO IS NOT A CLIENT OF MR.
11 BYRD'S -- TO HELP YOU FILE FINANCIAL INFORMATION SO THAT
12 YOU CAN FILE THE '06 AND '07 FIDUCIARY INCOME TAX RETURNS?

13 A WELL, NO, WE DID THE '06 BECAUSE IT WAS ONLY 12 DAYS.
14 THAT WASN'T -- I'M SORRY.

15 Q VERY WELL. '07.

16 A SIX DAYS. YES, BECAUSE -- THIS IS LIKE THE FIFTH
17 LETTER THAT WE'VE WRITTEN TRYING TO GET IT. WE'VE BEEN
18 TRYING TO GET IT SINCE A YEAR AGO. WE KEEP WRITING. WE
19 KEEP WRITING EVERYBODY. WE KEEP WRITING MR. CANNON. WE
20 KEEP WRITING MR. DALLAS. WE KEEP WRITING EVERYBODY.
21 WE'VE BEEN TRYING TO GET IT FOR A YEAR, AND WE CAN'T GET
22 IT, AND WE WANT VERY MUCH, BUT WE CAN'T -- YOU KNOW, YOU
23 FILE TAX RETURNS UNDER PENALTIES OF PERJURY. YOU DON'T
24 WANT TO FILE THEM UNTIL YOU CAN GET THE INFORMATION.

25 WE DO NOT -- THE OPERATIVE WORD IN YOUR QUESTION

1 RELIABLE. I AM NOT SURE THEIR INFORMATION IS IS RELIABLE,
2 BUT IT'S INFORMATION, AND WE'RE TRYING SO HARD TO GET IT
3 AND WE HOPE A SPECIAL ADMINISTRATOR AND SPECIAL TRUSTEE
4 WOULD DO A BETTER JOB -- I MEAN, BE ABLE TO. WE'RE UNABLE
5 TO GET IT FROM Y'ALL. WE'RE UNABLE TO -- UNTIL THIS
6 RECENT DEVELOPMENT FROM MR. CANNON, MR. DALLAS, AND
7 MR. BRADLEY.

8 Q YOU INDICATED THAT 2009 WAS THE YEAR OF DUE
9 DILIGENCE. DO YOU REPRESENT TO THIS COURT THAT CONTACTING
10 MR. DALLAS AND MR. BRADLEY TO HELP YOU WITH FINANCIAL
11 REPRESENTATIONS TO THE INTERNAL REVENUE SERVICE IS ACTING
12 DILIGENTLY?

13 A I DID NOT CONTACT THEM. I RECEIVED A CALL FROM
14 MR.~BYRD. WE HAVE REPEATEDLY WRITTEN THEM IN THE PAST,
15 AND I'VE, OF COURSE, SPOKEN WITH MR.~BYRD ABOUT THE
16 SCHEDULING ORDER IN THE CASE WE HAVE AGAINST HIM IN THE
17 PAST, BUT I DIDN'T CONTACT HIM. HE CONTACTED ME, AND I
18 WAS DELIGHTED TO HEAR FROM THEM BECAUSE WE'VE BEEN WRITING
19 ALL OF THEM ALL YEAR.

20 Q ANY OTHER SOURCE OF INFORMATION THAT YOU CAST OUT TO
21 RECEIVE FROM RELATIVE TO THE FIDUCIARY INCOME TAX RETURN
22 FROM 2007 OTHER THAN MR. BRADLEY AND MR. DALLAS?

23 A OH, SURE. MR. CANNON. ALL OF MR. CANNON'S LAWYERS.
24 EVERYTIME HE CHANGES LAWYERS WE ASK HIM.

25 Q SO, OTHER THAN MR. CANNON, MR. DALLAS, AND

1 MR. BRADLEY, THAT'S THE SET OF PERSONS FROM WHOM YOU
2 BELIEVE IT IS DILIGENT TO SEEK INFORMATION TO MAKE A
3 REPRESENTATION UNDER PENALTY OF PERJURY TO THE I.R.S. FOR
4 THE 2007 FIDUCIARY INCOME TAX RETURN?

5 A IT'S TO GET MORE INFORMATION. IF I COULD GIVE YOU AN
6 EXAMPLE, THERE WERE A COUPLE OF HUNDRED THOUSAND DOLLARS
7 OF BANK ACCOUNTS THAT WERE CLOSED OUT MAYBE BEFORE YOU
8 CAME IN AND CERTAINLY BEFORE I CAME IN, AND WE'VE GOT A
9 SORT OF BEGINNING NUMBER FOR THAT, BUT WE NEED MORE
10 INFORMATION. THAT'S JUST ONE TINY EXAMPLE.

11 I WILL NEVER RELY ON MR. CANNON'S REPRESENTATIONS TO
12 FILE SOMETHING UNDER PENALTIES OF PERJURY, BUT I WOULD
13 CERTAINLY LOOK AT DATA AND INFORMATION THAT I COULD GET
14 FROM HIM OR HIS LAWYER OR ANYWHERE ELSE, AND WE'VE
15 RECENTLY GOTTEN A STACK ABOUT THIS BIG OF TRANSCRIPTS FROM
16 THE SOUTH CAROLINA DEPARTMENT OF REVENUE AND I.R.S. THAT
17 WE COULD MATCH THEM AGAINST.

18 SO, THE GOAL HERE WAS TO TRY TO BE ABLE TO GET THESE
19 PAST-DUE TAX RETURNS, AND, MR. LEVENSON, IT WAS DONE
20 BECAUSE THE SETTLEMENT POSES THE POSSIBILITY THAT THERE
21 WERE TAXES DUE IN THESE YEARS; WHEREAS, IF IT WERE ALL
22 GOING TO CHARITY THE WAY MR. BROWN INTENDED -- I MEAN, YOU
23 WOULD WANT IT TO GET IT DONE, BUT IT WOULD BE LESS URGENT
24 BECAUSE ALMOST ALL OF THE INCOME WOULD HAVE BEEN PAID OR
25 PERMANENTLY SET ASIDE TO CHARITY.

1 SO, IT WAS REALLY TO HELP YOUR CLIENTS IF THERE IS A
2 SETTLEMENT REACHED TO TRY TO CLEAN UP THESE BACK YEARS --
3 NOT THIS SETTLEMENT NECESSARILY, BUT ANY SETTLEMENT IN
4 WHICH MR. BROWN'S ESTATE IS NOT TOTALLY PAID OR
5 PERMANENTLY SET ASIDE TO CHARITY. SO, I WAS TRYING TO
6 HELP EVERYBODY. WE WERE.

7 Q OTHER THAN THOSE THREE, ANY OTHER SOURCES OF
8 INFORMATION THAT WOULD CONSTITUTE YOUR 2009 DUE DILIGENCE
9 SO AS TO MAKE A FILING ON THE 2007 FIDUCIARY INCOME TAX
10 RETURN?

11 A OKAY. I THINK YOU'VE MISSTATED WHAT MY DUE DILIGENCE
12 WAS.

13 Q I'M JUST --

14 A I -- WE'VE BEEN DOING DUE DILIGENCE ON THE TAX
15 RETURNS FOR MORE THAN A YEAR AND WE'VE CONTACTED THE
16 I.R.S., THE SOUTH CAROLINA DEPARTMENT OF REVENUE, AND --
17 WE'RE IN CONTACT WITH BOTH OF THEM. THOSE ARE MY MAIN
18 SOURCES. THERE ARE TRANSCRIPTS WHICH WE'VE JUST GOTTEN
19 AFTER WORKING ON IT ALMOST A YEAR. SO, THOSE ARE MY TWO
20 MAIN SOURCES, AND THEN, OF COURSE, ALL OF THE ENTITIES
21 WHERE WE ARE RECEIVING INFORMATION THIS YEAR WE'RE
22 CHECKING BACK TO SEE IF IT CAME FOR LAST YEAR, BUT THE
23 YEAR OF DUE DILIGENCE, MR. LEVENSON, WAS ABOUT THE ISSUE
24 OF -- WE'VE BEEN DOING DUE DILIGENCE ON THE TAXES SINCE
25 DAY ONE.

1 THE DUE DILIGENCE WAS RELATED TO WHETHER IT'S
2 APPROPRIATE TO HOLD ON TO THE BIG POOL OF ROYALTY, IMAGE,
3 AND PERSONA AS AN ASSET OR WHETHER IT'S BEST TO SEEK A
4 SALE.

5 Q PROFESSOR MEDLIN ASKED YOU WHAT FACTS YOU RELIED UPON
6 IN CONNECTION WITH YOUR LAWSUIT CLAIM THAT UNDUE INFLUENCE
7 WAS PRACTICED UPON JAMES BROWN BY CERTAIN PERSONS. DO YOU
8 REMEMBER THAT QUESTION?

9 A I DO.

10 Q DO YOU REMEMBER WHAT YOUR ANSWER WAS?

11 A NOT EXACTLY. IT SEEMS LIKE WE WENT AROUND.

12 Q DO YOU REMEMBER TELLING PROFESSOR MEDLIN AND THE
13 COURT THAT THE OCTOBER 18, 2006 LETTER AND THE TRANSACTION
14 INVOLVING THE REFINANCING OF THE BOND DEAL WAS THE BASIS
15 ON WHICH YOU BELIEVE UNDUE INFLUENCE WAS PRACTICED UPON?

16 A I DON'T BELIEVE I TOLD HIM THE REFINANCING OF THE
17 BOND DEAL. I THINK I SAID THE OCTOBER 18 LETTER.

18 Q WELL, LET'S TALK ABOUT THE OTHER SET OF -- THE OTHER
19 INFORMATION YOU HAVE SPECIFICALLY INDICATING THAT
20 MR. DALLAS, MR. BRADLEY, AND MR. CANNON PRACTICED UNDUE
21 INFLUENCE UPON MR. JAMES BROWN THAT WAS THE FACTUAL
22 ALLEGATION IN A LAWSUIT YOU FILED AGAINST THOSE THREE
23 GENTLEMEN.

24 A WELL, I THINK THE BEST THING TO DO WOULD BE THE LOOK
25 AT THE FILING. IT WOULD HELP ME. IF YOU COULD GET OUR

1 COMPLAINT, I WILL BE GLAD TO GO DOWN. AGAIN, I THINK MANY
2 OF THE ALLEGATIONS RELATED TO HIDDEN ACTIVITIES, BUT IF
3 YOU COULD HAND ME THE COMPLAINT I'LL BE GLAD TO GO DOWN
4 OVER IT WITH YOU.

5 I'LL BE GLAD TO DISCUSS IT WITH BOB TONIGHT. WE'LL
6 TRY TO COME UP WITH A BROADER ANSWER, BUT I AM -- I FEEL
7 VERY CONFIDENT ABOUT THE OCTOBER 18 LETTER. I FEEL VERY
8 CONFIDENT ABOUT THE 5 MILLION-DOLLAR TRANSACTION. I FEEL
9 VERY CONFIDENT ABOUT THE MORGAN STANLEY TRANSACTIONS AS
10 IMPROPER TRANSACTIONS.

11 THE ONE I FEEL ENTIRELY COMFORTABLE ABOUT AS UNDUE
12 INFLUENCE IS WHAT'S BEEN KNOWN AS THE OCTOBER 18 LETTER
13 BECAUSE I KNOW THAT MR. BROWN WAS DEBILITATED AND NOT WELL
14 DURING THAT LAST PERIOD OF HIS LIFE.

15 Q VERY WELL. SO, THE TRANSACTION WHERE MR. BROWN WAS
16 REPRESENTED BY THE FIRM OF GREENBERG TRAURIG; CORRECT?

17 A THAT'S CORRECT, YES.

18 Q WELL, I MEAN, IT'S MR. SIDMON'S LETTER WE'RE TALKING
19 ABOUT; CORRECT?

20 A IT'S A LETTER SIGNED BY SOMEONE FROM GREENBERG
21 TRAURIG.

22 Q VERY WELL.

23 A IF I COULD LOOK AT IT, I COULD --

24 Q WELL, ARE YOU SUGGESTING THAT THE ATTORNEYS AT
25 GREENBERG TRAURIG HAD EXERCISED UNDUE INFLUENCE OVER THEIR

1 CLIENT?

2 A I WOULD REALLY PREFER TO DEFER TO MY LAWYERS. I AM
3 TROUBLED WITH THE COURT ASKING ME TO TRY THAT CASE HERE.
4 BOB BUCHANAN IS NOT HERE. I DON'T SPEAK FOR THE ESTATE
5 GENERALLY. I DON'T KNOW WHY -- WHAT THIS HAS TO DO --

6 THE COURT: YOU DON'T HAVE TO ANSWER THAT, MA'AM.
7 MOVE ALONG.

8 MR. LEVENSON: YES, SIR.

9 THE \$5 MILLION -- TELL US WHAT THE 5 MILLION-DOLLAR
10 TRANSACTION HAS TO DO WITH YOUR BELIEF THAT MR. DALLAS,
11 MR. BRADLEY, AND MR. CANNON PRACTICED UNDUE INFLUENCE UPON
12 --

13 THE WITNESS: I DON'T THINK IT DOES. I THINK THAT
14 WAS DECEPTION ON MR. CANNON'S PART ALL I CAN TELL SO FAR.

15 Q SO THAT WAS NOT UNDUE INFLUENCE THEN?

16 A WELL, YOU KNOW, MR. LEVENSON, I DON'T WANT -- THE
17 FACTS ARE STILL BEING DEVELOPED IN THAT CASE. I KNOW IT
18 WAS WRONG FOR MR. CANNON TO TAKE THAT \$5 MILLION. I WOULD
19 PREFER TO RELY ON MY LAWYER FOR ALL OF THE LEGAL THEORIES
20 THAT MIGHT APPLY TO THAT 5 MILLION-DOLLAR CHECK.

21 Q THE REASON I ASK, MRS. POPE, IS BECAUSE ONE OF THE
22 ISSUES THAT WAS BEFORE THE COURT UNTIL THE SETTLEMENT WAS
23 A CLAIM BY MS. TOMI RAE BROWN AND MY CLIENTS THAT UNDUE
24 INFLUENCE WAS PRACTICED UPON MR. BROWN. YOU'RE AWARE OF
25 THAT?

1 A OF COURSE, I'M AWARE OF THAT.

2 Q SO, SINCE WE MADE A CLAIM THAT UNDUE INFLUENCE WAS
3 PRACTICED UPON MR. BROWN BY CERTAIN PERSONS AND YOU MADE A
4 CLAIM THAT UNDUE INFLUENCE WAS PRACTICED UPON MR. BROWN BY
5 CERTAIN PERSONS, WHAT I AM TRYING TO UNDERSTAND IS HOW OUR
6 CLAIM IS WITHOUT ANY FACTUAL BASIS WHICH YOU HAVE TOLD.
7 THIS COURT ALREADY BUT YOURS IS. EXPLAIN THAT.

8 A BECAUSE THERE ARE A THOUSAND OTHER FACTS TO SUPPORT
9 THAT THERE WAS NO UNDUE INFLUENCE OVER MR. BROWN IN THE
10 EXECUTION OF HIS WILL AND THE 2000 TRUST -- A THOUSAND
11 OTHER FACTS THAT SIMPLY WILL NOT SUPPORT A CLAIM FOR UNDUE
12 INFLUENCE.

13 Q DO YOU KNOW WHERE MR. BROWN WAS IN JULY OF 2000?

14 A I UNDERSTAND HE WAS OVER -- HE WAS OUT OF TOWN. HE
15 WAS IN TOWN. HE HAD THE INCIDENT WITH THE FELLOW WHERE HE
16 PULLED A GUN OR SOMETHING ON A WORKER FROM THE POWER
17 COMPANY EARLY IN THE MONTH AND THEN HE WAS AWAY AND THEN
18 HE CAME BACK, IF I RECALL, IT WAS ON THE 18TH OR 19TH OF
19 JULY AND SPOKE TO THE POLICE FOR TWO HOURS A FEW DAYS
20 BEFORE HE DID THE WILL AND THEN HE DID THE WILL AND THEN
21 HE SIGNED THE DEED. THE DEED WAS RECORDED THE FOLLOWING
22 MONTH. THE TRUST WAS RECORDED THE FOLLOWING YEAR IN BOTH
23 AIKEN AND RICHMOND COUNTY, GEORGIA.

24 THE WILL WAS ENTIRELY CONSISTENT WITH THE WILL HE HAD
25 DONE A YEAR EARLIER. IT WAS ENTIRELY CONSISTENT WITH HIS

1 TAPE THAT HE HAD MADE IN EARLY 1999 EXPRESSING HIS
2 INTENTION TO GIVE IT ALL BACK.

3 MR. ROSEN: YOUR HONOR, ONCE AGAIN, THE ANSWER IS NOT
4 RESPONSIVE TO THE QUESTION.

5 THE COURT: WELL --

6 MR. BAILEY: YOUR HONOR, I AM GOING TO OBJECT TO THIS
7 DOUBLING UP. IF MR. LEVENSON IS DOING THE QUESTIONING
8 SHOULDN'T MR. LEVENSON BE THE ONE OBJECTING?

9 THE COURT: WELL, NO. ALL PARTIES HAVE A RIGHT TO
10 OBJECT, BUT MR. ROSEN SHOULDN'T BE OBJECTING. PROFESSOR
11 SHOULD BE OBJECTING BECAUSE HE CONDUCTED THE EXAMINATION.
12 SO, MR. ROSEN --

13 MR. ROSEN: YES, SIR.

14 THE COURT: -- UNDER THE RULES WHO DID THE
15 EXAMINATION DOES THE OBJECTING.

16 MR. ROSEN: YOU'RE RIGHT, YOUR HONOR.

17 MR. MEDLIN: YOUR HONOR, NOT RESPONSIVE TO THE
18 QUESTION.

19 THE COURT: THANK YOU. OVERRULED.

20 Q MRS. POPE, I AM GOING TO TRY TO BE AS DELICATE AS I
21 CAN AND ASK YOU TO PLEASE CONFINE YOUR ANSWER TO THE
22 QUESTION IF YOU CAN, AND YOU AND THE COURT, I THINK,
23 UNDERSTAND WHY I AM DOING THIS. DO YOU KNOW THE
24 CIRCUMSTANCES -- WITHOUT REVEALING THEM, DO YOU KNOW THE
25 CIRCUMSTANCES OF MR. BROWN'S EUROPEAN MUSIC TOUR IN JULY

1 OF 2000? DO YOU KNOW IT?

2 A NO.

3 Q IF YOU KNEW -- STRIKE THAT. DID YOU TAKE ANY STEPS
4 TO INVESTIGATE WHAT THE CIRCUMSTANCES WERE OF HIS EUROPEAN
5 TOUR -- FRANCE, TO BE SPECIFIC -- WHICH WAS THE LAST TOUR
6 HE HAD IMMEDIATELY BEFORE HE CAME BACK TO THE UNITED
7 STATES AND THEN WAS INVOLVED IN WHAT YOU REFERRED TO AS
8 THE AUGUST 1, 2000 WILL AND TRUST EXECUTION?

9 A ONLY TO THE EXTENT THAT I FOUND OUT THAT HE HAD THE
10 TWO-HOUR INTERVIEW WITH THE POLICE AFTER HE CAME BACK FROM
11 THAT TOUR.

12 Q YOU'RE NOT AWARE THAT HE WAS UNABLE TO COMPLETE THAT
13 TOUR IN JULY OF 2000, ARE YOU?

14 A NO, NOR WOULD IT MATTER TO ME IF HE COULD COME BACK
15 AND TALK TO THE POLICE FOR TWO HOURS AND WHOLLY EXONERATE
16 HIMSELF FROM A CLAIM.

17 Q YOU'VE INDICATED A NUMBER OF TIMES THAT YOU BELIEVE
18 IT WOULD BE IN THE ESTATE'S INTEREST OR THE ESTATE AND
19 TRUST'S BEST INTEREST FOR THERE TO BE AN APPEAL OF THE
20 DECISION IF JUDGE EARLY CHOOSES TO MAKE ONE APPROVING THE
21 SETTLEMENT; CORRECT?

22 A I DO NOT THINK THAT IS THE BEST COURSE TO TAKE.

23 Q YOU HAVE INDICATED UNUNEQUIVOCALLY -- AND I REALIZE
24 BOB BUCHANAN IS NOT HERE TO SPEAK FOR HIMSELF. I AM JUST
25 ASKING YOU, MA'AM, THAT YOU WOULD PROSECUTE AN APPEAL OF

1 THAT DECISION?

2 A I HAVE REPEATEDLY SAID I HOPE THE COURT WILL NOT RULE
3 AT THIS UNFORTUNATE LEVEL BECAUSE WE HAVE NOT HAD THE
4 OPPORTUNITY TO JOIN THE PARTIES, TO EVEN SEE A WRITTEN
5 SETTLEMENT, TO HAVE GUARDIAN'S AD LITEM AND TO DO ALL
6 SORTS OF THINGS THAT BASIC DUE PROCESS REQUIRE AND AMONG
7 THOSE IS THAT BOB BUCHANAN IS NOT SITTING HERE TODAY ABLE
8 TO LISTEN TO THIS TESTIMONY.

9 Q BUT YOUR DECISION TO APPEAL WAS MADE BEFORE THIS
10 HEARING COMMENCED AS REFLECTED IN YOUR PLEADINGS; ISN'T
11 THAT TRUE?

12 A UNTIL --

13 Q IS THAT TRUE?

14 A PARTLY. UNTIL YESTERDAY OR WHENEVER THE AGENDA CAME
15 OUT I HAD HOPED THAT THE JUDGE WOULD GIVE US -- MEET THE
16 DUE PROCESS REQUIREMENTS TO MAKE THIS -- TO WORK TOWARDS A
17 SETTLEMENT THAT ACTUALLY WOULD END LITIGATION AND NOT JUST
18 BEGIN LITIGATION. THAT DIDN'T HAPPEN. I AM NOT THE
19 JUDGE. I AM JUST THE PERSONAL REPRESENTATIVE AND TRUSTEE.

20 Q AND PURSUANT TO THE ORDER THAT WAS ENTERED IN JANUARY
21 OF 2008 AUTHORIZING YOU TO PAY YOURSELF AND BOB BUCHANAN
22 FEES YOU WOULD WITHOUT COURT INTERVENTION CONTINUE TO PAY
23 YOURSELF FOR FEES OR LAWYERS TO REPRESENT YOU FOR LEGAL
24 FEES FOR THE PROSECUTION OF SUCH AN APPEAL, WOULD YOU NOT?

25 A I WILL NEVER GET CLOSE TO PAYING MYSELF WHAT I'M OWED

1 ALREADY OR WHAT MY LAWYERS ARE OWED ALREADY OR WHAT THE
2 NEW YORK LAWYERS ARE OWED ALREADY. THAT'S NOT GOING TO
3 HAPPEN DURING THE COURSE OF THIS APPEAL. IF IT DOES, I
4 WILL HOLD ANY FURTHER PAYMENTS IN ABEYANCE UNTIL THE COURT
5 APPROVES THEM. IF I AM FULLY PAID AND BOB IS FULLY PAID
6 UNTIL YESTERDAY AND OUR LAWYERS ARE FULLY PAID UNTIL
7 YESTERDAY -- ALL OF OUR LAWYERS WHO HAVE DONE SO WELL IN
8 NEW YORK AND HERE AND EVERYWHERE AND AT SUCH A CHEAP
9 PRICE -- I WILL BE GLAD TO HOLD THE REMAINDER AND TO URGE
10 THEM TO HOLD THE REMAINDER IN ABEYANCE IF THE SOLE ISSUE
11 IS THE MONEY BEING WASTED ON THIS APPEAL.

12 Q BUT FOR MY QUESTION, IS THAT YOUR INTENTION?

13 A I AM SO FAR BEHIND ON BEING PAID I CAN'T EVEN IMAGINE
14 COMING CLOSE TO BEING PAID THROUGH LAST WEEK. IT HAS NOT
15 CROSSED MY MIND.

16 Q WELL, THE REASON I BRING UP THE ATTORNEYS' FEES,
17 MRS. POPE, IS IN FAIRNESS DO YOU AGREE THAT ATTORNEYS'
18 FEES AND THE CONTINUATION OF INCURRING OF ATTORNEYS' FEES
19 IS A FACTOR THAT SHOULD BE CONSIDERED BY PARTIES TO
20 LITIGATION WISHING TO SETTLE THEIR CASE AND THEREFORE END
21 THE HEMORRHAGING OF ATTORNEYS' FEES FROM THE ESTATE? IS
22 THAT A FACTOR?

23 A I DO NOT BELIEVE THAT THIS ESTATE SHOULD HEMORRHAGE
24 YOUR FEES OR THE FEES OF THE OTHER SETTLING PARTIES. I
25 THINK THE FACTS ARE INCORRECT. I THINK THE HEMORRHAGE IS

1 GOING TO BE IF THIS SETTLEMENT IS APPROVED AND YOU FOLKS
2 HAVEN'T EVEN SAID WHAT YOUR FEES WERE.

3 Q MRS. POPE, BEFORE WE DISCUSS MY FEES WHICH I CAN
4 ANSWER THAT VERY SIMPLY -- I CAN TELL YOU THAT'S ZERO. IN
5 CASE THAT'S A MATTER THAT WE NEED TO PUT ON THE RECORD
6 HERE. WE'RE NOT TALKING ABOUT MY FEES. WE'RE TALKING
7 ABOUT --

8 THE COURT: MR. LEVENSON, PLEASE ASK THE QUESTION.

9 MR. LEVENSON: YES, SIR. I APOLOGIZE.

10 WELL, I'LL ASK IT. HOW ARE MY FEES RELEVANT TO THE
11 POSSIBILITY OF HEMORRHAGING MORE CASH OUT OF THIS ESTATE
12 AS A RATIONALE FOR SETTLEMENT? TELL THE COURT THAT.

13 THE WITNESS: I DIDN'T QUITE UNDERSTAND YOUR
14 QUESTION. I'M SORRY.

15 Q WELL, IN GENERAL, IS THE INCURRING OF ATTORNEYS' FEES
16 IN GENERAL A RATIONALE FOR PARTIES COMPROMISING THEIR
17 CLAIMS SO AS TO STOP THE HEMORRHAGING OF LEGAL FEES FROM A
18 CASE? IN GENERAL.

19 A IN GENERAL IF THERE HAS BEEN HEMORRHAGING.

20 Q DO YOU TAKE ISSUE WITH THE WORD HEMORRHAGE?

21 A WELL, I DON'T THINK THIS ESTATE HAS HEMORRHAGED. I
22 THINK THERE IS SOME PEOPLE WANTING IT TO HEMORRHAGE, BUT I
23 DON'T THINK IT'S HEMORRHAGED SO FAR.

24 Q ALL RIGHT.

25 A NO.

1 Q LET'S TAKE THE WORD -- CAN YOU PLEASE REMOVE THE WORD
2 HEMORRHAGE FROM MY QUESTION AND NOW ANSWER THE QUESTION?

3 A HAS -- WELL, WE KNOW WHAT HAS BEEN INCURRED SO FAR.
4 WE KNOW --

5 Q WE DON'T KNOW THAT. WE DON'T KNOW THAT BECAUSE, IN
6 FACT, THAT WAS NOT -- THAT TESTIMONY WAS NOT SPECIFICALLY
7 GIVEN YESTERDAY.

8 THE COURT: ALL RIGHT. PLEASE QUIT ARGUING WITH EACH
9 OTHER. ASK A QUESTION AND ANSWER IT.

10 MR. LEVENSON: VERY WELL.

11 MRS. POPE, YES OR NO, IS THE RATIONALE FOR PARTIES
12 SETTLING A CASE STOPPING PAYING ATTORNEYS' FEES ONE
13 FACTOR?

14 THE COURT: YES OR NO AND YOU MAY EXPLAIN.

15 THE WITNESS: YES, A SMALL FACTOR IN THIS CASE.

16 Q OKAY. WELL, I WASN'T ASKING ABOUT THIS CASE. I WILL
17 IN JUST A MOMENT. I WAS ASKING ABOUT GENERAL STUFF.

18 A IN GENERAL, IT CAN BE.

19 Q AND WHEN A LAWSUIT IN GENERAL HAS GONE ON FOR TWO
20 YEARS AND THERE HAVE BEEN 20 OR SO HEARINGS AND EVERYONE
21 HAS INCURRED TIME AND ATTORNEYS' FEES WHETHER THEY'VE BEEN
22 PAID OR IT HAS BEEN INCURRED TO BE PAID LATER, ISN'T THAT
23 A CONCERN FOR THE CLIENTS AND THE LAWYERS IN THEIR
24 DECISION-MAKING PROCESS TO COMPROMISE THEIR POSITIONS SO
25 AS TO BRING AN END TO THE LITIGATION?

1 A I DO NOT THINK IT'S A BIG FACTOR FOR MR. BROWN'S
2 ESTATE AND TRUST. I THINK IT MAY BE FOR THE SETTLING
3 PARTIES.

4 Q ALL RIGHT. SO, YOUR FEES -- IF I MAY APPROACH,
5 JUDGE, AND I'M GOING TO -- SINCE -- IF YOUR HONOR DOESN'T
6 WANT THIS SPREAD UPON PUBLIC RECORD, I'LL SIMPLY SHOW THIS
7 TO HELP REFRESH THE WITNESS' RECOLLECTION.

8 THE COURT: I DON'T KNOW WHAT YOU'RE GOING TO ASK
9 HER, BUT YOU KNOW WHAT MY RULING WAS EARLIER ABOUT THE
10 FEES.

11 MR. LEVENSON: I DO.

12 Q LOOK AT THAT SHEET AND SEE IF IT HELPS REFRESH YOUR
13 RECOLLECTION AS TO WHAT THE ATTORNEYS' FEES THAT YOU HAVE
14 INCURRED, THAT MR. BUCHANAN HAS INCURRED, AND WHAT MR.
15 BAILEY HAS BEEN PAID -- JUST THOSE THREE.

16 A WELL, YOU KNOW, IF YOU REPRESENT TO ME THAT YOU TOOK
17 THIS FROM THE CHECKBOOK -- I HAVEN'T SEEN THIS BEFORE --
18 THEN YOU IF YOU TOOK IT FROM THE CHECKBOOK, YOU TOOK IT
19 FROM THE CHECKBOOK EXCEPT I'LL TELL YOU THAT A NUMBER --
20 FIRST OF ALL, THE ITEM THAT'S LISTED AT 10/02/07, THOSE
21 WERE NOT ATTORNEYS' FEES. THAT WAS PRIOR TO OUR SERVICE
22 WHILE WE WERE STILL SERVING AS SPECIAL ADMINISTRATORS, AND
23 THERE WAS AN EMERGENCY MOVING OF ALL OF THE DOCUMENTS
24 WHICH IS THE MOST VALUABLE THING THAT HAS HAPPENED SO FAR
25 AND A NEED TO RETURN MR. CANNON'S -- MR. CANNON'S

1 DOCUMENTS TO HIM WITHIN TWO WEEKS AND THAT 17,000 IS THE
2 COST OF COMPUTER HELP AND OTHER EMERGENCY HELP TO GET
3 THOSE DOCUMENTS IN AND COPIED AND BACK TO HIM DURING THAT
4 TIME CONSTRAINT. THAT WAS NOT ATTORNEYS' FEES. THAT WAS
5 EXTRA COST.

6 IN CERTAIN OF THE ENTRIES --

7 THE COURT: MA'AM, JUST REFRESH YOUR MEMORY AS TO
8 THAT AND THEN --

9 THE WITNESS: WELL, I MEAN, SOME OF THEM ARE
10 ATTORNEYS' FEES. YES, JAMES BAILEY. YES, 106,000.

11 THE COURT: NO, DON'T GIVE THE FIGURES.

12 THE WITNESS: I'M SORRY. YES.

13 Q I'M JUST TRYING TO GET WITHOUT --

14 A YEA, YEA. I MEAN, THOSE CHECKS WERE WRITTEN TO THOSE
15 PEOPLE IF THAT'S WHAT YOU'RE SAYING.

16 Q AND THAT'S NOT EVEN INCLUDING THE OUTSIDE LAWYERS
17 MEANING THE LAWYERS THAT YOU'VE HIRED IN CONNECTION WITH
18 PULLMAN LITIGATION AND SO ON AND I AM NOT GOING TO ASK YOU
19 ABOUT THE NUMBERS. THAT'S JUST BETWEEN --

20 A WELL, YEA, BUT THAT WOULDN'T GO AWAY WITH ANY
21 SETTLEMENT.

22 Q THAT'S WHY I SAID IT IS UNRELATED TO THOSE LAWYERS;
23 CORRECT?

24 A YES.

25 Q OKAY. NOW, THE AMOUNTS THAT HAVE BEEN PAID AS

1 REFLECTED ON THIS SHEET WHICH I HAVE JUST SHOWN YOU ARE
2 INADEQUATE TO COMPENSATE YOU FOR WHAT YOU HAVE DONE AND
3 MR. BAILEY HAS DONE AND WHAT JUDGE BUCHANAN HAS DONE TO
4 THIS POINT; CORRECT?

5 A YES.

6 Q WHAT IS THE AMOUNT THAT IS OWED TO YOU, JUDGE
7 BUCHANAN, AND MR. BAILEY AS OF THIS POINT APPROXIMATELY?

8 MR. BAILEY: YOUR HONOR, THIS HAS BEEN ASKED. I
9 OBJECT.

10 THE COURT: I HAVE ALREADY RULED THAT SHE HAS AN
11 OPPORTUNITY TO GO BACK AND REVIEW EVERYTHING, AND WHEN SHE
12 GETS READY TO PROVE HER FEES WE'LL DEAL WITH IT.
13 SUSTAINED.

14 Q AND IT IS YOUR POSITION, MRS. POPE, THAT THE SETTLING
15 PARTIES ARE NOT ACTING IN GOOD FAITH WHEN THEY TRY TO
16 AVERT ANY ADDITIONAL FEES BEYOND WHATEVER THE NUMBER IS
17 THAT YOU HAVE YET TO GIVE AN EXACT AMOUNT FOR THAT WERE
18 YOUR AND MR. BUCHANAN'S AND MR. BAILEY'S FEES TO DATE?

19 A I DO NOT BELIEVE OUR FEES AND COSTS ARE A SIGNIFICANT
20 FACTOR WHEN YOU LOOK AT THE ENTIRE PICTURE, AND I AM
21 INCLUDING IN THAT PICTURE THE CLAIMED ATTORNEYS' FEES TO
22 BE PAID OUT OF MR. BROWN'S ESTATE FOR OTHER PEOPLE WHO WE
23 BELIEVE ARE NOT ENTITLED TO ANY ATTORNEYS' FEES.

24 Q BUT MY QUESTION RESPECTFULLY, MRS. POPE, IS THAT --
25 AND I AM JUST GOING TO TRY -- DON'T YOU THINK THE JUDGE IS

1 IN A POSITION TO MAKE AN EVALUATION OF THE PROPRIETY OF
2 THE SETTLEMENT FROM THE STANDPOINT OF THE SETTLING
3 PARTIES, NOT FROM YOUR STANDPOINT?

4 A I ABSOLUTELY DO NOT. I THINK IT WOULD BE A TRAVESTY.
5 IT WOULD CREATE SO MUCH CHAOS. IN KNOWING WHERE WE ARE I
6 THINK IT WOULD BE AWFUL.

7 Q MAYBE I DID NOT --

8 A NO, I DO NOT THINK HE'S IN THAT POSITION.

9 Q IT'S NOT A TRICK QUESTION. I REALLY -- I AM TRYING
10 TO GET A STANDARD OF REVIEW ISSUE HERE. DON'T YOU THINK
11 THAT THE JUDGE WOULD BE ASKED BY US, THE SETTLING PARTIES,
12 TO LOOK AT OUR POINT OF VIEW IN EVALUATING WHETHER WE
13 ACTED IN GOOD FAITH WHEN WE DECIDE TO SETTLE BECAUSE ONE
14 OF THE FACTORS THAT WE CONSIDERED WAS THE CONTINUING
15 INCURRING OF ATTORNEYS' FEES -- NOT YOUR POINT OF VIEW,
16 OURS?

17 A NO, I DON'T.

18 Q OKAY. VERY WELL. YOU INDICATED TO PROFESSOR MEDLIN
19 THAT THE 86 MILLION-DOLLAR FIGURE WHICH YOU HAD SWORN TO
20 ON THE ESTATE TAX RETURN IS AN ACCURATE FIGURE; CORRECT?

21 A SUBJECT TO ALL OF THE QUALIFICATIONS WHICH WERE
22 INCLUDED IN THE RETURN, I BELIEVE IT TO BE ACCURATE.

23 Q ONE OF WHICH QUALIFICATIONS WAS THAT MR. DALLAS DID
24 NOT RELY ON IT.

25 A I WOULD HAVE TO LOOK AT EXACTLY HOW I SAID THAT, BUT

1 IF I SAID SOMETHING TO THAT EFFECT THAT I COULD NOT RELY
2 ON SOLELY ON HIS INFORMATION, BUT WE HAD LOTS OF OTHER
3 INFORMATION, MOST PARTICULARLY THE GRAHAM WINDSOR
4 INFORMATION.

5 Q AND GRAHAM WINDSOR IS THE GENTLEMAN WE'VE HEARD A LOT
6 ABOUT WHO WAS IN CHAMBERS IN THIS COURT ON NOVEMBER 20 IN
7 BAMBERG, SOUTH CAROLINA?

8 A WELL, HE IS ONE OF THEM. THE GRAHAM WINDSOR GROUP
9 WAS FORLANDO BROWN AND, AS I GATHER, SOME INVESTORS FROM
10 ATLANTA.

11 Q OKAY. JUST TURN THE CLOCK BACK. NOVEMBER 20, 2007
12 THERE'S BEEN A RESIGNATION. JUDGE EARLY INVITES MR.~COX
13 AND I BELIEVE BUDDY DALLAS AND ALL OF THE LITIGANTS --
14 EXCUSE ME, ALL OF THE ATTORNEYS, I SHOULD SAY, INTO
15 CHAMBERS AND THERE IS A MATTER PLACED ON THE RECORD AND
16 YOU WERE PRESENT; CORRECT?

17 A SURE.

18 Q AND AT THAT TIME MR.~COX IS INTRODUCED ALONG WITH
19 TOBY BYRON TO THE JUDGE; ISN'T THAT CORRECT?

20 A THAT'S CORRECT.

21 Q WERE YOU AWARE THAT MR.~COX AT THAT TIME -- THE
22 PERSON ON WHOM YOU RELY FOR THE \$86 MILLION -- WAS PAYING
23 A FEE TO FORLANDO BROWN?

24 A I WAS NOT AT THAT TIME.

25 Q WERE YOU AWARE THAT THERE WAS FROM THE E-MAILS THAT

1 WERE INTRODUCED INTO EVIDENCE AT THAT TIME SOME
2 COMPENSATION DIRECT OR INDIRECT TO MR. DALLAS?

3 A I DON'T BELIEVE THEY WERE INTRODUCED INTO EVIDENCE.
4 I BELIEVE YOU TRIED AND THE JUDGE WOULDN'T LET YOU, BUT I
5 DID LATER LEARN THAT FROM THE DOCUMENTS WHICH I RECEIVED
6 THROUGH MR. HAMMOND THAT MR. DALLAS AND MR. BRADLEY AND
7 MR. CANNON WERE SEEKING WHAT WAS DESCRIBED AS A KICKBACK
8 OR A PART OF THE I.P.O. I DID LEARN THAT. I CAN'T SAY
9 THAT IT LEARNED IT ON NOVEMBER 20. I KNOW YOU WERE
10 HOLDING SOME PAPERS AND ASKING SOME QUESTIONS, BUT THE
11 JUDGE CUT THAT OFF. I MEAN, WE'D HAVE TO LOOK AT THE
12 TRANSCRIPT.

13 MR. LEVENSON: IN FAIRNESS TO THE COURT, I APOLOGIZE.
14 I THINK I -- YOU'RE CORRECT, MRS. POPE. I OFFERED THEM
15 AND THE JUDGE SAID WE'RE NOT HERE TO MAKE THAT
16 DETERMINATION TODAY, BUT THE FACT IS YOU BECAME AWARE FROM
17 EITHER MY INVESTIGATION OR FROM OTHER SOURCES THAT THERE
18 WAS A KICKBACK INVOLVED IN THAT DEAL OR YOU BELIEVED THERE
19 WAS A KICKBACK IN THAT DEAL?

20 A I BECAME AWARE THAT IT WAS A PROPOSAL, YES.

21 Q WITH A KICKBACK TO AT LEAST FORLANDO BROWN AND TO
22 BUDDY DALLAS AND AT LEAST AS FAR AS YOU INVESTIGATED --

23 A WELL, I CAME TO UNDERSTAND THAT THE REQUESTED
24 KICKBACK WAS DALLAS, CANNON, AND BRADLEY AND THAT
25 MR. FORLANDO BROWN HAD SOME PARTICIPATION IN IT --

1 DIFFERENT, I THINK. I MEAN, YOU KNOW, IT MAY BE THE SAME
2 TO YOU, BUT THAT'S THE UNDERSTANDING I CAME TO HAVE.

3 Q ALL RIGHT. WITHOUT -- AND THE WORD MAY BE
4 IMPRECISE -- KICKBACK BUT THAT HE HAD A PARTICIPATION
5 INTEREST IN THAT TRANSACTION -- AN UNDISCLOSED
6 PARTICIPATION IN THAT TRANSACTION. DO YOU THINK THAT THAT
7 INFORMATION WOULD HAVE MOTIVATED YOU TO REEVALUATE THE
8 ACCURACY OF THE OFFER THAT THE GRAHAM WINDSOR GROUP WAS
9 GIVING YOU ON WHICH YOU RELIED FOR THE ESTATE TAX RETURN?

10 A OF COURSE. BUT I THINK THAT IT WAS ANOTHER PIECE OF
11 INFORMATION AND I THINK YOU HAVE TO SORT OUT WHAT MR.~COX
12 IS DOING AS AN INVESTOR. I MEAN, UNLIKE LOTS OF OTHER
13 PEOPLE -- MR. CANNON, MR. DALLAS AND MR. BRADLEY --
14 MR.~COX DID NOT OWE A FIDUCIARY DUTY TO ESTATE. HE WAS
15 REPRESENTING A GROUP OF INVESTORS BY THEN. HE -- AND, SO,
16 YOU KNOW, OF COURSE, YOU HAVE TO LOOK AT IT ALL CAREFULLY
17 AND WITHOUT PLACING GREAT WEIGHT TO IT. THAT'S WHY WE
18 TOLD THE I.R.S. WE WERE CONCERNED ABOUT THE -- I'M NOT
19 SURE OF THE WORD I USED, BUT WE WERE CONCERNED ABOUT THE
20 RELIABILITY OF INFORMATION PROVIDED BY THE FORMER P.R.
21 TRUSTEES.

22 Q WELL, OTHER THAN MR.~COX'S EVALUATION WHICH IS
23 PERHAPS TAINTED WITH THE LACK OF CREDIBILITY COMING FROM
24 MR. DALLAS -- OTHER THAN THAT, WHAT OTHER SOURCE OF
25 INFORMATION DID YOU RELY UPON TO GIVE THE COURT AND THE

1 INTERNAL REVENUE SERVICE THE 86 MILLION-DOLLAR NUMBER?

2 A I RELIED ON BUDDY DALLAS' TELLING BOB AND ME IN LATE
3 AUGUST OR SUMMER AFTER MR. CANNON'S RESIGNATION THAT HE
4 FELT THAT THE WHOLE ESTATE WAS WORTH ABOUT 100 -- I'M
5 USING THAT TERM LOOSELY -- THE ASSETS WERE WORTH ABOUT 100
6 MILLION, WHAT I HAVE DESCRIBED BEFORE AS THE RAINBOW
7 DRAWING WHERE MR. DALLAS SAID WE SHOULD SELL ALL OF THE
8 ASSETS FOR 100 MILLION AND THEN HE DREW ANOTHER LITTLE
9 ROUND FOR THE RAINBOW ON THE TABLE IN SOME RESTAURANT IN
10 AUGUSTA AND SAID AND I WANT TO SAY 50 MILLION FOR THE
11 CHILDREN.

12 SO, I -- I THINK MR. DALLAS PROBABLY HAD A HANDLE AT
13 THAT TIME ON THE VALUE AND THAT HUNDRED THOUSAND DOLLARS
14 KEPT SHOWING UP OTHER PLACES IN MEMOS FROM SONNY JONES AND
15 IN THE OCTOBER OFFER, IN THE MARCH OFFER, BACK BEFORE
16 MR. GRAHAM WINDSOR GROUP BECAME AN INVESTOR WHEN HE WAS
17 JUST ADVISING THE ESTATE IN THEIR SEARCH FOR INVESTOR IN
18 WHAT WOULD BECOME AN I.P.O. THE FACT THAT HE WAS
19 CONSIDERING A KICKBACK TO BUDDY DIDN'T AFFECT THE TOP
20 LINE. I MEAN, DIDN'T AFFECT -- WELL, I MEAN, IT AFFECTED,
21 BUT IT WAS NOT -- IT DID NOT ABSOLUTELY VITIATE THE
22 NUMBER, THE 100 MILLION.

23 Q DID YOU --

24 THE COURT: MR. LEVENSON, WE LISTENED YESTERDAY ABOUT
25 VALUATION AND SOME THIS MORNING. IN ALL DUE RESPECT I

1 HAVE ASKED YOU PLEASE NOT PLOW OVER GROUNDS PROFESSOR WENT
2 OVER.

3 MR. LEVENSON: YES, SIR. I'LL MOVE ON.

4 THE COURT: I WANT YOU TO MAKE YOUR RECORD, BUT,
5 SERIOUSLY, WE'VE BEEN OVER THIS TESTIMONY.

6 MR. LEVENSON: YES, SIR. I UNDERSTAND THE COURT'S
7 ADMONITION. I'LL GO FORWARD.

8 THE COURT: THANK YOU.

9 Q MRS. POPE, IT IS -- IF I COULD -- IF I COULD STATE
10 YOUR POSITION IN THE MOST GENERAL WAY TO EXPLAIN WHY YOU
11 ARE HERE WHETHER AS A PARTY WITH STANDING TO WHICH WE
12 OBJECT OR AS A WITNESS -- REGARDLESS, THAT'S FOR THE
13 COURT'S DETERMINATION -- IT IS THAT YOU UNDERSTAND THE
14 ESTATE PLAN AND THE WISHES OF JAMES BROWN -- YOU AND MR.
15 BUCHANAN -- BETTER THAN ANYONE ELSE. WOULD THAT BE A FAIR
16 SUMMARY OF WHY THERE IS AN OBJECTION TO WHAT HAS BEEN
17 FILED HERE?

18 A NO.

19 Q OKAY. THEN TELL US WHO UNDERSTANDS THE ESTATE PLAN
20 AND INTENTIONS OR WISHES OF JAMES BROWN BETTER THAN YOU
21 AND MR. BUCHANAN?

22 A OH, I DO BELIEVE WE UNDERSTAND THAT, BUT THAT'S NOT
23 MY MOTIVATION FOR --

24 Q OKAY.

25 A THAT'S ONLY PART OF MY MOTIVATION FOR BEING HERE.

1 Q OKAY. WELL, WHAT I WAS SAYING IS THAT -- ISN'T THAT
2 A PRIMARY ISSUE THAT YOU HAVE THAT CONCERNS YOU THAT YOU
3 ARE THE PROTECTOR OF THAT INTENTION AND NO ONE ELSE IS
4 MOVING FORWARD TO PROTECT IT AS WELL AS YOU AND
5 MR. BUCHANAN?

6 A I BELIEVE THAT THE AUGUST 10TH AGREEMENT MAKES IT
7 IMPOSSIBLE FOR ONE OF THE OTHER PERSONS WHO THE STATUTE
8 DESIGNATES TO PROTECT MR. BROWN'S INTEREST TO PROTECT
9 THEM.

10 Q DO YOU RECALL GIVING TESTIMONY IN THIS COURTROOM ON
11 JANUARY 30 WHICH WAS THEN ADJOURNED AND MOVED TO MARCH 4
12 REGARDING THE SUGGESTION BY PROFESSOR MEDLIN THAT
13 MR. BROWN'S FAMILY WOULD KNOW BETTER THAN ANYONE ELSE WHAT
14 HIS WISHES WERE? DO YOU REMEMBER THAT?

15 A I DON'T --
16 THE COURT: SHOW IT TO HER, PLEASE.

17 THE WITNESS: I DON'T --

18 Q VERY WELL.

19 A BUT I DON'T REMEMBER.

20 Q VERY WELL.

21 THE COURT: AND THIS IS HER TESTIMONY?

22 MR. LEVENSON: YES, SIR.

23 Q IF YOU'LL LOOK AT PAGE 163 OF THE TRANSCRIPT STARTING
24 AT LINE 16, MA'AM.

25 A OKAY. I SAID THE SUGGESTION BY PROFESSOR MEDLIN THAT

1 MR. BROWN'S FAMILY WOULD KNOW BETTER THAN ANYONE ELSE WHAT
2 HIS WISHES WERE I RESPECTFULLY DISAGREE WITH THAT.

3 Q NOW, IF YOU WOULD, READ ON.

4 A I HAVE LEARNED TO THE EXTENT THAT I'VE BEEN ABLE TO
5 WHAT HE'S ABOUT. HE WAS ALL ABOUT EDUCATION AND
6 OPPORTUNITY FOR THE UNDEREDUCATED. HE WAS ALL ABOUT GIVE
7 ME A WAY OUT, NOT A HANDOUT. YEA.

8 Q YOU SKIPPED -- IF YOU DON'T MIND SINCE YOU'RE READING
9 FROM THE TRANSCRIPT, READ THE ENTIRE PARAGRAPH WHERE IT
10 SAID -- FROM THE PART WHERE IT SAYS THE SUGGESTION BY
11 PROFESSOR MEDLIN.

12 A I THOUGHT I DID, BUT I'LL DO IT AGAIN.

13 Q PLEASE, DO.

14 A THE SUGGESTION BY PROFESSOR MEDLIN THAT MR. BROWN'S
15 FAMILY WOULD KNOW BETTER THAN ANYONE ELSE WHAT HIS WISHES
16 WERE, I RESPECTFULLY DISAGREE WITH THAT. I HAVE READ
17 ABOUT MR. BROWN. I HAVE WATCHED HIM ON TAPE. I HAVE
18 LEARNED TO THE EXTENT THAT I'VE BEEN ABLE TO WHAT HE'S
19 ABOUT. HE WAS ALL ABOUT EDUCATION AND OPPORTUNITY FOR THE
20 UNDER-EDUCATED. HE WAS ALL ABOUT GIVE ME A WAY OUT, NOT A
21 HANDOUT.

22 Q WHAT HAVE YOU READ ABOUT MR. BROWN WHICH SUGGESTS
23 THAT YOU HAVE LEARNED ON A FIRSTHAND BASIS WHAT IS
24 MR. BROWN'S INTENTION?

25 A WELL, I'VE BEEN READING SINCE MARCH 7, 2007 BECAUSE I

1 HAD VERY LITTLE KNOWLEDGE OF MR. BROWN OTHER THAN I LIKED
2 HIS SONGS, AND I HAVE READ LOTS OF STUFF. I WATCHED HIS
3 PERFORMANCE. I LISTENED TO HIS MUSIC WHENEVER I AM IN MY
4 CAR. I GO ON THE INTERNET ALL THE TIME. I LOOK UP THINGS
5 TO TRY TO FIND OUT ABOUT HIM AND HIS HISTORY. I GO TO
6 WIKIPEDIA. I PUNCH IN WORDS AND SEE WHAT COMES UP. I AM
7 VERY AWARE OF WANTING TO KNOW WHAT I CAN KNOW TO PROTECT
8 MR. BROWN'S ESTATE PLAN.

9 Q YOU ALSO SAID YOU WATCHED HIM ON TAPE. EXPLAIN, IF
10 YOU WOULD, PLEASE, WHAT IT IS THAT YOU WATCHED ON TAPE
11 WHICH HELPED YOU TO UNDERSTAND THAT YOU KNOW BETTER THE
12 TESTAMENTARY INTENT OF MR. BROWN THAN HIS FAMILY DOES.

13 A WELL, I THINK I KNOW BETTER BECAUSE I THINK HIS WILL
14 IS PRESUMED TO BE HIS INTENTION AND THEY ARE NOT
15 RESPECTING THAT. SO, I BEGIN WITH THAT, AND THEN ON TAPE
16 I JUST MEAN I'VE WATCHED -- YOU KNOW, WATCHED THINGS HE'S
17 DONE, HIS PERFORMANCES. I WATCHED THE TAMMY SHOW LAST
18 WEEK BECAUSE THAT WAS SOME SORT OF A SEMINAL PIECE OF WORK
19 OF HIS. I JUST TRIED TO DO EVERYTHING I COULD TO -- I
20 HAVE READ A LOT ABOUT HIS INTERACTIONS AND POLITICAL
21 THINGS AND HOW HE GOT INVOLVED IN THAT BUT THEN HE PULLED
22 BACK, AND, YOU KNOW, I JUST WANT TO DO THE BEST JOB THAT I
23 CAN TO DEFEND HIM UNDER THE DOCUMENTS AND THE FACTS AS
24 THEY EXIST WHICH I THINK ARE COMPELLING IN HIS FAVOR.

25 Q WHAT HAVE YOU WATCHED ON TAPE THAT HAS HELPED YOU TO

1 UNDERSTAND HIS TESTAMENTARY INTENT?

2 MR. BAILEY: YOUR HONOR, I AM GOING TO OBJECT. HE'S
3 ASKED THE QUESTION. SHE'S ATTEMPTED TO ANSWER IT. KEEP
4 IT SUCCINCT AS THE COURT HAS REQUESTED.

5 THE WITNESS: WELL, I THINK --

6 THE COURT: SUSTAINED. SUSTAINED. MOVE ALONG,
7 PLEASE.

8 Q IS ONE OF THE THINGS YOU'VE READ PERHAPS THE MARY
9 HOLMES AFFIDAVIT?

10 A I DID. YES, YES, YES.

11 Q AND IS THAT AN AFFIDAVIT THAT YOU HAVE ATTACHED IN
12 CONNECTION WITH YOUR MOTION FOR PARTIAL SUMMARY JUDGMENT
13 FILED WITH THIS COURT ON JANUARY 20, 2009?

14 A YES. AND I ALSO DID WATCH HER ON A C.D. I HAVE
15 WATCHED -- IT WAS ABOUT A 29-MINUTE INTERVIEW WHICH WAS
16 VERY, VERY IMPRESSIVE.

17 Q WHO GAVE YOU THAT?

18 A THAT WAS ONE OF THOSE STAHL CUP THINGS THAT HAD BEEN
19 IN THE BACK OF THE OFFICE FOREVER. YOU COULD HAVE GOTTEN
20 A COPY YOURSELF.

21 Q BUT THE ARCHITECT OF THAT INTERVIEW WAS WHO?

22 A GENE STAULCUP.

23 Q MR. STAULCUP DID NOT SPONTANEOUSLY DECIDE TO
24 INTERVIEW MARY HOLMES. WHO INSTIGATED MR. STAULCUP, A
25 PRIVATE INVESTIGATOR, THAT HE SHOULD INTERVIEW BY

1 VIDEOTAPE MS. HOLMES?

2 A WELL, I GUESS IT WAS BUDDY DALLAS. YOU KNOW, IT WAS
3 BEFORE MY TIME, BUT I WOULD GUESS. I WOULD ASSUME SO.

4 THE COURT: WHO IS MARY HOLMES? I HAVE HEARD SO MANY
5 NAMES. PLEASE HELP ME.

6 MR. LEVENSON: WELL, I AM NOT GOING TO BE ABLE TO
7 TESTIFY.

8 THE COURT: YOU'RE NOT. I AM JUST ASKING WHO IS MARY
9 HOLMES.

10 MR. LEVENSON: FRIEND AND COMPANION --

11 THE COURT: VERY WELL.

12 MR. LEVENSON: -- ALLEGEDLY OF MR. BROWN FOR SOME
13 TIME.

14 THE COURT: THANK YOU. ALLEGEDLY?

15 MR. LEVENSON: YES, SIR.

16 THE WITNESS: NO. I THINK IT IS UNDISPUTED THAT SHE
17 WAS A COMPANION.

18 THE COURT: OKAY. THAT'S FINE.

19 Q WELL, WITH ALL DUE RESPECT, MRS. POPE, YOU KNOW,
20 SINCE WE'RE STUDENTS OF THE LAW HERE, OTHER THAN WHAT
21 YOU'VE READ IN HER AFFIDAVIT DO YOU HAVE ANY INDEPENDENT
22 KNOWLEDGE THAT MARY HOLMES IS A FRIEND AND COMPANION OF
23 JAMES BROWN?

24 A THE VIDEOTAPE. HER VIDEOTAPE.

25 Q OTHER THAN THAT? OTHER THAN WHAT MARY HOLMES SAID ON

1 THAT VIDEOTAPE WHICH IS THE VIDEO EQUIVALENT OF HER
2 AFFIDAVIT?

3 A I ASKED MR. WASHINGTON WAS SHE OVER THERE A LOT AND
4 HE SAID YES.

5 Q AND YOU BELIEVE THAT THIS COURT SHOULD CONSIDER AS
6 COMPETENT EVIDENCE IN SUPPORT OF YOUR MOTION FOR PARTIAL
7 SUMMARY JUDGMENT WHAT MS. HOLMES HAS STATED?

8 A ABSOLUTELY, AND THE TAPE, TOO, BUT WE WON'T HEAR THAT
9 UNTIL THE END OF DISCOVERY. THERE WILL BE MORE. WE
10 HAVEN'T BEEN ABLE TO HAVE DISCOVERY YET.

11 Q DEBRA OPRI'S INTERVIEW YOU CITE IN YOUR MOTION FOR
12 PARTIAL SUMMARY JUDGMENT.

13 YOUR HONOR, IF YOU'RE GOING TO ASK ME WHO THAT IS
14 I'LL TRY TO HELP. DEBRA OPRI IS AN ATTORNEY IN CALIFORNIA
15 WHO WAS INTERVIEWED BY LARRY KING FOLLOWING THE DEATH OF
16 JAMES BROWN -- WHOSE INTERVIEW WAS CITED BY YOU IN SUPPORT
17 OF YOUR MOTION FOR SUMMARY JUDGMENT. TRUE OR FALSE?

18 A TRUE.

19 Q NOW, IS THAT A SOURCE THAT YOU CONSIDER TO BE FACTUAL
20 AND RELIABLE FOR WHICH YOU HAVE SOUGHT SUMMARY JUDGMENT?

21 A THAT COMBINED WITH THE FACT THAT SHE WAS HIS LAWYER
22 IN SOME LEGAL PROCEEDINGS AFTER THE YEAR 2000, AND,
23 HOPEFULLY, WE'LL GET HER DEPOSITION OR BE ABLE TO GET THAT
24 IN IN SOME OTHER NOT-TOO-EXPENSIVE WAY -- MAYBE EVEN THE
25 FILE SINCE SHE REPRESENTED MR. BROWN. SO, SHE -- IT'S

1 IMPORTANT BECAUSE SHE CONDUCTED A TRIAL WITH HIM AFTER THE
2 WILL IN WHICH HE WAS ACCUSED OF SEXUAL HARASSMENT, AND I
3 THINK, YOU KNOW, IT'S JUST MORE FACTS, BUT THEN WHEN SHE
4 WENT ON LARRY KING LIVE AND VOLUNTARILY MADE SOME
5 STATEMENTS I UNDERSTAND THAT WE STILL -- YOU KNOW, THERE
6 ARE SOME ISSUES ABOUT ADMISSIBILITY, BUT WE WERE --

7 Q JUST SOME?

8 A -- WE WERE BEING PUSHED HERE TO COME FORWARD WITHOUT
9 ANY DISCOVERY WITH WHY WE DID NOT BELIEVE WE SHOULD
10 PROCEED, AND, SO, WE FELT IT NECESSARY TO CALL TO THE
11 COURT'S ATTENTION EVERYTHING WE HAD EVEN WITHOUT
12 DISCOVERY.

13 Q WELL, I MEAN, YOU KNOW THAT MS. OPRI IS IN LIFE AND
14 CAPABLE OF SIGNING AN AFFIDAVIT; CORRECT?

15 A NO.

16 Q SHE'S NOT ALIVE?

17 A OH, IS SHE DEAD?

18 Q YOU'RE AWARE THAT MS. OPRI IS LIVING AND OVER THE AGE
19 OF 18 AND COMPETENT TO MAKE AN AFFIDAVIT; CORRECT?

20 A I DON'T --

21 Q HAVE YOU SPOKEN TO HER?

22 A NO, NO, I HAVEN'T, NOR HAVE I TRIED. I DON'T KNOW
23 WHAT HER -- SHE -- I DON'T KNOW WHAT HER RELATIONSHIP IS
24 AND WE'LL FIND OUT WITH THE FAMILY NOW. I DON'T KNOW
25 WHETHER SHE'D TALK TO ME. YOU KNOW, WE WERE RUSHED HERE.

1 Q IS HER SENSATIONAL INTERVIEW -- STRIKE THAT. I'M
2 SORRY, YOUR HONOR.

3 IS HER INTERVIEW WITH LARRY KING FOLLOWING THE DEATH
4 OF MR. BROWN BY YOU CONSIDERED A FACTOR IN DETERMINING
5 MR. BROWN'S INTENTION WITH RESPECT TO THE TESTAMENTARY
6 PLAN WHICH IS AT ISSUE?

7 A IT IS A TINY FACTOR, BUT IT'S A FACTOR BECAUSE SHE
8 VOLUNTARILY WENT ON NATIONAL T.V. TO SAY THERE IS A TRUST,
9 HYNIE-BROWN IS NOT THE WIFE, SHE BETTER STOP BREACHING HER
10 AGREEMENTS WITH MR. BROWN, AND, SO, SHE -- AS AN ATTORNEY
11 FOR MR. BROWN SHE VOLUNTEERED SOME RIGHT STRONG STATEMENTS
12 IN SUPPORT OF THE VALIDITY OF THE TRUST, AND SHE HAD HAD
13 SOME PRETTY CLOSE CONTACT WITH HIM BEING IN THAT TRIAL
14 LONG AFTER HE DID THE DOCUMENTS.

15 Q ARE YOU -- AND YOUR AFFIDAVIT IN SUPPORT OF PARTIAL
16 SUMMARY JUDGMENT RELIES ON MS. OPRI'S STATEMENT ON LARRY
17 KING; CORRECT?

18 A YES.

19 Q NOT FROM YOUR PERSONAL KNOWLEDGE, OF COURSE; CORRECT?

20 A WELL, IT'S MY PERSONAL KNOWLEDGE THAT I SAW THE LARRY
21 KING LIVE SEGMENT AND GOT A COPY OF THE TRANSCRIPT.

22 Q OKAY.

23 A YES, I ORDERED IT AND GOT IT.

24 Q MRS. POPE, DO YOU HAVE -- I APOLOGIZE. YOU HAVE SAID
25 OVER AND OVER YOU'RE A PRACTITIONER WITH 35 YEARS

1 EXPERIENCE. HOW MANY TIMES IN YOUR 35 YEARS EXPERIENCE
2 HAS THE COURT CONSIDERED AN AFFIDAVIT FROM A PERSON WHO
3 REFERS TO AN INTERVIEW ON LARRY KING AS COMPETENT
4 PROBATIVE EVIDENCE IN A CASE?

5 A WELL, NOT LARRY KING, BUT ALL THE TIME COURTS ACCEPT
6 EVIDENCE THAT WOULD NOT FALL WITHIN THE -- STRICTLY WITHIN
7 THE RULES.

8 Q IN RULE 56 -- YOU'RE SAYING A RULE-56 AFFIDAVIT WOULD
9 BE SUFFICIENT TO CARRY THE BURDEN IN A PARTIAL SUMMARY
10 JUDGMENT BASED ON WHAT OPRI SAID ON LARRY KING?

11 A I BELIEVE THE LAW IS SO CLEAR THAT WE WILL NOT HAVE
12 THIS SUMMARY JUDGMENT UNTIL THE CONCLUSION OF DISCOVERY.
13 IT'S NOT GOING TO HAPPEN.

14 Q MRS. POPE, LET ME SHOW YOU AGAIN -- I AM GOING TO
15 CALL YOUR ATTENTION TO YOUR TESTIMONY ON JANUARY 30, 2009
16 IN THIS COURT STARTING ON LINE 24 ON PAGE 159, AND, FIRST,
17 IF YOU WOULD, PLEASE, JUST READ TO YOURSELF THAT SENTENCE
18 STARTING ON LINE 24, PAGE 159.

19 A MR. LEVENSON, WHILE I READ THIS, COULD I HAVE A
20 KLEENEX?

21 MR. LEVENSON: ABSOLUTELY.

22 THE WITNESS: THANK YOU.

23 THE COURT: WE GOT SOME.

24 THE WITNESS: THANK YOU. YES.

25 Q DON'T YOU SAY THERE THAT REASONABLE PEOPLE CAN

1 DISAGREE AS TO WHETHER TOMI RAE HYNIE IS THE SPOUSE?

2 A YES.

3 Q WELL, IF REASONABLE PEOPLE CAN DISAGREE, THEN
4 WOULDN'T IT BE APPROPRIATE FOR THE PEOPLE WHO DISAGREE WHO
5 ARE REASONABLE MEANING THERE IS A REASON TO DISAGREE TO
6 COME TO THIS COURT AND SAY WE'D LIKE TO SETTLE OUR
7 REASONABLE DISAGREEMENTS?

8 A NOT UNTIL THE VERY CRITICAL LEGAL ISSUES WHICH CAN BE
9 RESOLVED QUICKLY ARE RESOLVED AND I'M TALKING IN
10 PARTICULAR THE LUKICH MATTER WHICH HAS BEEN PENDING
11 FOREVER.

12 Q MRS. POPE --

13 A NO.

14 Q I'M SORRY. IF YOU WEREN'T FINISHED, FINISH WHAT YOU
15 WERE SAYING.

16 A NO. I JUST SIMPLY DON'T AGREE WITH YOU. I DON'T
17 THINK IT IS A -- I THINK THERE ARE CERTAIN CRITICAL LEGAL
18 ISSUES THAT WE SHOULD NOT -- YOU SHOULD NOT PROCEED TO
19 SETTLEMENT BECAUSE A SETTLEMENT IN ORDER TO BE ACCEPTED BY
20 -- TO BE ACCEPTED OR ACCEPTABLE HAS TO HAVE SOME
21 REASONABLE BASIS AND NOT MORE THAN THAT BUT HAS TO BE
22 REASONABLY BASED ON REASONABLE OUTCOMES UNDER STATE LAW
23 PROPERLY APPLIED AND I DON'T THINK -- I DON'T THINK WE
24 COULD REACH THE SETTLEMENT WE'VE REACHED.

25 Q BY THAT ANALYSIS --

1 A YOU HAVE REACHED, NOT ME.

2 Q YES, MA'AM. BUT BY YOUR ANALYSIS THERE COULD BE NO
3 SETTLEMENT UNTIL THE FACTS WHICH ARE IN DISPUTE SUCH AS,
4 FOR EXAMPLE, TOMI RAE'S CLAIM TO BE A SPOUSE WAS
5 ADJUDICATED IN SOME WAY?

6 A I COMPLETELY DISAGREE AND IF YOU'LL READ THE BULLET
7 POINTS WHICH WERE SERVED ON EVERYONE AND --

8 MR. LEVENSON: EXCUSE ME.

9 THE WITNESS: -- PREPARED VERY CAREFULLY BY
10 MR. BUCHANAN.

11 MR. LEVENSON: EXCUSE ME, YOUR HONOR.

12 THE COURT: HOLD ON.

13 MR. LEVENSON: I AM NOT --

14 THE COURT: ONE SECOND.

15 MR. LEVENSON: MY OBJECTION IS TO UNRESPONSIVENESS OF
16 THE ANSWER. MRS. POPE MAY NOT IN MY OPINION START READING
17 FROM A PLEADING THAT IS NOT BEFORE THE COURT THAT WE'RE
18 NOT ASKING YOUR HONOR TO RULE UPON.

19 THE COURT: RESTATE YOUR QUESTION, PLEASE.

20 MR. LEVENSON: FRANKLY, I CAN'T.

21 MS. HICKLIN, COULD YOU HELP ME, PLEASE?

22 THE COURT REPORTER: BUT BY YOUR ANALYSIS THERE COULD
23 BE NO SETTLEMENT UNTIL THE FACTS WHICH ARE IN DISPUTE SUCH
24 AS, FOR EXAMPLE, TOMI RAE'S CLAIM TO BE A SPOUSE WAS
25 ADJUDICATED IN SOME WAY.

1 THE WITNESS: I DISAGREE. MAY I EXPLAIN?

2 THE COURT: WELL, AS LONG AS YOU CAN EXPLAIN YOUR
3 ANSWER WITHOUT SOME LONG DIATRIBE.

4 THE WITNESS: OUR FEBRUARY 7 BULLET-POINT PROPOSAL
5 SETS OUT VERY CLEARLY HOW WE CAN CLEAR UP ALL OF THE
6 PROBLEMS THAT ARE ASSOCIATED WITH THIS -- WHAT IS
7 HAPPENING IN THIS MCMASTER VERSUS DALLAS. GET THE PARTIES
8 PROPERLY TOGETHER AND HAVE A MEDIATOR WITH LOTS OF
9 AUTHORITY TO CONDUCT OR NOT CONDUCT DISCOVERY DEPENDING ON
10 WHETHER IT'S NECESSARY. NO, I DO NOT BELIEVE ALL OF THIS
11 HAS TO BE ADJUDICATED. I BELIEVE THAT THERE NEEDS TO BE A
12 GOOD MEDIATION WITH THE FIRST RULE OF MEDIATION BEING
13 FOLLOWED AND THAT IS THAT ALL OF THE NECESSARY PARTIES ARE
14 THERE.

15 Q NOW, MRS. POPE, DIDN'T YOU INDICATE IN SOME OTHER
16 PLEADINGS THAT YOU FILED RECENTLY THAT YOU WOULD NOT BE
17 SATISFIED WITH SUCH ADJUDICATION UNLESS THE HIGHEST COURT
18 OF THIS STATE TOLD YOU SO?

19 A YOU KNOW --

20 Q IS THAT A YES OR NO, PLEASE?

21 THE COURT: AND THEN YOU MAY EXPLAIN.

22 THE WITNESS: YES AND I'D LIKE TO EXPLAIN.

23 THE COURT: YOU MAY.

24 THE WITNESS: I BELIEVE THAT IF A SETTLEMENT WERE
25 REACHED WITH ALL OF THE RIGHT PARTIES THAT WE WOULD BE

1 BEST PROTECTED -- BEST PROTECTED BY THE PROTECTION OF THE
2 HIGHEST COURT IN THIS STATE. I DO NOT BELIEVE IT IS
3 ABSOLUTELY ESSENTIAL. I THINK IT WOULD BE GREAT, AND
4 SINCE WE'RE ALREADY UP THERE, IT'S NOT OUT OF THE REALM OF
5 POSSIBILITY THAT IF A SETTLEMENT WERE REACHED IT COULD
6 BE -- AND PROPER AND ALL OF THE PARTIES WERE THERE AND ALL
7 OF THE GUARDIANS AD LITEM WERE THERE, AND, YOU KNOW, ALL
8 -- YOU KNOW, EVERYBODY WHO SHOULD HAVE BEEN IN ON THE
9 MEDIATION THAT IT COULD BE BLESSED.

10 THERE ARE CRITICAL TAX REASONS WHY THAT WOULD BE
11 GREAT IF IT WERE THE CASE. IF I MADE IT SEEM THAT I
12 THOUGHT IT WAS ABSOLUTELY IMPERATIVE, THE ANSWER TO THAT
13 IS OF COURSE NOT, BUT WOULD IT BE A GREAT IDEA? YES.

14 Q DO YOU REMEMBER WRITING IN YOUR APPELLATE BRIEF --
15 YOUR LAWYERS, I'M SORRY, WRITING YOUR APPELLATE BRIEF --
16 QUOTE, THE LIKELIHOOD OF AN UNFAVORABLE RESULT ON THE
17 MERITS AND THE IMPOSITION OF SANCTIONS COULD REASONABLY
18 INSPIRE A PARTY TO ENTER INTO AN AGREEMENT, UNQUOTE?

19 A WHICH APPELLATE BRIEF WAS THIS? I'M SORRY. WE'VE
20 GOT SEVERAL -- THREE THINGS ON APPEAL AND YOU'LL HAVE TO
21 TELL ME WHICH LAWYER IT WAS AND WHAT THEY WROTE AND WHEN.

22 Q I WILL WITHDRAW THE QUESTION UNTIL I CAN FIND THE
23 BRIEF AND I WILL THEN RE-ASK THE QUESTION. I APOLOGIZE.
24 I DON'T KNOW WHICH APPELLATE BRIEF IT IS I'M REFERRING TO
25 BECAUSE YOU'VE HAD SO MANY, BUT DON'T YOU AGREE,

1 MRS. POPE, THAT THE FACT THAT YOU AND MR. BUCHANAN IN GOOD
2 FAITH BELIEVE THAT UNTIL THE HIGHEST COURT OF THIS STATE
3 DECIDES THE PROPRIETY OF THE SETTLEMENT THAT THAT SHOULD
4 BE A MOTIVATION FOR THEM TO WANT TO SETTLE EARLY SO AS TO
5 AVOID THAT PROCESS?

6 A I DIDN'T UNDERSTAND YOUR QUESTION --

7 Q SURE.

8 A -- MR. LEVENSON.

9 Q SINCE YOU HAVE ARTICULATED A DESIRE TO HAVE THE
10 HIGHEST COURT OF THIS STATE APPROVE OR DISAPPROVE A
11 SETTLEMENT BEFORE YOU WOULD BE SATISFIED AND MR. BUCHANAN
12 WOULD BE SATISFIED, ISN'T THAT A MOTIVATION FOR THE
13 SETTLING PARTIES TO COME TO PEACE WITH EACH OTHER SO THAT
14 THEY DON'T HAVE TO PROCEED THROUGH THAT PROCESS?

15 A I THINK WHAT I SAID ABOUT THE HIGHEST COURT WAS THAT
16 THEY NEEDED TO TELL ME I HAVE NO RESPONSIBILITY TO
17 CONTINUE TO DEFEND MR. BROWN. THAT SAID, I THINK THE
18 DIFFERENCE IN OUR ANALYSIS IS THAT I THINK YOU NEED ALL
19 THE PARTIES. I THINK IT IS DISRUPTIVE AND TROUBLESOME
20 WHEN YOU DON'T GET ALL THE PARTIES TOGETHER.

21 I THINK IT'S A STEP FORWARD THAT SOME OF THE SETTLING
22 PARTY -- SOME OF THE NECESSARY PARTIES HAVE MADE SOME
23 PROGRESS. I THINK THAT'S A VERY GOOD STEP FORWARD, BUT I
24 DON'T THINK -- I THINK FORCING IT TO BE A SETTLEMENT IS
25 THE -- CALLING IT ENFORCING IT TO BE A SETTLEMENT OVER --

1 WITH VERY SERIOUS IMPEDIMENTS IS A TERRIBLE PROBLEM.

2 Q MRS. POPE, THE LITIGATION COSTS AND THE DELAY -- TRY
3 TO HELP US AND THE COURT WITH A LIST OF THE PEOPLE WHO
4 WILL BE PREJUDICED BY THAT.

5 A THE LUMAR CHILDREN WHO ARE NOT PARTIES TO ANY
6 SETTLEMENT WHO HAVE AN INTEREST IN --

7 Q I'M SORRY. I AM GOING TO WITHDRAW THE QUESTION.

8 A -- WHO MAY HAVE AN EDUCATION FUND OF \$2 MILLION.

9 Q I AM GOING TO WITHDRAW THE QUESTION. I DID NOT ASK
10 IT PROPERLY. I APOLOGIZE. THOSE WHO WOULD BENEFIT FROM
11 THE SETTLEMENT IF APPROVED, WHO ARE THEY, IF APPROVED?

12 A WELL, GOLLY, I MEAN...

13 Q YOU'RE DESCRIBING THOSE WHO YOU CLAIM ARE NOT GOING
14 TO SOMEHOW BE ABLE TO PARTICIPATE DUE TO LACK OF SERVICE
15 OR SUBJECT MATTER JURISDICTION. I'M TALKING ABOUT THOSE
16 WHO ARE HERE MOVING THE COURT TO APPROVE IT. THOSE
17 BENEFICIARIES OF THE CHARITABLE TRUST, WHOEVER THOSE
18 PERSONS ARE WHO CAN ATTEND EDUCATIONAL INSTITUTIONS IN
19 GEORGIA AND SOUTH CAROLINA, THEY WOULD NOT HAVE THE
20 BENEFIT OF THAT WHILE THE LITIGATION WOULD CONTINUE;
21 CORRECT?

22 A I COMPLETELY DISAGREE WITH THAT.

23 Q OKAY. I THINK THEY WOULD BE TERRIBLY PREJUDICED BY
24 THIS SETTLEMENT. THIS TRUST WAS TO LAST IN PERPETUITY.
25 TO ACT LIKE WE NEED A QUICK DECISION TO GIVE AWAY HALF --

1 MORE THAN HALF -- 65 PERCENT OF THE ASSETS IN ORDER TO ACT
2 LIKE WE HAVE TO HAVE A QUICK FIX JUST BEARS NO RELATION
3 TO -- THE PURPOSES OF THE TRUST WHICH IS THE STANDARD BY
4 WHICH A COURT MAY DEVIATE IN A CHARITABLE TRUST ARE THE
5 PURPOSES OF THE TRUST WILL -- I NEED TO LOOK AT THE
6 STATUTE, BUT WILL A SETTLEMENT WHICH MAKES A MATERIAL
7 CHANGE IN A CHARITABLE TRUST DEVIATE FROM THE SETTLOR'S
8 INTENDED PURPOSES AND THIS SETTLEMENT IS SUCH A SEVERE
9 DEVIATION, NO, I DON'T -- THE CHARITABLE CHILDREN DO NOT
10 BENEFIT FROM THIS SETTLEMENT. I DO NOT BELIEVE THEY
11 BENEFIT.

12 I BELIEVE THAT MS. HYNIE BROWN BENEFITS. I DON'T
13 BELIEVE JAMES, II BENEFITS, AND I THINK THAT'S GOING TO BE
14 THE NEXT SOURCE OF LITIGATION, AND I LOOKED TODAY AND SAW
15 THAT THE GUARDIAN AD LITEM DIDN'T EVEN SIGN THE AGREEMENT.
16 HIS MOTHER DID WHO HAS A DIRECT CONFLICT, AND HE GETS
17 NOTHING UNDER THE SETTLEMENT WHICH TROUBLES ME GREATLY IF
18 IT TURNS OUT HE IS A CHILD, AND A FEW OF MR. BROWN'S --
19 AND MR. BROWN'S PEOPLE HE ACKNOWLEDGED IN HIS DOCUMENTS
20 WHICH THEY'RE CONTESTING WILL BENEFIT AND THEN TONYA BROWN
21 WHO YOUR CLIENTS HAVE SAID IN THEIR INTERROGATORIES WAS
22 NOT AN HEIR WILL BENEFIT, BUT YOU CAN'T TELL HOW MUCH
23 THEY'LL BENEFIT BECAUSE IT SAYS THERE IS GOING TO BE SOME
24 PRIVATE AGREEMENT AMONG THEM ABOUT HOW MUCH THEY'LL
25 BENEFIT.

1 Q WHOEVER THE CLASS OF PEOPLE ARE IN THE WORLD WHO
2 WOULD BE ENTITLED TO THE BENEFICIAL INTEREST OF THE
3 CHARITABLE TRUST, THEY WILL NOT GET THOSE BENEFITS WHILE
4 THE LITIGATION PROGRESSES; TRUE OR FALSE?

5 A NOT NECESSARILY TRUE.

6 Q OKAY. CERTAINLY, THERE BE WILL BE SOME REDUCTION OF
7 THE BENEFITS TO THEM BECAUSE OF THE CONTINUATION OF THE
8 LITIGATION?

9 A NOT NECESSARILY TRUE.

10 Q VERY WELL. AND MS. TOMI RAE BROWN WILL NOT ENJOY THE
11 BENEFITS OF THE SETTLEMENT BECAUSE THE LITIGATION WILL
12 ESSENTIALLY BE A BLOCKADE AGAINST HER RIGHTS TO COLLECT
13 THE APPEAL, LET'S SAY, AGAINST HER RIGHTS TO TAKE FOR
14 HERSELF AND HER SON?

15 A HER SON IS NOT PROTECTED UNDER THE AGREEMENT AND WE
16 DON'T KNOW YET WHETHER EITHER OF THEM HAS RIGHTS.

17 Q WITH ALL DUE RESPECT, MRS. POPE, DO YOU FEEL THAT YOU
18 ARE THE BEST DETERMINER OF WHAT SHOULD BE DONE FOR LITTLE
19 MAN OR HAS THE COURT INVESTED THAT AUTHORITY IN A GUARDIAN
20 AD LITEM?

21 A WELL, AS I SAID THE GUARDIAN AD LITEM DIDN'T SIGN THE
22 AGREEMENT. I AM LOOKING AT IT FROM THE POINT OF VIEW OF
23 PROTECTING THE TRUST AND ESTATE FROM FURTHER -- FROM
24 FURTHER DIMINUTION BY FUTURE SETTLEMENTS FROM JAMES, II,
25 WHO IS LEFT OUT OF THE SETTLEMENT AND HIS MOTHER HAS A

1 DIRECT CONFLICT IN TAKING FUNDS IF HE IS A CHILD.

2 I'M NOT LOOKING AT IT TO TRY TO BE THE PROTECTOR OF
3 JAMES, II. I AM LOOKING AT IT FROM TRYING TO BE THE
4 PROTECTOR OF THE NEXT ROUND OF LITIGATION WHICH UNDER THIS
5 PROPOSED SETTLEMENT MR. BROWN'S TRUST IS GOING TO PAY A
6 BUNCH OF.

7 THE COURT: MR. LEVENSON, IT'S 4 O'CLOCK. EVERYBODY
8 NEEDS A LITTLE BREAK -- AFTERNOON BREAK. WE'LL START BACK
9 IN ABOUT 15 MINUTES. STAND AT EASE.

10 (WHEREUPON, A BREAK WAS TAKEN.)

11 THE COURT: THE SHERIFF'S OFFICE INFORMS ME THAT
12 MR. CANNON IS INCARCERATED IN THE AIKEN DETENTION CENTER
13 AS OPPOSED TO THE DEPARTMENT OF CORRECTIONS. THAT'S WHAT
14 I WAS TELLING THEM.

15 MR. LEVENSON: MRS. POPE, A FEW MORE QUESTIONS.

16 THE COURT: MR. LEVENSON, DID YOU SEE YESTERDAY WHERE
17 IN A MURDER TRIAL IN CALIFORNIA -- WAS IT CALIFORNIA WHERE
18 THE DEFENDANT TRIED TO ATTACK THE JUDGE WHILE HE WAS
19 TESTIFYING AND HE WAS SHOT BY ONE OF THE DEPUTIES IN THE
20 COURTROOM. HE DID ATTACK HER -- STABBED THE JUDGE.

21 (WHEREUPON, A DISCUSSION WAS HELD OFF THE RECORD.)

22 Q EXPLAIN TO THE COURT WHAT YOU ENVISIONED TO BE THE
23 FUTURE OF THIS CASE IF THE COURT DOES NOT APPROVE THE
24 SETTLEMENT AGREEMENT. GIVE US YOUR VIEW OF WHERE THIS
25 CASE WOULD GO SHOULD THE JUDGE CHOOSE NOT TO GRANT THE

1 APPROVAL.

2 A WELL, WHAT BOB BUCHANAN AND I HAVE REQUESTED IS THAT
3 THERE BE A SPECIAL ADMINISTRATOR AND SPECIAL TRUSTEE TO
4 RELIEVE US OF THE ATTACKS AND PRESSURE AND ALLOW THE
5 ESTATE AND TRUST TO MOVE FORWARD IN VERY SIGNIFICANT WAYS
6 WITH NO INTERFERENCE AND THAT WOULD INCLUDE ANYTHING -- A
7 SALE, A MANAGEMENT OF ASSETS, SETTLEMENT OF THE CORBUS
8 LITIGATION, ALL OF THAT SO THAT THE ONE THING THAT
9 WOULDN'T HAPPEN WOULD BE THAT WE WOULD BE BOGGED DOWN --
10 -- I MEAN THAT THERE WOULD BE CONTINUED ATTACKS ON THE
11 ESTATE AND TRUST FOR THE PURPOSE OF ATTACKING US AND
12 PROVING A POINT. THAT WOULD BE HUGE.

13 AND THAT PERSON COULD BE ANY INDEPENDENT PERSON
14 CAPABLE OF MANAGING THE ASSETS AND WE WOULD JUST LOVE TO
15 HELP THEM BECAUSE WE DO HAVE SOME INSTITUTIONAL KNOWLEDGE
16 THAT WE CAN SHARE, AND WE WANT VERY MUCH FOR THE ESTATE
17 AND TRUST NOT TO BE DAMAGED. THAT COULD BE DONE ON AN
18 EMERGENCY BASIS TOMORROW.

19 THEN MOVING FROM THERE TO THE BULLET POINTS WHICH
20 WE'VE PRESENTED TO THE COURT WE WOULD ASK THAT THE PARTIES
21 GET PROPERLY JOINED; THAT THE COURT DIRECT MEDIATION; AND
22 WE DON'T MIND IF EVERYTHING ELSE IS STAYED, BUT WE GOT TO
23 GET THE PARTIES RIGHT AS I BELIEVE I WROTE YOU SOME MONTHS
24 AGO -- LET'S GET THE PARTIES RIGHT, HAVE THE COURT ORDER
25 MEDIATION, AND THEN -- AND THEN THE PURPOSE OF THAT BEING

1 THAT WHAT WE HAD SUGGESTED WAS THAT THE MEDIATOR HAVE SOME
2 CLEAR AUTHORITY ABOUT WHETHER THERE ARE LEGAL ISSUES THAT
3 HE NEEDS TO COME BACK -- HE OR SHE OR IT -- NEEDS TO COME
4 BACK AND ASK THE COURT IF THERE ARE, GOOD. IF NOT, IS
5 THERE DISCOVERY THAT'S NECESSARY TO HAVE A REASONABLE
6 SETTLEMENT? LET IT BE ALL LIMITED TO THAT. THAT WOULD
7 SAVE MONEY. IT WOULD BE EFFICIENT. AND THEN -- AND THEN,
8 HOPEFULLY, A REASONABLE SETTLEMENT AND A REASONABLE
9 TRANSITION WHICH WOULD BE MADE EASIER BY THE FACT THAT
10 THERE WOULD ALREADY BE A SPECIAL ADMINISTRATOR.

11 Q AT LEAST A YEAR MORE?

12 A NOT NECESSARILY.

13 Q BUT THAT'S A FAIR ESTIMATE, WOULDN'T YOU AGREE?

14 A NOT NECESSARILY.

15 Q THAT'S ANOTHER 3,000 HOURS OF YOUR TIME?

16 A NOT NECESSARILY; NOT AT ALL.

17 Q ANOTHER 2,000 HOURS OF MR. BUCHANAN'S TIME?

18 A NOT NECESSARILY.

19 Q ANOTHER 3,000 HOURS OF THE SPECIAL ADMINISTRATOR'S
20 TIME?

21 A NOT NECESSARILY.

22 Q ANOTHER EQUAL AMOUNT OF HOURS FROM ALL COUNSEL IN THE
23 CASE INCLUDING MR. BAILEY AND MS. HAYES?

24 A WELL, I DON'T THINK THAT MS. HYNIE BROWN NEEDS SIX
25 LAWYERS AT EVERY HEARING. I BELIEVE WE COULD PARE DOWN IF

1 WE HAD -- THAT'S NOT MY BUSINESS, BUT I BELIEVE IF WE HAD
2 A MEDIATION WE COULD ALL BE MORE EFFICIENT.

3 THE COURT: MRS. POPE, GIVE ME YOUR BEST GUESTIMATE
4 OF HOW LONG IT WOULD TAKE US TO DO THE -- TO GET THE
5 PARTIES RIGHT, QUOTE, UNQUOTE, AND HAVE THE COURT-ORDERED
6 MEDIATION -- SORT OF A BEST GUESTIMATE WITHOUT HOLDING YOU
7 TO ANY TIMEFRAME.

8 THE WITNESS: OKAY, WELL, LET'S SEE. AS WE SET OUT
9 AND THIS -- I WOULD LOVE FOR BOB TO TESTIFY MORE ABOUT
10 THIS BECAUSE --

11 THE COURT: YOU WANT ME TO WAIT AND LET HIM DO IT:
12 TOMORROW?

13 THE WITNESS: WELL, I WOULD SUGGEST THAT WE ALL LOOK
14 AT IT -- WHAT WE PRESERVED HERE ON FEBRUARY 17 IN LIGHT OF
15 ANY DEVELOPMENTS THAT HAVE HAPPENED SINCE THEN.

16 THE COURT: WELL, MY --

17 THE WITNESS: THIS DID NOT TALK ABOUT AN EMERGENCY
18 APPOINTMENT OF A SPECIAL ADMINISTRATOR. THAT WAS AFTER
19 THAT, BUT WE DO THINK THAT WOULD BE CRITICAL.

20 THE COURT: MY SIMPLE QUESTION IS YOU CAN YOU GIVE ME
21 YOUR BEST GUESTIMATE -- NOT ANYTHING I'LL HOLD YOU TO,
22 BUT --

23 THE WITNESS: OKAY. WELL --

24 THE COURT: -- JUST SORT OF A TIMEFRAME.

25 THE WITNESS: I THINK WE COULD GIVE ONE TOMORROW IF

1 WE HAD SOME ANSWERS TO SOME QUESTIONS. ONE WOULD BE WOULD
2 MR. DALLAS AND MR. BRADLEY PARTICIPATE IN THE MEDIATION
3 BECAUSE THAT WOULD EFFECT SOMETHING THAT WE CAN'T CONTROL
4 WHILE THEIR APPEAL IS PENDING AND WE WOULD THINK THAT THEY
5 SHOULD PARTICIPATE AND THAT KENDALL FEW AND, YOU KNOW, OUR
6 LAWYERS WHO ARE REPRESENTING US IN THE SUIT WITH THEM
7 SHOULD PARTICIPATE IN THAT.

8 I GUESS THE SAME QUESTION COULD BE ASKED OF
9 MR. CANNON, ALTHOUGH IT'S A LITTLE DIFFERENT, BUT IF --
10 LET'S JUST ASSUME THAT THEY WERE PARTICIPATING ALSO WHICH
11 WOULD NOT SUBJECT US TO THE COURT OF APPEALS THINGS.
12 THEN -- AND THAT ALL OF THE PARTIES HAD THE FULL AUTHORITY
13 OF THEIR CLIENTS TO MOVE FORWARD AND WE COULD GET A FRESH
14 MEDIATOR THAT WE LIKED AND -- NOT BY LIKED, BUT THAT WE
15 COULD ALL AGREE ON QUICKLY, YOU KNOW. WELL, LET'S JUST
16 THINK. WE'D HAVE TO JOIN THE PARTIES. WE COULD START
17 DOING THAT MONDAY.

18 Q WASN'T THERE A PUBLICATION THAT RESOLVED THAT
19 PROBLEM, MRS. POPE, DONE --

20 A WELL --

21 Q -- AT YOUR REQUEST BY REQUEST BY ME AND MOTION AND
22 ORDER OF THIS COURT? SO, WHY IS THAT STILL AN ISSUE
23 TROUBLING YOU?

24 A WELL, BECAUSE WHEN THE DOE DEFENDANTS DON'T SHOW UP
25 YOU HAVE TO APPOINT A GUARDIAN AD LITEM WHO HAS TO DO DUE

1 DILIGENCE TO FIND THEM AND THAT GUARDIAN AD LITEM WOULD
2 HAVE FOUND SALKEHATCHIE AND AIKEN AND, YOU KNOW. SO, THE
3 BETTER THING IS LET'S JUST JOIN THEM.

4 THE COURT: MRS. POPE, GO BACK TO MY --

5 THE WITNESS: OKAY.

6 THE COURT: -- QUESTION, PLEASE.

7 THE WITNESS: SO --

8 THE COURT: BEST GUESTIMATE.

9 THE WITNESS: THE BEST GUESTIMATE --

10 THE COURT: IF YOU CAN. YOU MAY NOT BE ABLE TO.

11 THE WITNESS: OKAY. WELL, WE COULD BE SERVING THESE

12 PARTIES WHILE WE'RE FIGURING OUT -- WHILE WE'RE GOING

13 AHEAD AND SCHEDULING THE MEDIATION. THEY PROBABLY

14 WOULDN'T MIND. WE COULD DECIDE WHO NEEDS A GUARDIAN AD

15 LITEM FOR THE MEDIATION AND WHO DOESN'T NEED IT UNTIL IF,

16 WE REACH A SETTLEMENT, AND THERE IS A DIFFERENCE. MOST OF

17 THE SETTLEMENTS I'VE BEEN IN THE GUARDIAN AD LITEM DOESN'T

18 DO THE SETTLEMENT BUT HAS TIME TO REVIEW IT AFTERWARDS,

19 BUT THAT DEPENDS ON YOUR TASTE. IT'S CHEAPER TO GIVE THEM

20 TIME TO REVIEW IT AFTERWARDS. IF EVERYBODY REALLY HAD A

21 WILL TO GET IT DONE -- REALLY HAD A WILL TO GET IT DONE --

22 120 DAYS.

23 THE COURT: THANK YOU, MA'AM.

24 Q NOW, MRS. POPE, THAT ASSUMPTION AS YOU'VE JUST GIVEN

25 TO JUDGE EARLY PRESUPPOSES THAT IF THE JUDGE DOES NOT

1 APPROVE THE SETTLEMENT TOMI RAE BROWN, MY CLIENTS, AND THE
2 ATTORNEY GENERAL WILL NOT APPEAL THIS COURT'S DECISION;
3 CORRECT?

4 A SURE, YEA. OH, OBVIOUSLY.

5 Q AND YOU DON'T FAULT THEM FOR WISHING TO BRING THAT
6 MATTER TO THE ATTENTION OF THE APPELLATE COURT SINCE YOU
7 WISH TO APPEAL; RIGHT?

8 A WELL, I AM NOT GOING TO SAY I DON'T FAULT THEM, BUT I
9 CERTAINLY UNDERSTAND THAT YOU HAVE A LEGAL RIGHT TO SEEK
10 AN APPEAL.

11 Q SO, IN AID OF THE COURT'S QUESTION THAT ESTIMATE OF
12 120 DAYS IS PREDICATED ON THE FACT THAT --

13 A RIGHT.

14 Q -- THERE WOULD BE NO APPEAL BY EITHER PARTY FROM A
15 DECISION THAT WOULD DENY --

16 A PREDICATED ON A WILL OF ALL THE PARTIES TO WANT TO
17 GET IT DONE. CERTAINLY. ABSOLUTELY.

18 Q MRS. POPE, JUST A FEW MORE QUESTIONS.

19 THE COURT: WELL, BEFORE YOU GO INTO A FEW MORE
20 QUESTIONS, YOU JUST ASKED AN INTERESTING SITUATION ABOUT
21 THIS -- I'VE HEARD IT WHEN WE WERE HERE IN JANUARY. I'VE
22 HEARD IT ALL DAY YESTERDAY, AND I'VE HEARD IT ALL DAY
23 TODAY ABOUT GETTING THE PARTY RIGHT, JOINING THE PARTIES,
24 AND I -- YOU JUST MENTIONED THAT I DID SIGN AN ORDER OF
25 PUBLICATION.

1 MR. LEVENSON: YOU DID AND IT'S RUN.

2 THE COURT: WHEN WAS THAT DONE, MRS. POPE? DO YOU
3 RECALL?

4 MRS. POPE: YOUR HONOR, IT WAS DONE IN THE LATE
5 SPRING IN CASE 872, BUT THEN, AGAIN, THERE'S BEEN NO
6 GUARDIAN AD LITEM APPOINTED FOR THE DOE DEFENDANTS WHICH
7 IS WHAT YOU DO WHEN THEY DON'T SHOW UP.

8 THE COURT: OKAY.

9 MR. LEVENSON: I MEAN, I AM NOT GOING TO -- I'LL
10 RESERVE ARGUMENT WHEN THE TIME COMES ON THAT ISSUE, YOUR
11 HONOR. I AM NOT GOING TO ARGUE WITH THE WITNESS ON THAT
12 POINT.

13 THE COURT: BUT THEY HAVE BEEN SERVED BY PUBLICATION.

14 MR. LEVENSON: THAT IS CORRECT. THAT IS CORRECT.
15 YES, SIR.

16 THE WITNESS: BUT IF I COULD SPEAK TO THAT --

17 THE COURT: YES, MA'AM, YOU MAY.

18 THE WITNESS: -- MR. LEVENSON, WE HAVE -- IT IS -- WE
19 ARE THE ONES WHO HAVE PROPOSED THAT WILL AS THE ALTERNATE
20 WILL AND WE WOULD WANT THEM IN ON THE MEDIATION. WE HAVE
21 PROPOSED THAT AS THE ALTERNATE AS BEING CLOSER TO
22 MR. BROWN'S WISHES THAN AN INTESTACY.

23 Q WITH ALL RESPECT, MRS. POPE, THAT'S DIFFERENT FROM
24 THE QUESTION AS TO WHETHER ALL PARTIES HAVE EITHER BEEN
25 SERVED OR GIVEN NOTICE THROUGH LEGAL PUBLICATION; ISN'T

1 THAT CORRECT?

2 A WELL, IF YOU LOOK AT THE TERM INTERESTED PERSONS
3 UNDER THE CODE YOU WOULD NOT WANT TO LEAVE THEM OUT.

4 Q YES, MA'AM.

5 A THAT'S'S ALL I'M SAYING. YOU KNOW, I AM NOT GOING TO
6 HAVE A FIGHT WITH YOU.

7 Q YES, MA'AM. HAVE YOU READ JAMES BROWN'S
8 AUTOBIOGRAPHY?

9 A I HAVE READ PARTS OF SOME OF THEM, YES. I MEAN, I
10 SORT OF KEEP THEM BY THE BED AND READ THINGS.

11 Q WELL, YOU'VE BEEN IN THE CASE FOR TWO YEARS NOW AND
12 YOU HAVEN'T READ THE ENTIRETY OF HIS AUTOBIOGRAPHY, THE
13 ONLY WRITTEN STATEMENT FROM HIS OWN HAND OR OR HIS OWN
14 LIPS?

15 A IS THIS THE JEFF BROWN?

16 Q JAMES BROWN'S.

17 A NO.

18 Q WOULD YOU LIKE TO SEE THE BOOK?

19 A YEA, LET ME SEE WHICH ONE YOU'RE TALKING ABOUT. YOU
20 KNOW, I'VE GOT ABOUT THREE OR FOUR THAT, YEA, I'VE READ
21 PARTS OF THIS. I CAN'T PROMISE YOU THAT I'VE READ IT ALL
22 THE WAY THROUGH, BUT I'VE READ IT.

23 Q IF I TOLD YOU THAT WAS PUBLISHED IN THE YEAR 2005
24 FOLLOWING THE FAMILY COURT PROCEEDING IN CHARLESTON, SOUTH
25 CAROLINA, WOULD YOU JUST TAKE THAT AS A REPRESENTATION OF

1 COUNSEL?

2 A WELL, I KNOW IT WAS PUBLISHED AFTERWARDS. I DON'T
3 KNOW WHERE HE GOT THE INFORMATION. I HAVE READ ALL OF
4 THAT ABOUT NICE TO BE MARRIED AND FUN TO BE A FATHER. I
5 MEAN, I HAVE READ ALL OF THAT, BUT I DON'T CONSIDER THIS
6 BOOK CONCLUSIVE --

7 Q WELL --

8 A -- OR EVEN -- BECAUSE YOU CAN'T TELL WHEN HE TALKED
9 WHETHER IT WAS BEFORE OR AFTER HE SOUGHT THE D.N.A.
10 TESTING FOR JAMES, II; WHETHER IT WAS BEFORE OR AFTER THE
11 SETTLEMENT REACHED IN THE AIKEN COUNTY FAMILY COURT. I
12 CAN'T TELL FROM -- I'VE READ THAT. I CAN'T TELL.

13 THE COURT: MRS. POPE, HAND ME THAT BOOK, PLEASE.

14 Q JUST FOR THE PERFECTION OF THE RECORD, MRS. POPE, IN
15 THAT BOOK MR. BROWN PROCLAIMS TOMI RAE TO BE HIS WIFE --

16 A I DON'T --

17 Q -- TRUE OR FALSE?

18 A -- AGREE MR. BROWN DOES. THE AUTHOR USING SOME
19 SOURCE OF MATERIAL THAT WE CAN'T TELL WHETHER IT CAME
20 BEFORE OR AFTER HE SOUGHT AN ANNULMENT OF HIS MARRIAGE
21 USES SOME STATEMENTS WHICH HE ATTRIBUTES TO MR. BROWN. I
22 DO NOT BELIEVE THAT IS --

23 Q SO, MR. BROWN -- YOU'RE TELLING THE COURT THAT YOU
24 HAD QUESTION ABOUT WHETHER MR. BROWN AUTHORIZED THE
25 SCRIBNER WHO MAY HAVE BEEN WRITING FOR MR. BROWN OR THE

1 GHOSTWRITER OR WHATEVER THEY CALL THOSE PEOPLE WRITING THE
2 AUTOBIOGRAPHY FOR MR. BROWN TO HAVE MISSTATED SOMETHING
3 WITH RESPECT TO MR. BROWN PROCLAIMING TOMI RAE TO BE HIS
4 WIFE?

5 A NO. I DON'T KNOW WHEN HE GAVE THE INFORMATION TO THE
6 WRITER.

7 Q HOW ABOUT LITTLE MAN -- JAMES BROWN, II? HE
8 PROCLAIMS HIM TO BE HIS SON, DOES HE NOT, IN THE BOOK?

9 A IN THE COURT IN AIKEN HE DID NOT. HE --

10 THE COURT: HOLD ON, MA'AM. IN THE BOOK. PLEASE
11 ANSWER.

12 THE WITNESS: IN THE -- THE AUTHOR OF THE BOOK
13 PURPORTS TO QUOTE MR. BROWN AT SOME UNDETERMINED TIME TO
14 IDENTIFY TOMI RAE AS HIS WIFE AND JAMES, II, AS HIS CHILD.

15 Q DOES HE NOT ALSO IDENTIFY HIS OTHER CHILDREN, MY
16 CLIENTS, AS HIS BIOLOGICAL OFFSPRING?

17 A YOU KNOW, I DON'T RECALL.

18 Q WAS THAT BECAUSE YOU DIDN'T READ THE WHOLE BOOK,
19 PERHAPS?

20 A NOW THAT I LOOK AT THE BOOK I THINK I DID READ THE
21 WHOLE BOOK, BUT, YOU KNOW, IT'S BEEN A LONG TIME AND I'M
22 AN OLD LADY.

23 Q YES, MA'AM. IS THERE AN ARGUMENT WITH A FACTUAL
24 BASIS THAT THE ESTATE PLAN THAT YOU HAVE SWORN TO UPHOLD
25 BENEFITS MR. DALLAS, MR. BRADLEY, AND MR. CANNON MORE THAN

1 IT BENEFITTED MR. BROWN AND THE CHARITABLE TRUST?

2 A NO.

3 Q SO, NO ONE CAN TAKE THAT POSITION IN GOOD FAITH AND
4 URGE IT UPON A COURT OR A FINDER OF FACT?

5 A NO.

6 MR. LEVENSON: THANK YOU, JUDGE.

7 THE COURT: THANK YOU, MR. LEVENSON. ALL RIGHT.

8 LET'S SEE. GOING DOWN THE PLEADINGS, MR. SONNY JONES.

9 MR. MICHEL, YOU'RE LOOKING AWFULLY PUZZLED.

10 MR. MICHEL: I AM JUST ASKING IF WE NEED TO MOVE

11 SOMETHING INTO EVIDENCE. SORRY.

12 MR. ROSEN: WE HAD A LITTLE CHAIN OF COMMAND PROBLEM.

13 THE COURT: I THINK I KNOW WHO IS AT THE VERY BOTTOM
14 OF IT.

15 MR. MEDLIN: THAT'S CORRECT, YOUR HONOR.

16 MR. ROSEN: THAT'S ONLY WHEN I AM AT HOME.

17 THE COURT: MR. JONES, IT'S 4:35. I AM GOING TO RUN
18 UNTIL ABOUT FIVE BECAUSE OF COURTHOUSE POLICY. THEN
19 WE'LL --

20 MR. JONES: YES, SIR. I APPRECIATE THAT. I AM GOING
21 TO TRY NOT TO PLOW OLD GROUND AS YOUR HONOR HAS DIRECTED
22 AND DISCUSS NEW MATTERS.

23 CROSS-EXAMINATION

24 BY MR. JONES:

25 Q GOOD AFTERNOON, MRS. POPE.

1 A GOOD AFTERNOON, MR. JONES.

2 Q I BELIEVE THAT YOU MADE A STATEMENT THAT THE STATE
3 ATTORNEY GENERAL'S OFFICE IS UNABLE TO DEFEND THE
4 CHARITABLE TRUST SET FORTH IN THE 2000 IRREVOCABLE TRUST;
5 IS THAT CORRECT?

6 A YES. NOW THEY ARE, AND, IF I MAY EXPLAIN, I BELIEVE
7 THE TERMS OF THE AUGUST 10 AGREEMENT COMMIT THE ATTORNEY
8 GENERAL'S OFFICE TO TRY TO DEFEAT THE INTEREST OF
9 SUCCESSORS IN INTEREST TO MR. BROWN WHO DON'T AGREE WITH
10 THE SETTLEMENT, AND I BELIEVE THAT THAT TERM IN THE
11 AUGUST 10 DOCUMENT IMPAIRS THE ABILITY OF THE ATTORNEY
12 GENERAL TO DEFEND EITHER THE CHARITABLE PORTION OF THE
13 2000 TRUST OR THE CHARITABLE PORTION OF THE 1999 TRUST
14 BECAUSE OF THE COMMITMENT TO THE SETTLEMENT.

15 Q SO, YOUR ANSWER IS YOU THINK THE ATTORNEY GENERAL IS
16 NOT THE APPROPRIATE PARTY AT THE PRESENT TIME TO REPRESENT
17 THE CHARITABLE TRUST INTEREST; IS THAT CORRECT?

18 A WE --

19 Q YES OR NO?

20 A NO, BUT I WOULD LIKE TO EXPLAIN.

21 THE COURT: YOU MAY.

22 THE WITNESS: WE'VE ASKED FOR THE APPOINTMENT OF A
23 SPECIAL ATTORNEY GENERAL BECAUSE OF THE UNUSUAL
24 CIRCUMSTANCES.

25 Q OKAY.

1 THE COURT: HOLD ON A SECOND. YOU'VE ASKED FOR THE
2 APPOINTMENT OF A SPECIAL ATTORNEY GENERAL BECAUSE OF THE
3 UNUSUAL CIRCUMSTANCES AND SUCCINCTLY STATED THOSE UNUSUAL
4 CIRCUMSTANCES ARE YOUR ALLEGATIONS ABOUT --

5 THE WITNESS: THE ATTORNEY GENERAL'S OFFICE HAS
6 COMMITTED TO A SETTLEMENT WHICH RENDERS IT OR THEY ARE
7 ASSERTING THAT THEY HAVE AN AGREEMENT TO TRY TO DEFEAT THE
8 SUCCESSORS -- OTHER SUCCESSORS AND INTEREST UNDER THE
9 AGREEMENT AND OTHER HEIRS AND I'VE NEVER THOUGHT THEY WERE
10 ABLE TO REPRESENT THE NON-CHARITABLE INTEREST EVER.

11 Q. YES, MA'AM. AS FAR AS YOUR COMMENTS ABOUT THE
12 ATTORNEY GENERAL'S OFFICE BEING UNABLE TO REPRESENT THE
13 CHARITABLE BENEFICIARIES, YOU'VE MADE STATEMENTS THAT I AM
14 PERSONALLY RESPONSIBLE INDIVIDUALLY FOR ANY LOSS THAT THE
15 CHARITABLE BENEFICIARIES MIGHT HAVE HAD UNDER THE TRUST;
16 IS THAT CORRECT, YES OR NO?

17 A. PARTLY, AND I'D LIKE TO EXPLAIN.

18 THE COURT: YOU MAY.

19 THE WITNESS: I AM EXTREMELY CONCERNED THAT YOU,
20 BEGINNING ON NOVEMBER 27 OF 2007, CALLED ME AND ASKED US
21 TO RESIGN -- SENT AN E-MAIL THAT DAY SAYING YOU WERE
22 ARMING AND READY TO GO BECAUSE WE WOULDN'T RESIGN AND HAVE
23 TREATED IT AS MORE IMPORTANT TO GET RID OF US THAN TO
24 PROTECT THE INTEREST OF MR. BROWN BOTH CHARITABLE AND
25 NON-CHARITABLE AND WE HAVE HAD A DIALOGUE WITH THE

1 ATTORNEY GENERAL ABOUT THIS FOR SOMETIME, AND WHEN WE HAD
2 A DIALOGUE WITH THEM IT WOULD SEEM TO GO WELL AND THEN
3 SOMETHING WOULD HAPPEN AND YOU'D FILE SOMETHING.

4 SO, I AM CONCERNED THAT THE ATTORNEY GENERAL -- YOU
5 -- ASSERT THAT YOU CAN TAKE OVER THINGS, BUT YOU CAN'T
6 TAKE FIDUCIARY RESPONSIBILITY FOR THE LOSSES AND THAT IS
7 WHY I WONDER IF -- AND THE COURTS WILL HAVE TO TELL US IF
8 THE AUTHORITY OF THE ATTORNEY GENERAL TO ENFORCE A TRUST
9 EXTENDS TO TAKING OVER THE TRUST AND IN THIS CASE BOTH THE
10 CHARITABLE AND NON-CHARITABLE TRUST IN AN ESTATE MUSTN'T
11 THAT SAME PERSON WHO USURPS THE AUTHORITY OF THE PERSONAL
12 REPRESENTATIVES AND TRUSTEES BE RESPONSIBLE FOR THE LOSSES
13 ASSOCIATED WITH THAT. THAT'S A HARD QUESTION. I DON'T
14 KNOW THE ANSWER.

15 Q WELL, MRS. POPE, LET ME ASK YOU SOMETHING.

16 A SURE.

17 Q IF THE -- IF THIS CASE WENT TO FRUITION AND TRIAL AND
18 TO APPEAL AND WE GOT ZERO FOR THE CHARITABLE TRUST, WHO IS
19 RESPONSIBLE FOR THAT? IF YOU PROCEED, ARE YOU
20 INDIVIDUALLY RESPONSIBLE FOR THAT?

21 A IF I HAVE UNREASONABLY FOLLOWED MR. BROWN'S MANDATE
22 TO DEFEND HIS ESTATE PLAN.

23 Q OKAY.

24 A IF I HAVE REASONABLY DEFENDED HIS ESTATE PLAN AS OUR
25 LAW FRANKLIN VERSUS CHAVIS AUTHORIZES AND DIRECTS ME TO DO

1 AND THE VERY DOCUMENTS MANDATE ME TO DO -- IF I HAVE
2 FAILED TO DO THAT, I AM LIABLE. IF I DO IT UNREASONABLY,
3 I COULD ALSO BE LIABLE.

4 Q OKAY. SO, IF YOU DO IT UNREASONABLY AND YOU GO TO
5 FRUITION WITH THE TRIAL AND WE GET ZERO DOLLARS FROM THE
6 CHARITABLE TRUST, YOU STATE THAT YOU'RE INDIVIDUALLY
7 LIABLE; IS THAT CORRECT?

8 A JUST AS I'VE EXPLAINED TO YOU, IF I UNREASONABLY
9 DEFEND MR. BROWN'S ESTATE PLAN GIVEN THE MANDATE THAT HE
10 HAS -- I BEING BOB AND ME -- GIVEN THE MANDATE THAT HE'S
11 GIVEN US.

12 Q OKAY. AND WOULD YOU AGREE THAT DETERMINING
13 MR. BROWN'S MANDATE WOULD BE IN CONJUNCTION WITH THIS
14 LITIGATION -- THIS IS LITIGATION -- WOULD INVOLVE AND
15 PROTECTING THAT INTEREST WOULD INVOLVE MORE THAN LOOKING
16 AT THE FOUR CORNERS OF THE DOCUMENT? WOULD YOU AGREE TO
17 THAT, YES OR NO?

18 THE COURT: AND THEN YOU MAY EXPLAIN.

19 THE WITNESS: NOT NECESSARILY.

20 Q IS THAT YES OR NO?

21 A THAT'S NOT NECESSARILY.

22 Q OKAY. I'LL ACCEPT YOUR ANSWER. NOW, MRS. POPE,
23 YOU'VE -- YOU STATED IN PLEADINGS AND YOU'VE STATED UNDER
24 OATH THAT YOU HAVE MET WITH THE ATTORNEY GENERAL?

25 A THAT I HAVE?

1 Q HAVE MET WITH THE ATTORNEY GENERAL.

2 A YES.

3 Q IS THAT CORRECT?

4 A WITH MR. MCMASTER OR WITH YOU?

5 Q CORRECT, WITH MR. MCMASTER.

6 A WITH MR. MCMASTER.

7 Q IS IT NOT TRUE THAT --

8 THE COURT: HOLD ON. HOLD ON. HAVE YOU MET WITH
9 MR. MCMASTER?

10 THE WITNESS: YES. WE HAD ONE MEETING WITH
11 MR. MCMASTER.

12 Q IS IT NOT TRUE THAT IN THE PAST SUMMER, SUMMER OF
13 '08, THAT YOU AND JOHN RAINY AND BOB BUCHANAN AND YOURSELF
14 CAME TO MEET WITH THE ATTORNEY GENERAL ALONG WITH ME AND
15 JEAN MCCASKILL?

16 A I BELIEVE IT WAS IN MAY.

17 Q SUMMER?

18 A MAY 27 OR 28. IT WAS ABOUT THE DAY THAT THE FIRST
19 COURT OF APPEALS ORDER WAS ISSUED. IT WAS BEING ISSUED AS
20 WE WERE MEETING.

21 Q RIGHT.

22 A YES.

23 Q BUT YOU MET WITH MY ATTORNEY GENERAL?

24 A ONE TIME.

25 Q DIRECTLY.

- 1 A I DID.
- 2 Q ALL RIGHT.
- 3 A I HAD A GREAT MEETING WITH HIM.
- 4 Q OKAY.
- 5 A WORKED WELL.
- 6 Q AND I BELIEVE HE WROTE YOU A LETTER AFTER THAT
- 7 MEETING; CORRECT?
- 8 A HE WROTE ME A LETTER BETWEEN THE MEETING AND --
- 9 BETWEEN THE MEETING AND THE -- HE WROTE ME SEVERAL LETTERS
- 10 AFTER THAT. YES.
- 11 Q OKAY.
- 12 A HE WROTE ME SEVERAL LETTERS.
- 13 Q IS IT CORRECT --
- 14 A US -- BOB AND ME.
- 15 Q IS IT CORRECT TO SAY, MRS. POPE, THAT HE WANTED TO
- 16 COOPERATE WITH YOU; IS THAT CORRECT?
- 17 A I BELIEVE THAT ATTORNEY GENERAL MCMASTER DID. I
- 18 DON'T BELIEVE YOU DID.
- 19 Q OKAY. WAS A LETTER SIGNED BY MR. MCMASTER TO YOU AND
- 20 I BELIEVE MR. BUCHANAN -- IS IT NOT CORRECT TO SAY THAT HE
- 21 HAD A CONCERN ABOUT YOUR PROPER APPOINTMENT AS A TRUSTEE,
- 22 YES OR NO?
- 23 A I DON'T THINK SO.
- 24 Q OKAY.
- 25 A I THINK THAT WAS YOU.

1 Q THIS IS -- LET ME SHOW YOU A LETTER DATED JUNE 16.

2 THE COURT: WHAT YEAR?

3 MR. JONES: -- 2008 TO ADELE POPE AND BOB BUCHANAN.

4 I'D LIKE THIS INTRODUCED AS THE NEXT EXHIBIT. LOOK AT THE
5 LETTER.

6 THE COURT: WELL, LET HER IDENTIFY IT.

7 THE WITNESS: OH, I'M FAMILIAR WITH THE LETTER.

8 Q OKAY. YOU WANT TO READ THE SECOND PARAGRAPH,
9 MRS. POPE, AND SEE WHAT IT SAYS ABOUT CONCERN ABOUT
10 SPECIAL TRUSTEE?

11 A YES.

12 Q ABOUT YOUR APPOINTMENT.

13 A I AM SURPRISED BY YOUR STATEMENT THAT WE HAVE ELECTED
14 NOT TO JOIN YOU IN THE PURSUIT OF YOUR PRIMARY GOALS FOR
15 THE ESTATE PLAN OF JAMES BROWN. A PRIMARY CONCERN OF THIS
16 OFFICE IS THAT THE LAWS OF THE STATE OF SOUTH CAROLINA BE
17 ENFORCED.

18 Q OKAY. YOU WANT TO READ THE REST -- THAT'S MY POINT,
19 BUT YOU CAN READ THE REST IF YOU WANT TO. MY POINT WAS
20 THE ATTORNEY GENERAL HAS A CONCERN ABOUT YOUR APPOINTMENT
21 IN THE POSITION OF TRUSTEE GOING BACK TO NOVEMBER OF 2007.

22 THE COURT: MR. JONES, GO BACK OVER THERE.

23 Q IS THERE ANY CONFUSION ON YOUR PART THAT HE HAD A
24 CONCERN ABOUT THAT?

25 A YES.

1 Q OKAY. OKAY.

2 A YES, THERE IS A LOT OF CONFUSION.

3 Q DO YOU RECALL MARY FRANCES JOWERS WHO IS WITH OUR
4 OFFICE AND MYSELF AND SANDRA MATTHEWS COMING BY YOUR
5 OFFICE JUNE OF 2008 AND HAVING A DISCUSSION WITH YOU
6 CONCERNING YOU BEING PROPERLY APPOINTED AS A TRUSTEE?

7 A YOU CAME BY FOR A DISCUSSION --

8 Q RIGHT.

9 A -- MORE THAN ONCE, BUT I REMEMBER AT LEAST ONE TIME
10 AND IT WAS ABOUT THE TIME WHEN WE WERE IN THE DIALOGUE
11 ABOUT THIS.

12 Q OKAY.

13 A YES.

14 Q DO YOU RECALL THAT YOU -- YOU REFUSED TO RESIGN AS
15 TRUSTEE AND BE APPOINTED BY SPECIAL TRUSTEE BEFORE THIS
16 COURT?

17 A I DID AND I'LL EXPLAIN. YOU FIRST ASKED ME TO RESIGN
18 IN NOVEMBER. I WOULDN'T RESIGN THEN BECAUSE I TOLD YOU --
19 BOB AND I HAVE REPEATEDLY TOLD YOU THAT WE FELT THAT JUDGE
20 EARLY'S ORDER WAS VALID; THAT IT REALLY MATTERED TO US
21 THAT MR. CANNON, MR. DALLAS, AND MR. BRADLEY NOT RETURN,
22 AND THAT BECAUSE OF ALL OF THE CRAZY GOINGS-ON THAT IF WE
23 RESIGNED WE THOUGHT IT WOULD JUST BE ANOTHER OPENING FOR
24 MR. CANNON AND MR. DALLAS AND MR. BRADLEY TO TRY TO
25 RETURN.

1 WE HAVE REPEATEDLY TOLD YOU WE'RE NOT LOOKING FOR A
2 PERMANENT APPOINTMENT HERE. WE'RE NOT EMPIRE-BUILDING.
3 WE ARE SERVING UNDER WHAT WE BELIEVE ARE VALID ORDERS AND
4 WE BELIEVE THAT IT WOULD CREATE JEOPARDY, AND IF YOU
5 RECALL WHEN WE HAD THE MEETING WITH THE ATTORNEY GENERAL
6 WE EXPLAINED THAT TO HIM, AND HE SEEMED TO HEAR US, AND
7 YOU KEPT INSISTING WE HAD TO QUIT, WE HAD TO QUIT, WE HAD
8 TO QUIT, AND IF YOU'LL RECALL WHAT WE SAID TO THE ATTORNEY
9 GENERAL IS, ATTORNEY GENERAL MCMASTER, WE DISAGREE ABOUT
10 WHETHER WE HAVE TO QUIT OR NOT. WHY DON'T WE GO TO THE
11 PROBATE COURT AND WE'LL SAY YOU SAY WE HAVE TO QUIT, WE
12 SAY WE DON'T HAVE TO QUIT, BUT WE ALL WANT TO SAME RESULT.
13 WHICH IS THE TWO OF US AND A THIRD TRUSTEE, AND ATTORNEY
14 GENERAL MCMASTER SAID, WELL, THAT MAKES SENSE. HOW LONG
15 WILL IT TAKE YOU TO FIND A THIRD TRUSTEE, AND YOU TURNED
16 TO HIM AND YOU SAID SIX DAYS, AND THEN THE NEXT DAY YOU --
17 NOT THE ATTORNEY GENERAL -- NOTIFIED US THAT IT COULDN'T
18 POSSIBLY HAPPEN BECAUSE OF THE ORDER OF MAY 27 OR 28.

19 YOU WERE TRYING TO GET RID OF US. YOU HAD BEEN
20 TRYING TO GET RID OF US FOR NO REASON THAT WE CAN
21 UNDERSTAND SINCE NOVEMBER 27. YOU SAID WE WERE ARMING AND
22 READY TO GO TO GET RID OF BOB BUCHANAN AND ME. WHY?
23 COULDN'T UNDERSTAND -- I HAVE NEVER UNDERSTOOD IT.

24 Q OKAY. SO, YOUR ANSWER IS YOU WERE NOT WILLING TO
25 ACCEPT THE POSITION OF THE SPECIAL TRUSTEE AND GO TO

1 PROBATE COURT AND BE PROPERLY APPOINTED; IS THAT CORRECT,
2 YES OR NO?

3 MR. BAILEY: OBJECT TO THE FORM OF THE QUESTION SHE'S
4 ALREADY TESTIFIED THAT SHE WAS PROPERLY APPOINTED.

5 THE WITNESS: WE BELIEVE WE WERE PROPERLY APPOINTED.

6 THE COURT: FAIR ENOUGH.

7 Q MRS. POPE, ONCE AGAIN, YOU SAID AND I'M REPEATING AN
8 EARLIER STATEMENT THAT WE'RE UNABLE TO DEFEND THE TRUST.
9 IF THE COURT OF APPEALS AND, ULTIMATELY, THE STATE SUPREME
10 COURT HAS MADE A DETERMINATION THAT YOU WERE IMPROPERLY
11 APPOINTED PER THE DALLAS AND BRADLEY APPEAL, DOES THAT
12 RENDER THE FACT THAT YOU'RE UNABLE TO PROTECT THE
13 CHARITABLE TRUST?

14 A I DON'T BELIEVE SO.

15 Q OKAY.

16 A I DON'T BELIEVE SO.

17 Q YOUR ANSWER IS NO?

18 THE COURT: WELL, NO. IT'S I DON'T BELIEVE SO.

19 THE WITNESS: MY ANSWER IS I AM NOT THE SUPREME
20 COURT, BUT I DON'T BELIEVE SO.

21 Q OKAY. YOU'RE AWARE THAT THE ATTORNEY GENERAL'S
22 OFFICE STILL HAS A RECONSIDERATION OF YOUR APPOINTMENT
23 SUBJECT MATTER JURISDICTION AS TRUSTEE AND P.R.? DON'T
24 YOU UNDERSTAND THAT?

25 A NO. WE BELIEVE THAT YOU ABANDONED IT BY NOT TIMELY

1 PARTICIPATING IN THE APPEAL. WE DISAGREE ABOUT THAT.

2 Q OKAY. HAVE YOU SEEN AN ORDER ON THAT -- OUR SUBJECT
3 MATTER ARGUMENT?

4 A NO, WE JUST -- YOU AND I HAVE A DISAGREEMENT ABOUT
5 THAT.

6 Q OKAY. OKAY. BUT ASSUME FOR ARGUMENT THAT WE DO AND
7 YOUR HONOR HAS NOT RULED ON IT YET --

8 THE COURT: WAIT A MINUTE, MR. JONES. YOU AND
9 EVERYBODY ELSE IN THIS COURTROOM KNOWS THAT YOU'VE ASKED
10 ME TO HOLD THAT IN ABEYANCE.

11 MR. JONES: YES, SIR.

12 THE COURT: SO DON'T BLAME ME FOR NOT RULING ON IT.

13 MR. JONES: NO, SIR. NO, SIR. THAT'S FINE. WE ALL
14 UNDERSTAND IT'S IN ABEYANCE. THANK YOU.

15 THE WITNESS: WELL, I DON'T.

16 Q MRS. POPE, ARE YOU FAMILIAR WITH THE ORDER OF YOUR
17 HONOR IN NOVEMBER -- OCTOBER OF '07 AUTHORIZING THE STATE
18 ATTORNEY GENERAL'S OFFICE TO INTERVENE IN THIS CASE, DON'T
19 YOU?

20 A NOT THIS CASE, NO. THAT WAS CASE 122.

21 Q OKAY. IT WAS THE JAMES BROWN CASE?

22 A WELL, IT WAS ONE OF THE MANY JAMES BROWN CASES.

23 Q YES, MA'AM. AND WE'VE BEEN A PARTY SINCE THEN TO ALL
24 OF THE MATTERS. ANY OTHER CASE FILED, THE A.G.'S OFFICE
25 HAS BEEN INVOLVED. WOULD YOU AGREE TO THAT?

1 A I WOULD NOT AGREE THAT THEY WERE INVOLVED UNLESS THEY
2 WERE NAMED. I MEAN, FOR EXAMPLE, YOU'RE NOT IN ANY OF THE
3 CLAIMS LITIGATION.

4 Q OKAY.

5 A YOU'RE NOT IN -- YOU'RE NOT IN THE NEW YORK
6 LITIGATION. YOU'RE NOT IN THE ILLINOIS LITIGATION.

7 Q I UNDERSTAND.

8 A SO, YOU HAVE BEEN NAMED AS A PARTY IN CERTAIN OTHER
9 SUITS AND YOU'RE A PLAINTIFF IN THIS SUIT.

10 Q RIGHT. AND YOU WOULD AGREE THAT THE REASON THAT WE
11 WERE ALLOWED TO INTERVENE IN THE FIRST ACTION AND PROBABLY
12 A PROPER PARTY IN THESE OTHER ACTIONS IS BY STATUTE AND
13 COMMON LAW WE'RE THE APPROPRIATE PARTY TO PROTECT THE
14 INTEREST IN THE CHARITABLE TRUST; IS THAT CORRECT?

15 A NO. YOU ARE ONE -- THE ATTORNEY GENERAL UNDER THE
16 LAW IS ONE OF THE PEOPLE WITH AUTHORITY TO ENFORCE A
17 CHARITABLE TRUST. JUST ONE. WE ARE, ALSO.

18 Q I THINK YOU'RE REFERRING TO CODE SECTION 62-7-405.
19 IT MENTIONS CO-TRUSTEES, SPECIAL INTEREST PERSON, ATTORNEY
20 GENERAL; IS THAT CORRECT?

21 A I'M SORRY. I DON'T SPEAK IN NUMBERS. I UNDERSTAND
22 THAT THE ATTORNEY GENERAL IS AMONG THOSE WITH A RIGHT
23 ALONG WITH THE SETTLOR AND THE TRUSTEES AND OTHERS TO
24 ENFORCE A CHARITABLE TRUST, NOT THE NON-CHARITABLE
25 PORTION. YOU HAVE NO RIGHT WITH RESPECT TO THE

1 NON-CHARITABLE PORTION --

2 Q YES, MA'AM.

3 A -- OR THE ESTATE --

4 Q SO --

5 A -- EXCEPT TO SEE THAT IF IT IS HEADED FOR CHARITY
6 THAT IT COMES IN.

7 Q YES, MA'AM. NOW, YOU'VE HEARD ME STATE IN THIS COURT
8 ON SEVERAL TIMES AS RECENT PROBABLY AS YESTERDAY THAT THE
9 ATTORNEY GENERAL HAS THE AUTHORITY WHEN HE ENTERS IN IN
10 LITIGATION INVOLVING A CHARITABLE TRUST IF HE INTERVENES
11 TO TAKE OVER THAT LITIGATION. YOU'VE HEARD ME SAY THAT;
12 CORRECT?

13 A I HAVE HEARD YOU SAY THAT.

14 Q OKAY. HAVE YOU -- DO YOU HAVE ANY LAW THAT YOU
15 REVIEWED AS A FIDUCIARY THAT WOULD SAY ANY DIFFERENT?

16 A I CAN'T FIND ANYTHING TO SUGGEST THAT YOU HAVE THE
17 RIGHT TO TAKE OVER FOR A MIXED CHARITABLE AND
18 NON-CHARITABLE TRUST OR AN ESTATE. I FIND NOTHING TO
19 SUPPORT THAT, AND, IN FACT, THE LANGUAGE THAT SAYS YOU
20 HAVE THE RIGHT TO ENFORCE THE PROPER MANAGING OF A
21 CHARITABLE TRUST ABSOLUTELY DOES NOT TELL ME THAT YOU HAVE
22 ANY RIGHT TO TAKE OVER THE LITIGATION, WHATEVER THAT
23 MEANS --

24 Q OKAY.

25 A -- IN THE CONTEXT OF A MIXED CHARITABLE AND

1 NON-CHARITABLE TRUST IN AN ESTATE.

2 Q SO --

3 A I DON'T THINK THAT APPLIES.

4 Q OKAY.

5 A BUT I COULD BE WRONG.

6 Q ALL WE'RE LOOKING AT IS THE QUESTION OF THE ATTORNEY
7 GENERAL'S OFFICE BEING THE APPROPRIATE PARTY TO PROTECT
8 THE INTEREST OF CHARITABLE BENEFICIARIES. YOU DISAGREE
9 WITH THAT?

10 A YES. I THINK --

11 Q OKAY.

12 A -- THEY ARE ONE OF -- ALONG WITH US, ONE WHO CAN
13 ENFORCE THE PROPER MANAGEMENT OF A CHARITABLE TRUST.

14 Q AND YOU DISAGREE WITH ME WHEN I SAY THAT WHEN THE
15 ATTORNEY GENERAL'S OFFICE APPEARS IN AN ACTION INVOLVING A
16 CHARITABLE TRUST, THE CHARITABLE TRUST PART THAT WE TAKE
17 OVER THE LITIGATION AS FAR AS THAT CHARITABLE TRUST IS --
18 YOU DISAGREE WITH THAT?

19 A I BELIEVE BECAUSE OF YOUR INABILITY TO BECOME THE
20 FIDUCIARY AND, FOR EXAMPLE, BECAUSE OF YOUR INABILITY AS
21 THE ATTORNEY GENERAL TOLD US TO EVEN GET INVOLVED IN
22 MATTERS IN FEDERAL COURT BECAUSE I THINK -- I DON'T THINK
23 THAT'S -- I MEAN, HOW CAN YOU PROTECT JAMES BROWN AND NOT
24 BE ABLE TO GO TO FEDERAL COURT?

25 Q OKAY.

1 A I MEAN, I HAVE A LOT OF CONCERNS ABOUT WHAT THOSE OLD
2 CASES COULD MEAN IN THE CONTEXT OF THIS PARTICULAR ESTATE
3 AND MIXED CHARITABLE AND NON-CHARITABLE TRUSTS.

4 Q I WANT TO GET BACK TO YOUR FEDERAL CASE IN A SECOND.

5 A SURE.

6 Q LET'S GO BACK TO OLD CASES.

7 A WELL --

8 Q I WOULD SAY WHEN MY ATTORNEY GENERAL HIMSELF ARGUED
9 THE BULL STREET CASE, MCMASTER CASE VERSUS STATE
10 DEPARTMENT OF HEALTH IN 2007 AND THE SUPREME COURT FOUND
11 HIM THE APPROPRIATE PARTY TO PROTECT THE INTEREST OF A
12 CHARITABLE TRUST, THAT'S AN OLD CASE, WOULD YOU?

13 THE COURT: MR. JONES, WE ALL KNOW THAT 2007 IS NOT
14 OLD.

15 MR. JONES: WELL, YOUR HONOR, SHE SAID THERE'S OLD
16 CASES THAT DON'T GIVE US AUTHORITY. I WAS JUST TRYING TO
17 CLARIFY WAS SHE AWARE OF THE MCMASTER CASE.

18 ARE YOU AWARE OF THE MCMASTER CASE, YES OR NO?

19 THE WITNESS: YES, SOMEWHAT, AND I DON'T BELIEVE THAT
20 NEW CASES GIVE US GUIDANCE FOR WHERE WE ARE IN THIS CASE.

21 Q OKAY. NOW, LET'S GO TO FEDERAL LITIGATION. YOU'VE
22 SAID IN THE FEDERAL LITIGATION THAT YOU WANTED THE
23 ATTORNEY GENERAL TO GET INVOLVED IN THAT CASE?

24 A WE ASKED --

25 Q YES OR NO?

1 THE COURT: MR. JONES.

2 Q YES OR NO AND THEN EXPLAIN.

3 A PARTIALLY.

4 Q ARE YOU AWARE OF 11TH AMENDMENT?

5 A WELL, IF I COULD EXPLAIN.

6 Q ARE YOU AWARE OF THE 11TH AMENDMENT, YES OR NO?..

7 THE COURT: WAIT A MINUTE. WAIT A MINUTE.

8 MR. JONES: THE 11TH AMENDMENT TO THE U.S.C

9 CONSTITUTION.

10 THE COURT: MR. JONES -- MR. JONES.

11 THE WITNESS: I'LL HAVE TO SAY --

12 THE COURT: HOLD ON, BOTH OF YOU.

13 MR. JONES, CALM DOWN.

14 THE WITNESS: I'LL HAVE TO SAY I'M SURE I HAVE

15 STUDIED THE 11TH AMENDMENT AT SOMETIME. THE ATTORNEY.

16 GENERAL CERTAINLY CALLED IT TO MY ATTENTION, BUT IT'S NOT

17 AN AREA IN WHICH I HAVE ANY PARTICULAR EXPERTISE, BUT I'M

18 AWARE OF IT. I'M AWARE THAT THERE IS AN 11TH AMENDMENT.

19 IT'S NOT SOMETHING I'VE STUDIED.

20 Q WOULD IT BE FAIR TO SAY THAT THE STATE ATTORNEY

21 GENERAL'S OFFICE IS THE CHIEF LEGAL OFFICER IN THE STATE

22 OF SOUTH CAROLINA WOULD BE AWARE OF THE 11TH AMENDMENT?

23 WOULD YOU AGREE TO THAT?

24 A YES.

25 Q OKAY. AND YOU REALIZE THAT I BELIEVE IN THAT FEDERAL

1 ACTION FORLANDO BROWN BROUGHT THE FEDERAL ACTION AND HE'S
2 A GEORGIA RESIDENT; IS THAT CORRECT?

3 A I BELIEVE THAT IS WHAT WAS ALLEGED.

4 Q AND IT WOULD BE SAFE TO SAY THAT THE ATTORNEY
5 GENERAL'S OFFICE IS IN SOUTH CAROLINA; CORRECT?

6 A YEA.

7 Q SO, THE 11TH AMENDMENT ADDRESSES YOU CANNOT BE SUED
8 IN FEDERAL COURT BY A PARTY FROM ANOTHER STATE. DO YOU
9 RECALL THAT?

10 A I DON'T. I MEAN, ANYTHING I'VE LEARNED ABOUT THE
11 11TH AMENDMENT --

12 Q OKAY.

13 A -- I WOULD HAVE LEARNED IT FROM A LETTER FROM YOU OR
14 THE ATTORNEY GENERAL.

15 Q OKAY.

16 A I MEAN, I DON'T KNOW MUCH ABOUT THE 11TH AMENDMENT.

17 Q SO, YOU MADE THESE -- THE REASON I BRING THIS UP,
18 MRS. POPE, YOU'VE SAID IT ONCE AND YOU SAY IT IN PLEADINGS
19 AND YOU SAY IT AT EVERY OPPORTUNE TIME WHEN THE A.G.'S
20 NAME IS MENTIONED THAT THE A.G. DIDN'T COME TO YOUR RESCUE
21 OR ANYBODY'S RESCUE IN FEDERAL COURT AND YOU DIDN'T LOOK
22 AT THE ISSUES OF WHY WE DIDN'T DO THAT; IS THAT CORRECT?

23 A NO AND I'D LIKE TO EXPLAIN.

24 THE COURT: YOU MAY.

25 THE WITNESS: IT'S NOT CORRECT BECAUSE THERE WERE

1 MANY WAYS SHORT OF BECOMING A PARTY THAT THE ATTORNEY
2 GENERAL COULD HAVE SUPPORTED US THROUGHOUT THE YEAR OF
3 2007 AND INSTEAD AT EVERY TURN YOU'VE CHOSEN TO ATTACK US.
4 WE CAN'T FIGURE OUT WHY.

5 Q OKAY.

6 A IT BEGAN ON NOVEMBER 27 WHEN YOU TOLD BILL HAMMOND
7 THAT YOU COULDN'T GET ME TO RESIGN AND YOU WERE ARMING AND
8 READY TO GO.

9 Q YES, MA'AM.

10 A AND IT HAS CONTINUED RELENTLESSLY SINCE THEN FOR
11 REASONS WE CANNOT UNDERSTAND, AND IT IS NOT THE ATTORNEY
12 GENERAL. IT IS YOU.

13 Q SO, IF THE ATTORNEY GENERAL APPEARED HERE TOMORROW
14 AND TOLD -- I DON'T THINK HE NEEDS TO DO THAT -- AND SAYS,
15 MRS. POPE, SONNY JONES IS SPEAKING FOR ME BECAUSE HE
16 CONSULTS WITH ME AND HE'S GOT DIRECTIONS STRAIGHT FROM ME,
17 WOULD THAT BE ENOUGH FOR YOU, MRS. POPE?

18 A (NO RESPONSE.)

19 Q WOULD THAT BE ENOUGH YES OR NO?

20 A YES BUT I'D LIKE TO EXPLAIN.

21 THE COURT: YOU MAY. YOU MAY.

22 THE WITNESS: YES --

23 THE COURT: NOW, MR. JONES, CALM DOWN.

24 THE WITNESS: -- BECAUSE THE LAST WORD I HAVE FROM

25 THE ATTORNEY GENERAL HIMSELF WAS JULY 30 OF 2008 WHEN HE

1 SAID HE WOULD FULLY SUPPORT OUR BECOMING PERMANENT
2 TRUSTEES -- NOT SOMETHING WE ARE LOOKING FOR FOR A
3 LIFETIME, BUT RATHER LONG ENOUGH TO DO OUR JOB, AND HE --
4 HE USED YOUR MECHANISM FOR WE'D HAVE TO QUIT FIRST AND
5 THEN ASK THE, YOU KNOW, ADVISORY COMMITTEE, BUT WHAT WAS
6 IMPORTANT THAT THE ATTORNEY GENERAL SAID TO ME IS THAT HE
7 LOOKED FORWARD TO SUPPORTING OUR BEING TRUSTEE --
8 SOMETHING YOU'VE NEVER DONE.

9 SO, THAT'S THE LAST WORD WE HAD FROM THE ATTORNEY
10 GENERAL AND THAT WOULD -- HAD YOU -- THAT WAS ONLY 12 DAYS
11 BEFORE, WITHOUT TELLING US, YOU ATTENDED A MEDIATION AND
12 THEN PEOPLE STARTED ANNOUNCING FOR US TO GET OUT OF THE
13 WAY.

14 Q OKAY. SO, IF I AM RIGHT ON THIS, MRS. POPE, THAT
15 YOUR LAST WORD FROM MY ATTORNEY GENERAL TO YOU AND I
16 BELIEVE YOU ATTACHED IT IN YOUR PLEADINGS IS JULY 30
17 LETTER?

18 A JULY 30, YES.

19 Q YES. LET ME READ THE PARAGRAPH. YOU STARTED OFF
20 PART OF IT AND I AM GOING TO GIVE IT TO YOU.

21 A UH-HUH.

22 Q SO IT'S IN YOUR PLEADINGS?

23 A YEA.

24 Q THE SECOND PARAGRAPH OF MY ATTORNEY GENERAL TO MR.
25 BUCHANAN AND MRS. POPE, SECOND PARAGRAPH: I HAVE NO

1 OBJECTION TO YOUR RETURNING TO YOUR PREVIOUS DISCUSSIONS
2 ABOUT SECURING YOUR PROPER APPOINTMENT. I HAVE CONCERNS
3 ABOUT WHETHER THIS IS A POSSIBLE GIVEN YOUR UNWILLINGNESS
4 TO CONSIDER THE SPECIAL TRUSTEE POSITION.

5 A WELL, AGAIN, WHAT THE ATTORNEY GENERAL SAID TO ME IN
6 THAT LETTER -- SAID TO MR. BUCHANAN AND ME -- WAS THAT THE
7 SPIRIT OF WHAT HE WANTED TO DO THAT WE WERE IN AGREEMENT.
8 WE WERE RIGHT BACK WHERE WE WERE WHEN WE HAD THAT
9 WONDERFUL MEETING IN MAY, AND THEN AS A RESULT OF THIS
10 SETTLEMENT WE DID NOT -- NOTHING HAPPENED AFTER THAT. I
11 WAS VERY SATISFIED WITH THAT LETTER.

12 Q OKAY.

13 A NOT BECAUSE WE -- I MEAN, WE HAD SOME DIFFERENCES
14 ABOUT HOW TO DO IT, BUT WE WERE BACK TO LET'S GET IT DONE,
15 AND I THOUGHT THAT WAS A GREAT STEP, AND I WAS SO HAPPY
16 THAT THE ATTORNEY GENERAL WANTED TO SOLVE THE PROBLEMS.

17 Q AND THAT GETTING BACK TO LET'S GET IT DONE WOULD
18 INVOLVE YOU IN HIS MIND BEING PROPERLY APPOINTED AS A
19 TRUSTEE; IS THAT CORRECT?

20 A IN THAT LETTER --

21 Q OKAY.

22 A -- HE STATES THAT, BUT I DON'T BELIEVE THAT THAT WAS
23 HIS IDEA. I BELIEVE THAT WAS YOURS.

24 Q MRS. POPE, ARE YOU SAYING THAT WHEN THE ATTORNEY
25 GENERAL OF THE STATE OF SOUTH CAROLINA, SPECIFICALLY HENRY

1 MCMASTER -- ANYBODY WHO KNOWS MY ATTORNEY GENERAL, HE
2 LOOKS OVER EVERY WORD -- YOU CAN LOOK AT MRS. JOWERS AND
3 MR. NICHOLSON. WE'LL GET THREE OR FOUR EDITS BACK ON
4 LETTERS WE SEND. I'M SURE WE GOT SEVERAL EDITS BACK ON
5 THIS ONE. I PROBABLY HAVE THEM IN THE FILE. ARE YOU
6 SAYING THAT ANYTHING WE PASS IN FRONT OF MY ATTORNEY
7 GENERAL HE WILL SIGN?

8 A OH, ABSOLUTELY NOT. ABSOLUTELY NOT. I AM SAYING
9 THAT HE DEMONSTRATED TO US A SPIRIT OF RESOLVING THE ISSUE
10 AND GETTING A THIRD TRUSTEE APPOINTED, AND I THOUGHT THAT
11 WAS WONDERFUL. IT MADE ME VERY HAPPY.

12 Q OKAY. I AM GOING TO INTRODUCE THIS AS MY EXHIBIT.
13 WHATEVER THE NEXT EXHIBIT IS FOR A.G. LETTER OF JANUARY --
14 EXCUSE ME, OF JULY 30, 2008 TO MR. BUCHANAN AND MRS. POPE
15 FROM MY ATTORNEY GENERAL HENRY MCMASTER.

16 (WHEREUPON, ATTORNEY GENERAL'S EXHIBIT NOS. 1 & 2
17 WERE MARKED FOR IDENTIFICATION ONLY.)

18 THE COURT: MR. JONES, ARE WE AT A BREAKING POINT?
19 ARE YOU ABOUT FINISHED?

20 MR. JONES: I AM ABOUT FINISHED.

21 THE COURT: I'LL LET YOU FINISH.

22 Q MRS. POPE, CONCERNING THIS FEDERAL LITIGATION WERE
23 YOU AWARE THAT WHEN IT FIRST CAME UP THAT YOU WANTED THE
24 A.G. INVOLVED THAT I CALLED MR. BUCHANAN AND ASKED HIM,
25 WELL, TELL ME WHY, BOB. WHY DO YOU WANT THE A.G. INVOLVED

1 IN THE CASE? DID HE EVER TELL YOU THAT?

2 A I HAVE SPOKEN TO MR. BUCHANAN LIKE THREE TIMES A
3 DAY --

4 Q WELL, ARE YOU AWARE --

5 A FOR THE LAST YEAR AND A HALF.

6 THE COURT: HOLD ON.

7 THE WITNESS: I JUST CAN'T --

8 Q OKAY.

9 A -- SAY FOR SURE. I MEAN, I COULD LOOK BACK, BUT -- I
10 COULD LOOK BACK AND SEE WHEN YOU TALKED TO HIM AND WHAT
11 THE CONTEXT WAS AND WHAT THE TIMING WAS. YOU KNOW, I
12 JUST -- I'M SURE YOU'VE TALKED TO HIM ABOUT THE
13 LITIGATION. I CAN'T REMEMBER HIS REPORTING EXACTLY A
14 CONVERSATION OR WHEN IT WAS.

15 Q IT'S PROBABLY NOT FAIR TO YOU TO ASK THE QUESTION.

16 A GOOD.

17 Q BECAUSE I TALKED TO HIM IN THE OTHER COURTROOM
18 ANOTHER TIME AND ASKED HIM, WHY DO YOU WANT THE A.G.
19 INVOLVED, AND HE SAID, I DON'T KNOW. I'LL FIND OUT FOR
20 YOU.

21 THE COURT: IS THAT A QUESTION?

22 MR. JONES: NO, IT'S A STATEMENT, YOUR HONOR. I
23 APOLOGIZE.

24 MR. BAILEY: MOVE TO STRIKE.

25 THE COURT: STRIKE THAT FROM THE RECORD.

1 Q MRS. POPE, I BELIEVE YOU SAID THAT THIS SETTLEMENT
2 WAS AN EQUITABLE DEVIATION CASE; IS THAT CORRECT?

3 A NO. I MEAN, I DON'T THINK I USED THAT.

4 Q YOU DIDN'T USE DEVIATION?

5 A WELL, I DON'T THINK I CALLED IT --

6 Q OKAY.

7 A I DON'T THINK OF IT AS AN EQUITABLE DEVIATION --

8 Q OKAY.

9 A -- CASE AT ALL. NO. I MEAN, IF I SAID THAT, I MIGHT
10 HAVE MEANT JUST THAT IT DEVIATED FROM WHAT MR. BROWN
11 WANTED. I DON'T THINK OF IT AS AN EQUITABLE DEVIATION
12 CASE.

13 Q GOOD. WE'RE ON THE SAME PAGE. THANK YOU.

14 A GOOD.

15 Q LET ME ASK YOU. WE HAVE PRESENTED THIS SETTLEMENT TO
16 YOUR HONOR FOR APPROVAL UNDER 62-3-1102. ARE YOU FAMILIAR
17 WITH THAT SECTION?

18 A I AM, BUT I NEVER TALK ABOUT THE CODE WITHOUT PICKING
19 IT UP. MAY I PICK UP MY COPY?

20 Q SURE.

21 THE COURT: HERE IT IS RIGHT HERE.

22 Q THAT'S GOOD. YOU GOT A COPY?

23 A YEA. I HAVE ONE.

24 Q IF YOU WANT TO GLANCE AT THAT A SECOND, LET ME KNOW
25 WHEN YOU'RE READY.