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SC Court of Appeals

EXHIBIT A

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**Appeal from Richland County
Court of Common Pleas**

**The Honorable Doyet A. Early, III, Circuit Judge
The Honorable L. Casey Manning, Circuit Judge**

Appellate Case No. 2017-001899

**RICHLAND COUNTY
FILED
2017 OCT 24 AM 11:50
JEANNETTE W. MCBRIDE
C.C.P. & G.S.**

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

And

ALAN WILSON, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Respondents.

v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

MOTION TO LIFT STAY

TO: ALL RESPONDENTS NAMED ABOVE, AND THEIR COUNSEL, SWEENEY,
WINGATE AND BARROW, P.C. ("WINGATE").

YOU WILL PLEASE TAKE NOTICE that at the hearing to be held before the Honorable Doyet A. Early, III, at the Aiken County Courthouse, at 1 p.m. on Tuesday, October 31, 2017, or as soon thereafter as Appellant may be heard, Appellant will move before the Honorable Doyet A. Early, III ("Judge Early"), for an expedited hearing and expedited Order Lifting the stay in this appeal.

An expedited hearing and Order Lifting Stay will serve justice and judicial economy and should be granted for one, more or all of the following reasons:

- a. Respondents have waived any stay in this 7 1/2 -year-old case; proceeded with a request for partial summary judgment after two appeals were filed; and no stay was asserted by Respondents or acknowledged by Judge Early until fact witnesses and experts, including Respondents' own experts, showed:
 1. In 2016 the Governor of South Carolina testified twice under oath that he did not authorize this lawsuit to be brought in the name of the State/Attorney General. He testified he did not authorize Russell Bauknight to sue "on behalf of the Attorney General of South Carolina" (the "AG"). In 2017, however, the AG's attorney Kenneth Wingate, Esq., testified that the Governor did authorize him to file this suit as sole counsel for the State/AG and other Plaintiffs.¹
 2. The AG, although not counsel of record in this case, will get 10% of the Wingate firm's legal fee under the Wingate contract.²
 3. The AG and Tomirae still have 75% control of Plaintiff James Brown Legacy Trust they created in 2009.³ The millions of dollars sought from Buchanan and Appellant in the complaint is for the Legacy Trust.

¹ McMaster testified by deposition to the same effect in this suit, and later in Aiken Case 2013-CP-02-1337 ("Aiken 1337"). Wingate testified by deposition in Aiken 1337.

² Wingate, Bauknight and the AG were successful in secreting the Wingate contract from 2010 until 2013, although it says on its face it is subject to the S.C. Freedom of Information Act ("FOIA"). It was released in 2013 by a federal judge in 3:08-cv-00014-WOB.

³ The remaining 25% vote is held by 5 former clients of Louis Levenson, Esq., and a former client of David Bell, Esq. The AG has the right to remove and replace Bauknight at will.

4. Since May 29, 2013, when Levenson and counsel for Tomirae announced to Judge Early their intention to reinstate the 2008 McMaster settlement, the AG, Tomirae and Levenson have used this suit to continue their attack on Buchanan and Appellant.
5. Many representations made by the AG and Bauknight to the Supreme Court and other courts about Termination Rights under Sections 203 and 304 of the Federal Copyright Act have been misleading, incomplete or false.⁴
6. A G Wilson, after being dismissed as a party to this case, obtained an order for partial summary judgment, and continues to control the litigation through Plaintiff Legacy Trust and Bauknight as his agent.
7. The AG has endorsed and supported Bauknight's intentional \$79 million devaluation of James Brown's assets in IRS filings; Bauknight's overstatement of Brown's deductions by \$5 Million; and his ill-gotten IRS "refund" with actual knowledge (at least since March 6, 2013) that the representations were incorrect; damaged the "I Feel Good" Trust in favor of his "private" Legacy Trust; and needed to be corrected.
8. Since 2011 the AG, Bauknight and Tomirae have used the ill-gotten IRS "refund" to damage Robert Buchanan, Jr. and Appellant and make the known incorrect claim that the McMaster settlement saved taxes.
9. The false Grammy © claim which appeared on the Kilpatrick Stockton ("KS") website in January 2011, and was noted by the Supreme Court in *Wilson*, was planted by Bell, a party to the Wingate contract.⁵

⁴ See Opinion/Affidavit of Wm. Jeffrey Smith, co-author of *Private Foundations, Copyright Heirs, and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't*; Aiken 1337 deposition and exhibits of IP expert Wallace Lightsey, Esq.; and Aiken 1337 deposition testimony of Respondents' experts in this case, Roger Miller and Jonas Herbsman, Esq. Also see Grinblat, *Nine Ways to Avoid Copyright Terminations*, Part I and Part II, and the 9th Circuit decision related to the Ray Charles Foundation.

⁵ Even Robert Potter, Esq., the KS attorney attributed with "halting" the Grammy © sale, did not know of the incorrect post. The Grammy© was actually properly entered into the 2008 Christie's sale and properly withdrawn, over advice of Christie's counsel, and with Levenson present. Buchanan and Appellant elected not to pay an estimated \$5,000 legal fee to defend a sale estimated to bring in about \$20,000. A motion to charge former trustee Albert Dallas with interference with the Christie's sale was filed July 27, 2008, and is still pending. Dallas and fellow-trustee felon David Cannon have been named by the Attorney General and other Respondents as witnesses in this case.

10. The false Grammy© plant continued Bell's years-long history of dirty tricks in James Brown matters.⁶

11. Respondents' claimed \$4.7 million "appraisal" of James Brown's music empire is actually a devaluation of Brown's 900 copyright to \$23.7 million proposed by Tomirae; a claimed zero value for Brown's Rights of Publicity and other valuable assets; and a \$3 million overstatement Brown's debt to TIAA secreted within the "appraisal".⁷

- b. A stay would allow Plaintiffs Tomirae, James B. and others to continue to siphon off assets in violation of the Statute of Elizabeth.⁸
- c. A stay would allow the Attorney General and Tomirae to spend additional millions of dollars, in addition legal and SA fees of about \$5 million already paid by Bauknight, to retake personal control of the James Brown assets for their private Legacy Trust.
- d. A stay would allow the Attorney General to continue to represent to the Court of Appeals his Legacy Trust does not exist while it seeks millions of dollars from Appellant in this case, and Tomirae's lawyers assert that it does exist and Bauknight should be "knighted" for his actions.
- e. A stay is manifestly unjust to Buchanan and Appellant, whose careers and reputations have been ruined for 7 ½ years in an illegal lawsuit brought by the AG, Tomirae, Levenson and Bell to stop the *Wilson v. Dallas* appeal.

⁶ In 2008 Bell and clients filed 6 grievances against Levenson in two states, even claiming Levenson's 30% + \$150,000 contingency fee was forged.

⁷ The full details of how the AG and settling parties arrived at the impossible claim that the McMaster settlement saved taxes, and even produced an IRS "refund," were not known until the Petition for Rehearing of Tomirae's son was filed in *Wilson v. Dallas* in March 2013. See Affidavit of Harley Ruff, Esq., showing how the *Wilson* decision which voided the AG's deal rendered many – but not all – of the AG's claims moot -- unless the settlement deal is reinstated, as proposed to Judge Early in May 2013.

⁸ Tomirae, who lives in England, was paid \$1 million in 2015 for a "sale" of 3 James Brown songs. Two years earlier Peter Afterman helped Tomirae file defective termination elections trying to take a portion of the royalties from 90 of Brown's 900 copyrights between 2015 and 2023. Ignoring steps such as those taken by the Ray Charles Foundation, Bauknight and the Attorney General did nothing in the 2-year window to contest the Tomirae filings.

Until at least 2014 Afterman's website claimed he was hired by the State of South Carolina to manage the James Brown assets.

- f. A stay could allow Bauknight to disburse another \$500,000.00 for expert costs for the Attorney General and Tomirae, as he did in 2012. [Funds returned without interest a year later.]
- g. A stay would reward the Respondents for an illegal 7 ½-year-old lawsuit improvidently brought and prolonged by the State of South Carolina through two AGs and a private law firm.
- h. A stay could further damage Appellant and Brown's "I Feel Good" Charity by allowing Levenson to collect an undisclosed amount from the "common fund" he claims to have helped create with the McMaster settlement deal.⁹

This motion is based on the entire record in this case and the briefs and records on appeal ("ROAs") in the five James Brown cases now on appeal,¹⁰ of which the Court is asked to take mandatory judicial notice under Rule 201 SCRE.

It is also based on additional facts from the public record, as set out in the following Memorandum and as will be presented to the Court at the hearing.

MEMORANDUM IN SUPPORT OF EXPEDITED LIFTING OF STAY

On August 10, 2008 Attorney General Henry McMaster asserted the right to take control of the James Brown assets through a "Legacy Trust" he created with Tomirae and five will contestants represented by Levenson.

On May 8, 2013 the S. C. Supreme Court voided the deal and the appointment of Bauknight.

⁹ In a complaint filed in 2017 Levenson seeks an unspecified amount for the "common fund" he helped create with the 2008 McMaster settlement deal.

¹⁰ See S. C. Ct. of Appeals ("Ct. Appeals") Case No. 2016-0001708 (Pope v. Wilson); the briefs and ROA in Ct. Appeals Case No. 2016-001727 (Pope v. Wilson and James Brown Legacy Trust; the depositions of Respondents' and Appellant's expert witnesses and current and former staff of the Attorney General taken in this case and in Aiken County Case 2013-CP-02-01337 ("Aiken 1337"); the Opinion/Affidavit of William Jeffrey Smith, herein; the Tomirae spousal proceeding in circuit court and the Ct. Appeals; and the Complaint of Louis Levenson, Esq. in 2017-CP-02-00592,

On May 29, 2013 Levenson and a lawyer for Tomirae announced in open court to Judge Early their intention to ignore *Wilson v. Dallas* and reinstate the AG's 2008 settlement.

To retain the 75% control he and Tomirae had over James Brown's assets through the "Legacy Trust" they created in 2009, the AG and Tomirae (with Levenson) needed to do several things. They needed to make sure facts presented about the Federal Copyright Act remained distorted, as they had been since 2011. They needed to continue the myth that James Brown's assets were worth only \$4.7 million when he died, and that the deal did not generate millions of dollars in taxes. They needed to keep facts about Tomirae's marriage secret. And they needed to cover up Bauknight's failures to account and intentional misstatements.

The AG, the Legacy Trust and Tomirae also needed to continue to attack and denigrate Buchanan and Appellant through the Wingate Suit --- even though the AG had told both the Supreme Court and Appellant he was getting out.

For 4 ½ years the AG and Bauknight have continued to suppress public documents both in Wingate suit discovery and FOIA. The Wingate suit remains the FOIA graveyard it had been since 2011.¹¹

By 2017 Levenson was so confident of reinstating the deal that he filed a complaint

¹¹ The four documents the Attorney General, Tomirae and Bauknight most needed to hide were: 1. The Wingate contract; 2. An amendment to the Legacy Trust and related assignment which put grandson Forlando Brown in line to exercise the rights of first refusal the Attorney General had given his father; 3. The claimed \$4.7 Million "appraisal" which Plaintiffs used in Supreme Court filings to assert that Buchanan and Appellant were not only incompetent but greedy and deceitful; and 4. Tomirae's long-public handwritten admissions that she was married, living in Texas, and possibly pregnant before falsifying a marriage license application and conducting a ceremony with Brown.

seeking an undisclosed amount from the "common fund" he had helped create with the 2008 McMaster settlement. Tomirae and the Levenson clients had been paid \$2 million for a totally avoidable "sale" of three of James Brown's 900 copyrights. Tomirae's son had been awarded \$700,000.00 in GAL and legal fees. And the AG was simultaneously seeking partial summary judgment and dismissal as a party to this suit.

James Brown's "I Feel Good" charity is funding the second takeover, and the necessary attack on Buchanan and Appellant. By Bauknight's own sworn statements, he has spent millions of dollars to prove them wrong.

Bell, Levenson and Tomirae continue to appear at odds in appellate proceedings. They are, in fact, untied in the Wingate suit in an effort to re-take 52 ½% of Brown's assets with baseless will contests; weak spousal claims; and misrepresentations about the size of Brown's assets and Termination Rights.

By 2016, the AG and his Legacy Trust began to have problems. Governor McMaster stated twice under oath that he did not authorize the Wingate firm to bring suit in the name of the State/AG. He said he didn't know he was a Plaintiff until after he left office. His lawyer, however, claimed that McMaster had, in fact, authorized him to name the State/AG as a party.

AG Wilson secured an order not to be deposed in this case, in which he is a Plaintiff.¹² He was, however, deposed in another James Brown case. In that case, AG Wilson stated that in 2011 he authorized this lawsuit to continue, thinking he was simply maintaining the *status quo*.

¹² See Order dtd. 9/21/16, in which the Court states that Wilson "was not the Attorney General when this suit was initiated, and, therefore, lacks personal knowledge of most of the matters at issue in this suit."

The AG has continued his vigorous pursuit of this suit and support of Bauknight after March 2013, when he was personally advised of Bauknight's \$2 million overstatement of Brown's charitable deduction; his misstatements about Termination Rights; and other problems.¹³

Nearly five years after the first *Wilson v. Dallas* decision, two James Brown FOIA cases and three others are pending in appellate courts. In every one of them, at least one of The AG, Wingate and Bauknight is actively working against the James Brown's "I Feel Good" Charity, and in aid of the Legacy Trust the AG now claims is private. In three of the five, the three continue their baseless, 7 ½ year attack on Appellant and Buchanan.

Conclusion

The Court should grant an expedited hearing and lift the stay related to this appeal. Failing to do so would continue the irreparable damage to Appellant; be unjust; and would not promote judicial economy.

¹³ Bauknight claimed a \$2.8 Million charitable deduction, even though only \$.8 million was going to charity, and \$2 million was going to grandchildren. It was this overstatement which resulted in the ill-gotten "refund" Bauknight and the Attorney General claim demonstrates that the McMaster settlement deal actually saved taxes. See Affid. Of Harley Ruff, Esq., related to the tax problems actually caused by the McMaster settlement.]

Respectfully Submitted,

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Counsel for Appellant

October 24, 2017

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served a copy of the foregoing document on counsel for Movant and Plaintiff/CC Defendants on October 24, 2017, by hand-delivering a copy of the same, addressed as follows:

J. Emory Smith, Jr., Esquire
Rembert Dennis Building
1000 Assembly Street
Columbia, SC 29201

Kenneth B. Wingate, Esquire
Everett A. Kendall, Esquire
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RICHLAND COUNTY
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2017 OCT 24 AM 11:50
KANNETTE W. MCBRIDE
C.C.P. & G.S.



Adam T. Silvernail

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, ET AL

Plaintiff,

vs.

ADELE J. POPE,

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2010-CP-40-4900

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <u>Mark V. Gende, Bar No. _____</u> Address: <u>PO Box 12129, Columbia, SC 29211</u> Phone: <u>(803) 256-2233</u> Fax _____ E-mail: <u>mvg@swblaw.com</u> Other: _____		Defendant's Attorney: <u>Adam T. Silvernail, Bar No. 80219</u> Address: <u>PO Box 7995, Columbia, SC 29202</u> Phone: <u>(803) 779-1770</u> Fax _____ E-mail: <u>adam@silvernaillawfirm.com</u> Other: _____	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: <u>Motion to Lift Stay</u> Estimated Time Needed: <u>15 minutes</u> Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <u>24 October 2017</u> Date submitted			
SECTION III: Motion Fee			
☒ PAID - AMOUNT: \$ _____ ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ Sexually Violent Predator Act ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____ ☐ State Agency v. Indigent Party ☐ Post-Conviction Relief			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____	
CLERK'S VERIFICATION			
Collected by: <u>Meltz</u> Date Filed: <u>10/24/17</u> ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

EXHIBIT B

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**Appeal from Richland County
Court of Common Pleas**

**The Honorable Doyet A. Early, III, Circuit Judge
The Honorable L. Casey Manning, Circuit Judge**

**Appellate Case No. 2017-001899
(Formerly Richland County Case 2010-CP-40-4900)**

Russell L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

And

ALAN WILSON, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Respondents.

v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

AFFIDAVIT OF APPELLANT IN SUPPPORT OF MOTION TO LIFT STAY

PERSONALLY APPEARED BEFORE ME, Adele J. Pope, who, being duly sworn, deposes and says:

1. I am 74 years old, and this affidavit is based on my personal knowledge.
2. Robert Buchanan, Jr. ("Bob") and I were sued 7 ½ years ago, on May 19, 2010, by the 17 private Plaintiffs/Respondents ("Plaintiffs") listed above, and by the Attorney General ("AG"), whose dismissal is the subject of this appeal.
3. The complaint makes scurrilous, false claims against Bob and me which, among other damage, caused us both to lose our professional negligence insurance.
4. I request that the stay in this matter be lifted for all reasons in the motion.
5. In 2016, knowing the AG sought to be dropped as a party, Plaintiffs asked the Honorable Doyet A. Early, III ("Jg. Early") to consolidate discovery in this case with Aiken 2013-CP-02-1337 ("Aiken 1337"), with both likely to be tried in 2017 or 2018.¹
6. Plaintiffs said discovery in the two cases was like two sides of the same coin.
7. Since then, more than 20 depositions were taken, most in Aiken 1337, including depositions of 6 of Plaintiffs' 9 experts in this case; a number of my 20 experts; the Governor; the AG; current or former AG staff; and most adult Plaintiffs.
8. Case 1337 is being tried now, and these many witnesses and experts are ready for trial in this case.
9. I am informed and believe that the AG, who may move to re-enter at any time to protect the "I Feel Good" Charity, will not be prejudiced by lifting the stay.
8. Because of the age, health and location of parties and witnesses, as well as fast-moving developments under sections 203 and 304 of the Federal Copyright Act

¹ In 2013 11 of the 17 remaining Plaintiffs, through attorney Louis Levenson, Esq. ("Levenson") told the Supreme Court in *Wilson v. Dallas* that they intended to pursue their claims against me despite the AG's announced intention to withdraw from this case.

(the "Termination Rights"), I am informed and believe that critical testimony will be lost, compromised or made extraordinarily expensive to re-gather if a stay is imposed.

9. I am informed and believe that lifting the stay will allow me to proffer my meritorious defenses and claims as to each Plaintiff, which are important to stopping the damage to my career and reputation.

10. Lifting the stay will also promote both justice and judicial economy and, I am informed and believe, save up to \$1 million in unnecessary litigation costs.²

13. I describe briefly below some of the critical testimony already lost, and other testimony (including admissions of adverse parties and their witnesses and experts) which will be in jeopardy if the stay is not lifted.³

Material Witnesses Already Unavailable to Testify About 2007 – 2013 Events

14. The following are just three of the material witnesses now unavailable:

James D. Bailey, Esq. ("Bailey") – Bailey is over 65, outside S.C., and too ill to testify about his faithful service and modest charges (about \$200,000) for 18 months as James Brown's estate's primary litigation counsel, in defense of Brown's estate plan; defeat of the \$31 million Pullman S.C. claim and several million more in about 8 claims cases; and successful resistance of the 2008 and 2009 attempts of felon David Cannon ("Cannon") and Albert "Buddy" Dallas

² Since 2016, when the 17 Plaintiffs sought to consolidate discovery of this case with Aiken 1337, even while acting *pro se* in one case (Aiken 1337), I have had to spend more than \$105,000 on my 20+ experts; and depositions of Plaintiffs and 6 of Plaintiffs' experts, which required travel to Greenville, New York, Los Angeles (twice), Atlanta (twice), and Rock Hill. In addition, I delivered 72 CDs to the Wingate firm, and spent three days with counsel for the 17 Plaintiffs to review the 125+ boxes of public documents I have had to gather to defend myself over the last 7 ½ years. No record of the amount Plaintiffs spent during this time from funds James Brown gave his "I Feel Good" Charity is available, but a 2012 payment to the Wingate firm of \$500,000 for expert costs in this case suggests that it is substantial. [The \$500,000 was returned without interest in 2013.]

³ In December 2012 my 35-year-old daughter was operated on for removal of a brain tumor. Immediately afterwards, Plaintiffs sought from the Honorable L. Casey Manning a Scheduling Order which would have set the trial of this case in mid-2013. Since the May 29, 2013 announcement to Judge Early of the plan of Plaintiff Tomirae Brown ("Tomirae") and 11 Plaintiffs formerly represented by Levenson to reinstate the 2008 McMaster settlement deal voided 3 weeks earlier in *Wilson v. Dallas*, however, Plaintiffs have sought to delay this case while siphoning off at least \$2 million in royalties belonging to James Brown's "I Feel Good" Charity. These royalties should now be in Plaintiff James Brown Legacy Trust ("Legacy Trust"), but, on information and belief, have been taken from the jurisdiction.

("Dallas") to cover up the \$17 million taken by Cannon and be reinstated as James Brown's trustees.

Bailey is now unavailable to testify how Bob's and my careful selection of counsel, and working with Bailey, Tressa Hayes, Esq. and others, avoided the multi-million dollar annual legal costs the 12 Nexsen Pruet ("NP") attorneys and others engaged by Plaintiff Legacy Trust have charged.

Peter Afterman ("Afterman") – Now outside S.C., from 2009 to 2015 Afterman was paid hundreds of thousands of dollars by Russell Bauknight ("Bauknight") while claiming on his website to have been hired by the State of South Carolina to manage James Brown's assets.⁴

From 2009 – 2011 Afterman simultaneously served as the "expert" to identify \$50 million in lost James Brown sampling revenues Bauknight asserted Greenberg Traurig ("GT") and Joel Katz ("Katz") should have collected before Brown's death, and as the expert to help Philpott Ball & Werner ("PBW") value Brown's 900 copyrights at \$4.7 million (modeling them after the Estate of Harlan Howard) and James Brown's right of publicity and Tangible Personal Property ("TPP") at zero.

Ignoring *Wilson v. Dallas*, in August 2013 Afterman assisted Tomirae and her son in filing defective Federal Copyright Act Termination notices seeking to siphon off royalties from 93 of the 900 copyrights James Brown gave his "I Feel Good" Charity by 2023.⁵

In his November 1, 2017 deposition Levenson testified that Afterman, in addition to representing Tomirae while being paid by James Brown's charity, met with and sought to represent Plaintiffs Deanna Brown Thomas ("Deanna"), Yamma Brown ("Yamma"), and Tonya Brown Fegan ("Tonya") in their efforts to take some of the "I Feel Good" Charity's U.S. Copyrights.

Tressa Hayes ("Hayes") - Hayes, an experienced litigator and appellate attorney, was engaged by Bob and me. She served the Estate and 2000 Trust in opposing the July 2017 effort of Dallas and now-deceased former PR/Trustee Al Bradley in the Court of Appeals to stop the Christie's sale just days before it took place.⁶

⁴ Each month in 2014 Afterman was paid \$27,080.52. In most months Sojourner was paid \$60,000; Bauknight was paid \$15,000; and NP was paid \$50,000.

⁵ Neither Bauknight nor the AG took action during the 2-year period between 2013 and 2015, when the first 3 of the defective "Tomirae Terminations" could have been challenged. Tomirae testified in her 2016 deposition in this case that she was paid \$1 million in 2015 on a "sale" of 3 of the "I Feel Good" Trust's 900 copyrights.

⁶ Later sworn testimony by Forlando confirmed that he, his Powell Goldstein ("PG") attorneys, his attorney David Bell, Esq. ("Bell") and family members joined together to sabotage the Christie's sale which was necessary because estate taxes were due on the TPP and other assets passing to Brown's children.

Hayes also worked, through the preparation of initial briefs, on the Dallas/Bradley and Cannon appeals, and attended the Cannon oral argument.

[See Levenson 11/1/17 testimony that Cannon and Dallas were "liars and thieves," and other Levenson testimony, which supports Bob's and my position, that Forlando's January 2008 federal lawsuit, 3:08-cv-00014-WOB, was brought by Bell and PG as part of the Dallas/Cannon effort to cover up Cannon's \$17 million takings from Brown and disrupt the James Brown proceedings.]

Hayes assisted Bob, Bailey and me in the defense of Brown's estate plan in the McMaster settlement.

Hayes now lives in N.C. and was required by Bauknight, as a condition of the payment of only a portion of her modest fees (under \$100,000) to take no action to assist me. If available, Hayes, like Bailey, would testify that Bob and I gave near-full-time attention to all of the necessary James Brown litigation to save the "I Feel Good" Trust and Brown's estate plan, and to defeat claims of Forlando, Cannon, Dallas and others (many baseless, but serious).

After Judge Early issued an Order in September 2009, at the request of Bauknight's Legacy Trust counsel, preventing even costs of the *Wilson v. Dallas* appeal to be paid, Hayes, if available, should be able to testify that I assisted her and *pro bono publico* lead counsel James Richardson, Esq., in every way possible to lighten their load and costs in the *Wilson v. Dallas* appeal.

Material Witnesses Whose Testimony is in Jeopardy by Age or Illness

15. A few examples of witnesses who are available today, but whose testimony will be placed in jeopardy by a stay are:

Levenson⁷ - Named as a witness in Aiken 1337 by 2 Plaintiffs in this case, Levenson was deposed in Atlanta on November 1, 2017. Levenson and his staff prepared for 2 days for the deposition, and he worked with counsel for 2 Plaintiffs in this case before testifying. Levenson did not charge for his deposition testimony. Levenson, who admitted he did not recall many details, gave critical testimony and various admissions which support the positions Bob and I have taken in our 2010 Answer and Counterclaim in this case.

Levenson is 65 years old and better prepared today to testify (or have his testimony preserved in this case) than he will ever be. But for the stay, a simultaneous, short deposition in this case could have been noticed for November 1, 2017.

If a stay is granted, the critical Levenson admissions may be lost as a result of

⁷ Deposition or trial appearance in 2018 would preserve Levenson's testimony, which he said at the Nov. 1, 2017, deposition he would give.

loss of memory, age, absence from the jurisdiction, or refusal to cooperate.

Levenson testimony of which the Court is asked to take judicial notice includes the admission that Dallas and Cannon are "liars and thieves;" and that Forlando's federal suit was likely brought through the relationship of Dallas with PB attorney Wm. Shearer. Levenson testified that it was highly unlikely that PG, one of Atlanta's 10 largest firms would, but for Dallas, take on helping Forlando enforce his \$285,000 education trust.

Levenson's testimony supports evidence Bob and I gathered that the Forlando suit to enjoin the 2000 Trust was pursued from January 2008 until April 2012 to discredit Bob and me for discovering, with Levenson, the \$17 million Cannon took; help TJBL, LLC (represented by PG) be positioned to purchase Brown's assets and form an IPO from which Dallas and Cannon would receive options or a "kickback;" and allow Cannon and Dallas to be paid \$10 million and escape liability for the \$17 million Cannon took.

Levenson testified as to how he was fired by Plaintiff Daryl Brown ("Daryl") after Levenson declined to give Daryl money which Daryl requested in a meeting in 2012.

Daryl, who was in a difficult personal position, then turned to Bell. Levenson confirmed some of the dirty tricks and false filings in which Dallas, Bell, Forlando and Plaintiff Terry Brown ("Terry") have been involved in the James Brown cases since 2007. The Bell/Forlando/Terry dirty tricks include filing false grievances against Levenson in 2 states, which Levenson recalls, and planting the false Grammy © claim at an Atlanta firm ("KS") which was noted by the Supreme Court in *Wilson*.⁸

Levenson gave testimony about 2012 Offers of Judgment I made to Plaintiffs, Daryl, Venisha, Tonya, Lindsey and Janise Brown, as well as Sydney L., Carrington L. and Jason Brown-Lewis to end this case with them. Levenson did not know that his 11 former clients had moved to intervene in a FOIA case to stop release of the Wingate contract, or that they had sought sanctions against me for exercising my FOIA rights.

Levenson admitted that he is now seeking payment from the "common fund" created by the McMaster settlement deal he and Tomirae asked Judge Early to reinstate on May 29, 2013, at the Barnwell, S.C. hearing.

⁸ Levenson did not have direct knowledge of the planting of the false Grammy© story by Bell/Forlando in 2011. Nor did Levenson recall details of the proper withdrawal of the Grammy© from the sale by Bob and me over urging by Christie's counsel to leave it in the sale. Levenson did recall that the Grammy © issue was not briefed or argued as part of the appeal of the McMaster settlement. Levenson did not know Robert Potter, Esq., attributed in the false post with "halting" the Grammy© sale, did not even know of the post. Levenson did recall that he and a client or clients were present at the Christie's July 17, 2008 sale; that the sale was approved by multiple court orders; and that Deanna appeared with Rev. Al Sharpton on a radio program the morning of the sale. He was aware that no objections to the sale were filed within the 1-year statute of limitations after July 2008.

Levenson still supports the McMaster settlement deal which gave Tomirae and the AG 75% control of James Brown's assets through the Legacy Trust, even though most of his 11 former clients now claim they have known since before Brown's death that Tomirae was not Brown's spouse – including from Brown himself. [The deal would have earned Levenson an estimated \$9 million in contingency legal fees.]

Bob – Bob's video deposition was taken in 2008 in Forlando's case, where his memory of events was strong. It was taken in this case beginning in 2012 and ending in 2017, where his memory of details was weaker. I ask the Court to consider Bob's deposition in both cases, as well as his November 2008 testimony and Affidavits in Forlando's suit, as evidence of the important testimony which will be lost if a stay is granted.

James B. Richardson⁹ ("Richardson") – Richardson is approximately 73 years old. He served *pro bono publico* as lead appellate counsel in the *Wilson v. Dallas* appeal. His 2015 scheduled deposition was stopped by Plaintiffs, but he gave a sworn statement outlining how important this case was, and the unnecessary hostility exhibited by certain counsel for the Legacy Trust.

If a stay is imposed, Richardson's critical testimony may be lost.

David Sojourner, Esq. ("Sojourner") – It is unclear whether Sojourner has been a player or a pawn of the Legacy Trust, Tomirae and other Plaintiffs in their effort to reinstate the 2008 McMaster settlement deal voided in *Wilson*. This plan was announced to Judge Early in open court on May 29, 2013. In either event, his admissions in this case are critical. Sojourner was recently treated for cancer in Texas.

In 2011 Legacy Trust counsel told the S.C. Supreme Court that Brown's music empire was worth \$4.7 million; that Brown's estate and 2000 Trust had no corpus to speak of; that Tomirae's elective share claim was a "slam dunk;" and that in 2012 Tomirae – or alternately 5 Levenson clients and Terry – would automatically get the "Please, Please, Please" royalties because of Termination Rights. Bauknight claimed Termination Rights were all this case is about. He claimed that if the McMaster-settlement deal were not reinstated there would be nothing in the "I Feel Good" Trust in 2023. [The Court is asked to take judicial notice of the oral argument on November 1, 2011 in *Wilson v. Dallas*.]

There was no support for Bauknight's claims in fact or in sections 203, 304 or other parts of the Federal Copyright Act. But Tomirae's lawyers, Levenson and

⁹ Short deposition to ratify 2015 sworn statement in this case, or trial testimony if trial conducted promptly, would preserve Richardson testimony.

Bell supported the claims because they would get about \$20 million in contingency legal fees if the Legacy Trust's 12 lawyers could discredit Bob and me enough to keep the McMaster settlement in place.

In 2012 the Legacy Trust and others subpoenaed a journalist's sources and notes to try to stop articles about Tomirae's long-public handwritten admissions that she was married; living in Texas with her husband; and though she might be pregnant before falsifying a marriage license and conducting a ceremony with Brown.¹⁰

In May 2013 11 Levenson clients and Tomirae announced in open court to Judge Early their intention to ignore *Wilson v. Dallas*; go in chambers; and tell the Court why the McMaster settlement deal should be reinstated.¹¹

In July 2013 Bauknight nominated Sojourner as SA/ST.

In August 2013 Peter Afterman assisted Tomirae and her son James B. in filing public termination notices with the Federal Copyright office seeking to take some of the royalties from 93 of the "I Feel Good" Charity's copyrights between 2015-2023.¹² According to Levenson, Afterman then solicited the Levenson children as clients to help Tomirae take the royalties. At the time he was being paid tens of thousands of dollars by Bauknight from funds Brown gave the "I Feel Good" Charity.

In September 2013 a letter from Termination Rights litigator Marc Toberoff denouncing Afterman's assistance to Tomirae, was filed in Judge Early's Court. Toberoff claimed the filings defective because Tomirae was not Brown's spouse and her son was not Brown's son.

In September 2013 Sojourner, a tax lawyer with no knowledge of copyrights who dislikes litigation, assured Judge Early that his firm had copyright and other experience to protect Brown's estate plan and spousal claims.

¹⁰ Tomirae's handwritten admissions support other evidence than she begged Brown to marry her after he discovered her marriage, and that he refused. The subpoena to the journalist was withdrawn at the direction of AG Wilson. In 2015, just after Judge Early granted summary judgment on Tomirae's spousal claim, someone mailed the long-public Tomirae handwritten admissions to the journalist, and they were made public for a second time.

¹¹ A month later, at the request of Levenson, Tomirae and Bauknight, Judge Early banned Bob and me from participation in his James Brown cases other than Aiken 1337 for me and Bob's claim case for Bob. This case was assigned to Judge Early 2 years later.

¹² Copyright Terminations are not automatic. Even when properly noticed 2 years in advance by the proper heirs, they apply only to U.S. copyrights, and do not apply to the derivative works which have followed many of the original James Brown songs. Toberoff denounced the Tomirae attempted terminations on three claims: Tomirae was not Brown's spouse; her son was not Brown's son; and Peter Afterman's actions were a direct conflict of interest.

In 2013 , I sent Sojourner a copy of *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't....*(2011), and offered my time free to him to help save the "I Feel Good" Charity

By 2014 Sojourner was actively damaging the "I Feel Good" Charity by excluding known DNA-proven heirs under the Federal Copyright Act, and including only Tomirae, her son, and those represented by Levenson and Bell – lawyers part of the McMaster settlement deal – in the Tomirae proceeding.

By 2015 Sojourner had joined in the vitriolic claims of Legacy Trust counsel against me; charged about \$1.4 million dollars in SA/ST and legal fees; learned nothing about Termination Rights; taken only 1 deposition; failed to proffer Tomirae's handwritten admissions and substantial evidence she was not Brown's spouse; and allowed her to be declared Brown's spouse on summary judgment – then siphon off \$1 million from Brown's royalties, apparently before filing the appeal of the lower court ruling.

In 2015 Sojourner took no action to correct Judge Early's report to the Supreme Court that the heirs determination was correct and complete.¹³ In 2017, however, Levenson's filings made clear that the heirs determination is still not complete. [My experts Wallace Lightsey, Esq., and others join my position that a proper heirs determination is a critical first step in a plan to protect the "I Feel Good" Charity's 900 copyrights.]

In 2016 Sojourner moved for reconsideration of, but now may have abandoned, an order of Judge Early granting Tomirae's son approximately \$700,000.00 in legal and GAL fees, even though the child refused paid-for DNA testing for 7 years and has a maximum claim (by his own GAL's reckoning) of 1/20 of a \$5 million estate.

In 2016 Sojourner was deposed in Aiken 1337, and confirmed his lack of knowledge about Termination Rights and the damage done to the "I Feel Good" Charity and the scholarship stream (under the "5% Rule") to needy students from Bauknight's IRS filings which reduced the charity from about \$80 million to \$1

¹³ Apparently forgetting the May 29, 2013 public announcement by Levenson and Alan Medlin, Esq., counsel for Tomirae, Judge Early's 2015 Report to the Supreme Court said he was unaware of any settlement discussions. Judge Early, apparently repeating false claims made by Bauknight, told the Supreme Court I appeared to be seeking a \$5 million commission. That was incorrect. My claim against the Estate/2000 Trust for the entire six years was about \$2.8 million, and Bob's and my legal fees in all State cases during the entire 6 years – because of Bob's and my active work and Richardson's *pro bono publico* service – was under \$.5 million. But for Bauknight's claim that Forlando had done nothing wrong in his 4-year suit to enjoin the 2000 Trust until Cannon & Dallas could be reinstated, and Bell/Forlando's false claim to the Court that Forlando had no assets and no expectation of assets in the James Brown state cases as long as Terry is alive, Bob's and my counsel fee would likely have been paid by Forlando.

million. He refused to answer certain questions, claiming a joint interest privilege with Bauknight – still trustee of the Legacy Trust.

In 2017 Sojourner abandoned his appeal of the Tomirae spousal order in a settlement in which he disclaimed any knowledge or obligation to understand Termination Rights; allowed Bauknight to claim that the Termination Rights are worth tens of millions of dollars; and which apparently allows Tomirae's lawyers to keep their 50% of her share of the tens of millions of dollars under their contingency fee agreement.

Sojourner's testimony today is critical to my defense, the essence of which is that Bob and I took reasonable measures to protect Brown's estate plan; were not vitriolic; and implemented reasonable DNA & Dignity plans to protect the "I Feel Good" Trust's copyrights which Tomirae, Levenson, Bauknight (and now Sojourner) wanted Tomire, 5 Levenson clients and Terry to have. His testimony also supports our position in the Answer and Counterclaim that this lawsuit was brought to discredit us so that the court would believe that Bob and I – not the settling parties – were greedy, as well as incompetent.

Bauknight¹⁴ – [Depos., 8/2013, Fed. Dist. Case # 3:08-00014-WOB; 1/31/17, Aiken 1337]

In March 2009 Bauknight, after testifying 2 months earlier he knew nothing about copyright terminations, tried to testify as a fiduciary that a fiduciary "has the duty of due diligence to look at these issues and had looked at them." [Tr. 3/4 -6/09, p.442.]

In his August 2013 deposition, the month Afterman helped Tomirae try to siphon off U.S. copyright royalties from 90+ of the "I Feel Good" Charity's 900 copyrights before 2023¹⁵, Bauknight called me dishonest and supported the \$4.7 million appraisal which, under the AG's settlement reduced Brown's "I Feel Good" Charity to \$1 million and annual required scholarships from more than \$3 million to less than \$50,000.

Bauknight said Terry did not transfer his interest in Brown's estate to Forlando in January 2011. Bauknight said Forlando had done nothing wrong by his 4-year injunction suit seeking to reinstate felon Cannon and Dallas as trustees. He said Bob and I were the wrongdoers.

In his deposition on January 31, 2017 in Aiken 1337, which was attended by the Legacy Trust's NP attorney, Bauknight continued to defend the \$4.7 million at-death value claim for Brown's music empire, but had little memory of the details of changing the value of Brown's "I Feel Good" Charity from about \$80 million to less than \$1 million, or of the Charity's current value. [pp. 96, 9, 120, 121, 122,].

¹⁴ Unless trial to be conducted shortly, deposition is necessary to preserve testimony based on Bauknight's inability to travel to a 2017 deposition and physical condition at September 5, 2017 Aiken 1337 trial.

¹⁵ Based on Tomirae's 2016 deposition, in 2015 she was paid \$1 million for a "sale" of 3 of the 90 copyrights.

Bauknight claimed I knew nothing about Federal Copyright Act Termination Rights; [p.96, 97]; but admitted he was not a Termination Rights expert [p.97]. He said of the *Wilson v. Dallas* appeal and Bob's and my work:

So your ultimate fight to the South Carolina Supreme Court ...not only did away with termination rights for the benefit of the Estate, but lo and behold, what a nonattorney in January 2009 who had been on the job for less than 30 days, what I testified to could be happening, actually did happen, Ms. Pope. And now I stand here today running an estate and trust that's at severe risk of losing a spousal share or an admitted [sic.] spouse share. You own that. You have personally done everything possible to dismantle the charity that Mr. Brown intended to have. You did that all for the sake of your personal well-being and wealth. That's just beyond repair. [p.98,99]

Despite these bold accusations, Bauknight, who is today Tomirae's trustee, said he had never read Tomirae's handwritten admissions that she was married, living with her husband in Texas, and thought she might be pregnant before taking up with Brown; falsifying her marriage license;and conducting what most Plaintiffs describe as a bigamous 2001 ceremony with Brown. [pp.100, 101]

Bauknight could not remember dates or details of many orders issued by Judge Early in 2009 and 2009, or the events leading up to those orders. [for example, p. 124]

Bauknight's sworn claims that he has never shown the \$4.7 million PBW appraisal to anyone except his lawyers has now been refuted by Levenson, who said he received and reviewed the \$4.7 million appraisal several years ago. [Tomirae's son also gave detail of the PBW appraisal in court filings.]

Bauknight underwent heart surgery in 2017. He has not filed probate court accountings for 2016, and his earlier accountings are incomplete and defective.

At the September 2017 trial in Aiken 1337, Bauknight was aided by his wife and a walker. Bauknight has not been deposed in this case because trial was expected in early 2018. Nor have I been deposed in 7 ½ years.

After excluding Bob and me from James Brown Aiken hearings on June 13, 2013, Judge Early repeated many of Bauknight's false claims in orders and in his 2015 Report to the S.C. Supreme Court.¹⁶ This damaged Bob and me further,

¹⁶ Judge Early's 2015 Supreme Court report stated he had not heard of any settlement proposal, apparently forgetting the public announcement on May 29, 2013. Judge Early's report reflected Bauknight's false claim that I was seeking a \$5 million commission. The report asserted that the heirs determination process which Bob and I began under an Order of Judge Early on March 8, 2008, was complete. Levenson 2017 complaint makes clear, today the heirs determination process is still incomplete. Four Levenson's former clients, Plaintiffs Tonya, Venisha,

while depriving us of a forum to clear our names. A stay will prevent us from clearing our names.

Adele Pope – I have stood ready since May 19, 2010 to refute the false claims lodged against me by the remaining Plaintiffs, and have made myself available whenever asked. In 2017 I delivered to Plaintiffs' counsel 72 CDs of FOIA, court and other public documents I have had to collect to defend myself. Plaintiffs' counsel spent three full days in my office with my counsel present (3 lawyers, 3 days), reviewing the 125+ boxes of documents I have had to gather in my defense. Then Plaintiffs did not copy a single box of the hundreds of documents they had marked.

My deposition has been set at least twice at the request of Plaintiffs, then cancelled.

My positions are well known in other cases, but limited to affidavits in this case. In particular, showing how Bob's and my "DNA & Dignity" Plan, which started with Judge Early's March 8, 2008 Order to determine heirs, could have prevented Afterman's/Tomirae's unnecessary \$1 million dissipation of Brown's "I Feel Good" Charity and ended the Will/Trust challenges 3- 5 years after 2008, is material to my defense and claims.

A Stay Will Increase Expert Costs by as Much as a Million Dollars¹⁷

16. In 2012 Plaintiffs deposited half a million dollars for expert fees in this multi-million dollar case against Bob and me.¹⁸ Despite *Wilson v. Dallas*, Brown's "I Feel

Deanna and Yamma Brown, in addition to admitting that they knew from James Brown himself that Tomirae was not Brown's spouse, now seek to exclude from heir status Plaintiff Daryl Brown and Plaintiff Larry Brown. While this family infighting is unfortunate, it provides me an opportunity for a proper defense in this case, including the presentation of how the "DNA & Dignity" Plan Bob and I espoused in 2008 could have protected the "I Feel Good" Charity and ended the James Brown Will/Trust litigation and Tomirae claims within 3 – 5 years of 2008.

¹⁷ Based on \$500,000 paid in 2012 to Wingate firm for expert expenses; \$700,000 awarded to Plaintiff James B. by Jg. Early in 2016, being \$500,000 for past legal fees and \$200,000 for 40 depositions at \$5,000 each to protect his 1/20 claimed interest in Brown's estate, which James B.'s GAL values at \$5 million; \$1.4 million paid to SA/ST Sojourner and counsel for 18 months of defending Brown's estate plan while taking only 1 deposition; \$4 Million paid to Nexsen Pruet ("NP") 2013- 2015; Levenson's 2017 lawsuit claiming part of the "common fund" created by the McMaster settlement; \$325,000 paid to former Estate/2000 Trust counsel Lewis & Babcock ("L&B"), hired by Cannon/Dallas, for 7 months, who now represent the Legacy Trust; \$48,000 billed by expert Julian Walker (\$600 per hr.) for 2 months' work; \$700 an hour charged by Plaintiffs' expert Brad Sharp, Los Angeles; \$600 per hour charged by Plaintiffs' NY Termination Rights experts Jonas Herbsman, Esq.; \$600 per hour charged by James C. Hardin III to authenticate his 2008 opinion for use at trial; \$1,500 per month charge of Termination Rights expert Wm. Jeffrey Smith; and the travel and deposition costs associated with taking about 20 depositions in 2016 and 2017 in preparation for trial of both Aiken 1337 and this case in late 2017 or the first half of 2018.

¹⁸ Governor Henry McMaster testified under oath in Aiken 1337 in 2016 that he did not authorize this suit to be filed against Bob & me in the names of the State/AG; did not authorize Bauknight to be a Plaintiff "on behalf of the

Charity continues to bear the costs of this suit for Tomirae, the Legacy Trust, Terry and 11 Will/Trust contestants formerly represented by Levenson.¹⁹ It also bears the cost of Aiken 1337.

17. In 2013 Levenson assured the Supreme Court the 17 Plaintiffs did not need the AG to continue this suit.

18. Relying on that, I have participated in 20 costly depositions and preparations and permissions from my 20+ experts to be deposed in 2016 and 2017.²⁰

19. This case should be tried in the first half of 2018, when it will be 8 years old, but I believe Plaintiffs are trying to stop the trial now that Bell's dirty tricks and their weak claims have come to light.²¹

Attorney General of South Carolina;" and did not know he was a named Plaintiff until after he left office in January 2011. AG Wilson testified under oath in Aiken 1337 that in January 2011 he authorized this suit to continue, but only because he believed he was maintaining the status quo. AG Wilson testified that he has no knowledge of what had gone on in the lawsuit since 2011 or of McMaster's call. AG Wilson also lacked all knowledge of the actions taken by Plaintiff Legacy Trust since 2011.

¹⁹ Based on 2014 and 2015 accountings, Bauknight continues to use funds Brown gave the "I Feel Good" Charity for expert fees and costs, as well as all discovery, in both this case and Aiken 1337. Because Bauknight has failed to file the 2016 accountings and 2017 is not yet due, the total amount Brown's charity paid NP and the Wingate firm for travel, preparation; 8 depositions of the Governor, AG, and current and former AG staff; 6 of Plaintiffs' 9 experts; Bob; and about 10 of my 20 experts; is not yet known. None was examined in the *Wilson* remand.

²⁰ In Aiken 1337 I am seeking \$2.8 million, my portion of the commission for the six years Bob and I served under James Brown's Will and 2000 Irrevocable Trust. This was disallowed in its entirety after the May 29, 2013 hearing in which Levenson & Tomirae announce their intention to reinstate the McMaster settlement deal. Approximately \$47,000 in unpaid SA commissions awarded me by Judge Early, with interest, on January 8, 2008 was also disallowed, and part of Aiken 1337, which I was required to file in response to the Disallowance. In 2017 Judge Early granted summary judgment and to the \$47,000, with interest, but Bauknight has not paid the amount, and is seeking reconsideration of the Summary Judgment order. The Aiken 1337 trial began September 5, 2017, and will resume December 14, 2017.

²¹ In January 2011, the month Terry assigned his interest in this case and Brown's estate to Forlando, Bell and his clients planted the false Grammy © claim on the Kilpatrick Stockton ("KS") website. The false post was noted by the Supreme Court in *Wilson v. Dallas*. Like Bob and me, Levenson, who was present at the Christie's sale and originally knew the details of the correct withdrawal of the Grammy ©, was surprised by the reference in the opinion. There is evidence that both an AG staffer and Bauknight knew of the false post at about the time it was planted on the KS website. Robert Potter, Esq., the KS lawyer credited with "halting" the sale, told me in a phone message he did not know about the Brown story on his firm's website. See Affid. E. Alexander, on file.

20. A stay which causes the following experts, and others, to be re-prepared and re-deposed after years of delay would be costly and unfair to me, and will waste hundreds of thousands of dollars Brown intended for scholarships for needy students:

Plaintiffs' Expert Roger Miller – (Aiken 1337 deposition March 6, 2017, New York City) Miller, an experienced buyer of copyrights, admits he was not told of the \$4.7 Million at-death value claim for Brown's 900 copyrights.

Miller, an adverse expert, under oath, corroborated Bob's and my \$84 million value. He testified Brown's copyright catalog (about 900) is "solid gold" and that 15-20 times royalties ["\$45 Million - \$60 Million"] would be an expected at-death value.

Counsel for the 17 Plaintiffs worked with Miller on his preparation for the Aiken 1337 deposition. A stay would likely result in a second costly preparation for Miller and a second costly deposition in New York for me.

Defendant's Expert James C. Hardin III²² ("Hardin") – Hardin was Deposed on March 23, 2017. Hardin was engaged by Bob's counsel in 2008 Case 3:08-cv-00014. He issued a detailed opinion in November 2008 finding that Bob's and my service as PR/Trustees met or exceeded the standard of care and contrasted sharply with Cannon & Dallas, whom Forlando was trying to reinstate.²³ He also testified that our method of compensation and other aspects of our service were reasonable. [Hardin depos., Ex. 2] Because of Hardin's high costs, he was named in this case and Aiken 1337 solely to adopt his 2008 opinion.

Hardin knew nothing about this case except he had received a subpoena from the Wingate firm. [p. p.108]. He had only glanced at the 56-page affidavit and 18 Exhibits Bob and I filed with Judge Early in 2009 to support our claims; but he agreed that an overstatement by \$3 million of the TIAA debt within the \$4.7 million PBW appraisal, alone, could be a problem. [p. 141] He also explained the *Bosch* principle, which appears to have been what Bauknight and Tomirae's counsel were attempting in their \$79 million devaluation of Brown's assets in Supreme Court filings 8 months after the PBW appraisal arrived.

Plaintiffs' Expert Jonas Herbsman, Esq. ("Herbsman") (Dep. 3/16/17, Aiken 1337, New York)

Herbsman, a transactional Termination Rights expert, has no litigation experience with copyrights or termination rights issues; was not prepared to discuss the Ray Charles Foundation case or other cases related to the "I Feel Good" Trust's protection of its copyrights. Herbsman knew nothing about the

²³ See Levenson deposition testimony which supports Buchanan/Pope evidence that PG became involved with Bell, Forlando to cover up takings by Cannon and other wrongdoing by Cannon and Dallas.

claimed \$4.7 million value for Brown's 900 copyrights, and appeared to have little understanding of the complex relationship between State probate heirs determinations and Federal Copyright Act Termination Rights provisions.

Herbsman had no opinion about *Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown "I Feel Good" Trust doesn't...*, the article Wm. Jeffrey Smith and I wrote in 2011, and which he had read.

Herbsman had not heard of Harlan Howard, proposed by Tomirae's lawyer in 2009 as the model on which to value Brown's 900 copyrights. He was not capable or prepared to give opinions about value of the copyrights or right of publicity, but did admit that Brown was one of the Seminal music figures of the 20th century.

Herbsman's hourly rate was \$600, and counsel for the 17 Plaintiffs in this case had helped prepare him for the Aiken 1337 deposition.

Plaintiffs' Expert Mark Hobbs, CPA (Depos., Aiken 1337)

Hobbs, a tax expert, was engaged both by the Wingate firm and NP. He was prepared by counsel to the 17 remaining Plaintiffs and NP, but paid in both cases from funds Brown left his "I Feel Good" Charity. Hobbs, a CPA, was not told of the claimed \$4.7 million at-death value of Brown's Schedule F2 assets ("Music Empire"). Hobbs was told by NP that Bob and I had failed to file tax returns, but had not checked to see whether Wm. Sellars, the court-appointed CPA, had sought extensions after the McMaster settlement announced in 2008 showed that half of the income was no longer going to charity. According to Hobbs, the alleged "problems" were corrected by Bauknight and his spouse, a CPA, in 2012 – 4-6 years later.

None of Hobbs, Bauknight or Wingate had asked Sellars about the issue.

Defendant's Expert William Sellars, CPA ("Sellars") (Depos., 4/22/17, Aiken 1337, Cola.)

Sellars served as court-appointed CPA to Brown's estate from August 2010 until shortly after the McMaster settlement was announced. He prepared James Brown's estate tax return, filed Sept. 2008, but resigned, noting that CPA Bauknight, his former partner, had become involved.

Sellars did not have the file, which was never requested by Bauknight and had been destroyed under the firm's retention policy six years after his firm resigned in the fall of 2008.

Bauknight provided no copies for Sellars to review prior to the deposition, and he had little memory other than that he prepared and signed the James Brown Estate Tax Return for Bob and me as PRs; relied on us for the \$84 Million value of Brown's music empire (Schedule F2 of the Return); and would not have signed the return if he had not believed that the \$84 million value was reasonable.

Plaintiffs' Expert Julian Walker, Esq. ("Walker") – (Depos. 12/28/16, Aiken 1337, Cola.)

Walker is 80 years old. After generating a fee of \$48,000 in 2 months, (\$600 per hour) he rendered a 3-page opinion with 11 points, including the opinion (#1) that a prudent fiduciary would have disallowed Bob's and my 100+ page joint claim in its entirety based on the documents presented on or about July 17, 2009. This and Walker's additional 10 points were put together without his being advised that Tomirae's spousal claim was on appeal; with no knowledge of the Termination Rights provisions of Sections 203 and 304 of the Federal Copyrights act; with no knowledge of the \$3 million overstatement of the TIAA debt contained (but not evident) within the \$4.7 million PBW appraisal; with no knowledge that Bauknight had valued Brown's right of publicity at zero, at the behest of Tomirae's lawyer; with no knowledge that Peter Afterman was helping Tomirae siphon off copyright royalties belonging to James Brown's "I Feel Good" Charity; and with the belief that Bob & I had not hired "a professional with music and entertainment industry experience," even though we had hired Ray Gonzalez, who is now the head of Warner music legal.

Walker billed me \$3,180 for a 5.5 hour deposition to explore his opinions.

Plaintiffs' Expert Ellison Thomas, (Thomas") – Deposed in 2017, Thomas was not told about \$4.7 Million value, which reduced Brown's charitable gift from about \$80 million to under \$1 million, reducing scholarships for needy students from more than \$3 million per year to under \$50,000 a year under the McMaster settlement deal.

Thomas valued taking by Cannon, Plaintiffs' witness in this case, at \$7.7 million, whereas Bob, Levenson and I computed that he had taken about \$17 Million, including the \$5 Million "check to nobody".

Plaintiffs' Expert Tiffany Provence, Esq. ("Provence") – deposition pending. Provence was hired by the Plaintiffs in 2010, but as of September 2017 had not issued any opinions. She attended portions of the Aiken 1337 trial in September 2017.

Plaintiffs' Expert Laura Woolley – Woolley, who lives in Los Angeles, She worked with Darren Julien who was associated with Dallas and Cannon. Bob and I took Darren out of consideration prior to the Christie's sale because of certain public disclosures.[See Levenson deposition.] After being withdrawn from consideration Julien submitted an affidavit which attached an email dated after the affidavit.

Plaintiffs' Expert Brad Sharp – no deposition. Designated in 2016, Sharp had not formed any opinions by the fall of 2017.

Sharp charges \$700 per hour. The cost of two separate trial preparations will be necessary if he appears in Aiken 1337 in December 2017, but a stay is granted and this case is not tried by mid-2018.

Defendant's Expert W. Steven Johnson, Esq. ("Johnson")

Johnson is over 65 years old. Johnson gave a deposition/opinion in 2009 finding that the \$2.1 million Bob was seeking and the \$2.8 million I was seeking (which included a commitment to work on the appeal) for our 6 years service under the Will and 2000 Trust was reasonable. When deposed, Johnson opined that the "target on your back" liability associated with serving as Brown's fiduciaries was part of his position. He expressed confidence that Bob and I would have properly valued the music empire (Schedule F2) assets at \$84 million, and declined to endorse the claimed \$4.7 million appraisal which was not shown to him.

Defendant's Expert Wallace Lightsey, Esq. ("Lightsey") - Lightsey, an Intellectual Property expert testified as to the emerging issues in Termination Rights between 2007 and 2013, and related them to the actions Bob and I took to protect the "I Feel Good" Charity's 900 copyrights from being dismembered by the AG's alliance with Tomirae and improper "stipulation" of heirs.

To date Lightsey has not charged either party for his testimony in 1337. A short deposition or appearance by Lightsey would secure that testimony now for trial in this case. Because the facts in James Brown cases are changing rapidly, including recent revelations about Peter Afterman, and Termination Rights law is developing nationwide, re-preparing Lightsey after a stay could be costly.

Defendant's Expert Thomas Pope ("Pope") (Age 70+ . Pope, with Prof. Jay Bender, represented a journalist harassed by Plaintiffs through subpoenas seeking her sources and notes after she published interviews with Dallas, Daryl Brown, Forlando and others, as well as when she re-released handwritten admissions by Plaintiff Tomirae showing she was married; living in Texas; and possibly pregnant before taking up with Brown.

Pope was successful in securing the December 2010 amendment to Plaintiff Legacy Trust and the Wingate Contract in a FOIA suit in which the AG was required to pay the journalist's legal fees.

Pope did not obtain the \$4.7 million appraisal because the AG asserted to the court that neither he nor anyone in his office had seen it, and Bauknight asserted that he had never showed it to anyone.

Levenson's sworn 2017 testimony contradicts Bauknight. Levenson said in his November 1, 2017 deposition that he had reviewed the \$4.7 million appraisal years ago.

Bauknight was also familiar with the Legacy Trust amendment which both The AG and Bauknight decline to produce under FOIA.

Defendant's Expert Wm. Jeffrey Smith ("Smith") Age 70. Smith is co-author with me of the 2011 draft of *Private Foundations*. He is a former patent examiner; a retired lawyer; and a graduate of Georgetown Law School. Mr. Smith's charge for services were about \$15,000 at the commencement of the Aiken 1337 trial. In light of the continuing Termination Rights developments in connection with James Brown, The Ray Charles Foundation, the Prince Estate, Michael Jackson and others estates, failure to lift the stay will necessarily increase the cost of Smith, Miller, Herbsman, Lightsey and all other experts testifying about Termination Rights.

Defendant's Expert Charles Carpenter, Jr. ("Carpenter")

Carpenter, who is over 65, is a distinguished appellate attorney. He was disclosed in this case and Aiken 1337 more than a year ago, and is prepared to testify as needed.

Carpenter volunteered to prepare *pro bono publico* a Petition for Certiorari to the United States Supreme Court which dealt with the damage to the James Brown "I Feel Good" Charity from the continuing plan of the Levenson Clients and Tomirae, announced to Judge Early in open court on May 29, 2013, to reinstate the 2008 McMaster settlement so that Tomirae, 5 Levenson clients and Terry could siphon off 52 1/2% of the "I Feel Good" Charity's income and assets. The scheme included a plan to "settle" a state-law proceeding on Tomirae's and Levenson clients' claims, asserting that it was too expensive to protect the "I Feel Good" Trust; declare Tomirae the spouse in a collusive state-law proceeding; then use the State-law proceeding to damage both the "I Feel Good" Charity and the majority of Brown's real heirs with whom the "I Feel Good" Charity could have negotiated to protect its royalties. [See Petition for Certiorari].

Levenson's Nov. 1, 2017 deposition and the 2017 deposition of Plaintiff Jason Brown Lewis corroborate this collusion by the 5 Levenson clients and Terry, all of whom assert that they had knowledge when Brown died that Tomirae's ceremony with Brown was bigamous.

Levenson confirms that Peter Afterman, paid by Bauknight, helped Tomirae attempt in August 2013 to take royalties from 90+ "I Feel Good" Trust copyrights between 2015 and 2023.

Carpenter has been paid to serve as an expert in the two cases in anticipation of trials by mid-2018.

Defendant's Expert R.B. Alexander ("Alexander") 70+ yrs.

Alexander is the only expert who has experience related to the valuation of "right of publicity" (image and persona), including valuation analysis related to Dale

Earnhardt, Sr. In 2011 Alexander issued an opinion that Bob's and my \$84 Million value (\$99 minus \$15 million TIAA debt) for Brown's right of publicity, 900 copyrights, and other music and miscellaneous assets was reasonable. In 2011 Bauknight and Tomirae told the IRS and S.C. Supreme Court the value of these assets was \$4.7 million. By March 2013 Tomirae's son revealed that Bauknight had valued the right of publicity at zero. By 2015 it was revealed that the zero value for the right of publicity and \$18 – 24 million for the 900 copyrights (like Harlan Howard) was secretly proposed by Tomirae's lawyer in August 2009 as a way to discredit Bob and me.

After Plaintiffs sought consolidation, Alexander prepared to testify in both Aiken 1337, where he was deposed, and this case, with the expectation that both would be tried by 2018. He stands prepared to testify.

A stay would likely mean that Alexander would have to prepare further.

Oliver **Wood, Jr. ("Wood")** – Mr. Wood, a consulting economist, is over 80 years of age. We have met and he has agreed to testify for in this case. Wood was disclosed to Plaintiffs more than a year ago.

21. The persons named above are just a sampling of the approximately 30 experts in this case, most of whom are over 65 years old.

Testimony of Governor McMaster, AG Wilson & the AG's Staff are Known.

22. Governor Henry McMaster, AG Alan Wilson, and various current and former staff members were deposed in Aiken 1337 after the 17 Plaintiffs asserted that discovery in this case and Aiken 1337 were merely two side of the same coins.

23. If a stay is imposed, many of these persons may no longer with the AG or Governor when the stay is lifted, and their preparation and testimony may be lost in this case.

24. As briefly described below, the admissions of the Governor, AG Wilson, and the AG's staff and former staff, at least one of whom has already retired, are essential to my defense and counterclaims as to the 17 remaining Plaintiffs.

a. **Solicitor General Robert Cook** – deposition February 8, 2017, Aiken 1337.

Solicitor General Cook recalls the March 6, 2013 meeting with the AG , Chief Deputy McIntosh and me, and a meeting later that week with my counsel Adam Silvernail and me.

Cook does not recall our request that AG Wilson quietly correct Bauknight's incorrect IRS filings, or our warning that failure to do so would help Tomirae siphon off copyrights from Brown's "I Feel Good" Trust in the future; reduce the "I Feel Good" Charity by nearly \$80 million; and reduce annual required scholarships for needy students from \$3+ million a year to under \$50,000.

Cook admitted that I never seemed greedy or incompetent, as Plaintiff Legacy Trust and its trustee and lawyers have claimed. Cook's testimony was that at all times I seemed to have a genuine concern for the "I Feel Good" Charity.

b. **AG Auditor Sandra Matthews** – deposition February 9, 2017, Aiken 1337. Matthews admitted that she prepared charts of Bob's and my expenditure, but was never asked by Sonny Jones to investigate the \$17 million Cannon took. [Depos, 9/9/17, p. 15]

c. **Governor Henry McMaster** - Deposed in Aiken 1337 in 2016, about having sued me 6 ½ years earlier, now-Governor McMaster said:
"Ma'am I did not sue you."

McMaster admitted he did not know he was a Plaintiff in this suit until after leaving office in January 2011. McMaster said he did not authorize Bauknight to sue Bob and me "on behalf of the Attorney General of South Carolina."

McMaster admitted he delegated his effective control over the James Brown assets to staff from 2009 until 2011, and did not even recall anything about the Legacy Trust over which he and Tomirae had 75% control 18 months. Governor McMaster admitted had had never read Brown's Will and knows nothing about Termination Rights. He asserts, however, that his 2008 deal was a good idea.

d. **Former Chief Deputy John McIntosh** – deposition February 8, 2017, Aiken 1337.

McIntosh has no recollection of the March 2013 meetings Adam Silvernail and I had with Cook and McIntosh or his March 6 meeting with Cook, the AG and me. McIntosh confirmed he could not have authorized the Wingate firm to sue naming the State/AG as a Plaintiff in this suit.²⁴

e. **AG Alan Wilson** – deposition on March 21, 2017, Aiken 1337.

²⁴ The only person who directly refutes McMaster's testimony that he did not authorize the Wingate firm to sue Bob and me in the name of the State/AG is Kenneth B. Wingate, who was deposed in Aiken 1337 in 2017. Wingate says McMaster authorized him to bring the suit in the name of the AG.

AG Wilson testified in Aiken 1337 that he knows nothing of the Legacy Trust over which he has exercised effective control for nearly 7 years, since 2011.²⁵ He appeared unaware that today, as in Jan. 2011, he has the right to remove and replace Bauknight at will.

AG Wilson stated he authorized the Wingate Suit to continue when he took office in January 2011.

AG Wilson recalls meeting with me, but does not recall the date (March 6, 2013) and does not recall that I told him the IRS filings by Bauknight placed the "I Feel Good" Charity in jeopardy of Tomirae's taking royalties belonging to Brown's "I Feel Good" Charity; reduction of Brown's "I Feel Good" Charity by nearly \$80 million; and reduction of annual scholarships for needy students from more than \$3 million to less than \$50,000.

AG Wilson asserted no knowledge of his office's continuing praise for Bauknight despite Bauknight's payments to Afterman; \$700,000 awarded Tomirae's son's GAL & lawyer; and about \$5 million in legal, SA/ST and accounting fees paid since 2013..

f. Asst. AG. Mary Frances Jowers ("Jowers") Depos. 5/3/16, Aiken 1337. Jowers has been paid by the State of S.C. to work for 10 years on James Brown matters. At her 2016 deposition, however, Jowers remembered virtually nothing about the \$85,663,562.999 value placed on the 2007 Inventory & Appraisalment ("I&A") [pp. 62, 63]; knew nothing about the "5% percent rule" under which the \$4.7 million reduced Brown's annual scholarship payout from \$3+ million to \$50,000 or less under the AG's 2008 settlement [pp.67-67]; lacked memory of Bob's and my weekly PR/Trustee meetings in 2008 to which she was invited; and knew almost nothing about Federal Copyright Act termination rights, even though she had worked on the appeal which claimed the Termination Rights Tomirae, Terry and the Levenson clients have put in the Legacy Trust are of great value.

g. Sr. Asst. AG Creighton Waters ("Waters"), Depos., 2/9/17, Aiken 1337. Waters was involved in the Cannon criminal proceeding where, after a meeting in October 2011 with AG Jones and others, another AG failed to advise the Court at Cannon's plea hearing of a Victim's statement presented to the AG; failed to seek restitution; and failed to recommend incarceration. At the time, as today, Cannon was named as Plaintiffs' witness in this case. Jones' relationship with Cannon and Dallas was a subject of concern during Bob's and my time as PR/Trustees. Levenson and Bauknight later told the Court they were directed not to come to the Cannon plea hearing.

²⁵ November 20, 2007 – August 12, 2008 royalties'; and reduce annual scholarship for needy students from \$3+ Million to about \$50,000.

h. **Sr. Asst. AG. Havird "Sonny" Jones ("Jones")** Deposed in Aiken 1337 in 2016, Jones spent from the fall of 2007 until 2017 (in this suit) spearheading the vitriolic attacks of two AGs on Bob and me. In 2007 & 2008 Bob and I raised repeated concerns to now-Gov. McMaster about Jones' alliance with Cannon and Dallas.

Jones admitted that Philanthropist John Rainey accused him of interfering with the operation of the "I Feel Good" Trust in May of 2008.

In November 2008 Jones offered to help Bell, Forlando and Powell Goldstein in the 2-day federal hearing in which Forlando sought to enjoin the 2000 Trust until Cannon & Dallas could be reinstated.

In July 2007 Jones and Tomirae arranged the secret mediation and settlement which put the AG in control of James Brown's assets through the Legacy Trust.

Jones, Tomirae and NP spearheaded the devaluation to \$4.7 million to discredit Bob and me; the withholding of the PBW appraisal from the Supreme Court for 8 months; and the claim that Bob and I were greedy and incompetent by valuing Brown's assets at \$84 million.

Jones claims never to have seen the \$4.7 million appraisal which he used to attack Bob and me.

Jones and Tomirae's lawyer engaged Wingate in March 2010 and threatened to sue Bob and me if we did not drop the appeal which became *Wilson v. Dallas*.

Jones helped secrete the Wingate contract in both FOIA and discovery for 3 years.

Jones claims he is protected from discussing conversations with Tomirae, her lawyers, Levenson & Bell between 2008 and May 8, 2013, under the "common interest" doctrine. Levenson claims no such exemption, and admitted he had reviewed the \$4.7 million appraisal.

Jones claims he has had a "common interest" with Baukight since 2009, which still exists.

Jones is believed to have been part of, or known about, the January 2011 planting by Bell/Forlando of the false Grammy © claim with KS which was Mentioned by the Supreme Court in 2013. He had dealing with a KS lawyer and me him that month.

Jones had knowledge, and took no action, as Peter Afterman assisted Tomirae in trying to take a portion of royalties from 90 of the "I Feel Good" Charity's U.S. copyright between 2015 and 2023.

Jones elected not to appear in Aiken 1337.

Meritorious Defenses and Counterclaims Against All 17 Private Plaintiffs

25. I am informed and believe that the admissions and testimony of Plaintiffs in depositions on file in this case, which I ask the Court to consider, make clear that I have meritorious defenses and claims as to all 17 remaining Plaintiffs.

26. In 2013 Levenson told the S. C. Supreme Court that 11 of the 17 Plaintiffs would continue to pursue this case if the AG were dropped as a party, and they have done so.

27. The following is just a sample of my claims against Plaintiffs:

Plaintiff Daryl Brown ("Daryl"): deposition December 21, 2012

Bob's and my duty to Daryl ended on Dec. 26, 2007 when he challenged Brown's Will and 2000 Trust, the only legal documents in which Brown asserts that Daryl is a child/heir.

In a deposition taken November 1, 2017 Levenson, Daryl's original attorney testified to Daryl's multiple changes of position and counsel, based on his personal difficulties and need for money. Levenson testified that Daryl asked him for money in 2012, but Levenson would not give it. Daryl then fired Levenson, and was later represented by David Bell, Esq. ("Bell").

Levenson confirmed Bob's and my position that Bell, Albert "Buddy" Dallas and those associated with them, had engaged in dirty tricks and improper filings in the James Brown cases. [Among them were 5 false grievances Bell/Forlando/Terry and Romunzo filed against Levenson in 2008.]

Daryl's current public position support the position Bob and I took from November 2007 until May 8, 2013: Tomirae was not Brown's spouse, and Brown's "I Feel Good" Trust should be honored.

Plaintiff Venisha Brown, a/k/a Vanisha ("Venisha"): unavailable to be found for a deposition since 2011. Venisha has been incarcerated during substantial parts of this case and did not sign the Wingate 40% contingency fee contract. Wingate has repeatedly refused to appoint a GAL for her.

In 2012, however, Venisha filed and moved to strike my Offer of Judgment which would have let her out of this case and helped her secure annual payments for Termination Rights Cooperation and support of upholding the "I Feel Good" Charity.

Plaintiff Lindsay and Janise Brown – depositions September 2016

Lindsay and Janise rejected and filed 2012 offers to let them out of this case. They did not sign the Wingate 40% contract. When deposed, both were unaware of any basis for suing me for 6 years, and neither knew they had moved to intervene in a FOIA case to stop release of the Wingate contract, or that they had sought sanctions against me in the FOIA case.

Both moved to strike and file offers to be let out of this case in 2012.

Plaintiff James Brown Legacy Trust ("Legacy Trust")

Since 2013 this Plaintiff has claimed in FOIA suits that it does not exist, and that when it did exist it was private and not subject to FOIA.

Tomirae's lawyer, however, asserts the Legacy Trust does exist, and Bauknight, its trustee, "should be knighted".

In 2017 Levenson recalled the December 2010 amendment of the Legacy Trust signed by the AG, Terry Brown and others, and Terry's assignment of his interests in Brown's estate to Forlando. Bauknight denies the assignment took place.

In 2009 Bauknight engaged a dozen NP lawyers to assist AG and Tomirae, who hold 75% voting control of the Legacy Trust. From 2013 – 2015 NP was paid more than \$4 million, and Bauknight claims he has spent millions defending against my \$2.8 million claim for 6 years' protection and defense of Brown's Will/Trust and "I Feel Good" Charity.

In 2009 the Legacy Trust engaged music "expert" Peter Afterman, who claimed on his website to have been hired by the State of South Carolina.

On May 29, 2013 Levenson and Tomirae's lawyer announced to Judge Early their intention to reinstate the McMaster settlement deal voided by the Supreme Court on May 8, 2013. This plan would place all of Brown's assets, as well as any Termination Rights Tomirae, the Levenson clients and Terry had already put into the Legacy Trust, in Bauknight's hands.

Two months later, Afterman helped Tomirae file defective Termination elections While being paid \$28,000 a month by Bauknight.

In 2011 the Legacy Trust claimed it was private and not subject to FOIA, despite the 50% voting control of the AG and the AG's right to remove and replace the trustee at will.

In his January 31, 2017 deposition Bauknight said the Supreme Court in *Wilson v. Dallas* did not overturn the McMaster settlement. He claimed:

... [y]ou fought something that you shouldn't have fought. And it's either because of your personal greed or because of your lack of knowledge of what termination rights are ... There was never a settlement that gutted the estate and trust. If you think it gutted the estate and trust, it's your lack of understanding of what those termination rights are... [Depos 1/31/17, p.96]

Bob and I never owed a duty to the Legacy Trust, which was created to by the AG, Tomirae & the Levenson Will/Trust contestants to dismember James Brown's noble estate plan.

Plaintiff James B. – In 2015 Bauknight allowed James B's GAL and lawyer to secure an order for approximately \$700,000 in legal/GAL fees even though James B. refused a paid-for DNA test for 6 ½ years; values Brown's estate at \$5 Million; and claims only 1/20 as his maximum recovery.

Other Witnesses Disclosed in 2010 Whose Testimony May Be Lost by a Stay

31. The following are just a few of the witnesses, most of whom were disclosed in 2010, whose testimony and/or admissions confirm the hard work Bob and I performed from November 2007 until May 8, 2013.

a. **Plaintiffs' witness Joel Katz** – Named as a witness by Plaintiffs in October 2010, Katz was Brown's entertainment lawyer. In the fall of 2007 Canon, Dallas, and AG Jones interfered with our attempts to hire James Gilreath, Esq., and Kendall Few, Esq., to recover from Katz and his firm ("GT"), as well as Morgan Stanley, Phil Farr, CPA, and others. Bauknight's failure to act promptly to review the file when he replaced Bob and me in 2009 put the GT case in jeopardy. Aided by Levenson, Bob and I prevented a sale of Brown's music catalog and other assets under the "October 18 Letter" issued by GT in the fall of 2006. The sale would have decimated the "I Feel Good" Trust.

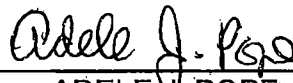
b. **Albert Dallas** – Named in 2010 as a witness by Plaintiffs, Dallas, like Cannon, has been characterized by Levenson as a "liar and a thief." Dallas has, however knew about Brown's assets, having been his lawyer for years. He has given evidence, corroborated by Defendants' expert Miller, that Brown was worth approximately \$100 million at his death. He has also confirmed, that Tomirae was not Brown's spouse, and knew it. His deposition was stopped by Plaintiffs when they realized his testimony would damage Tomirae.

c. **Judge (Ret'd) Walter Williams** – Judge Williams, a retired Chattanooga judge and philanthropist, was a member of the Advisory Board to the 2000 Trust when the AG took over in 2009. Jg. Williams, who personally knew Brown, opposed the takeover. Deposed in 2016 in Aiken 1337, Jg. Williams testified that \$100 million was a conservative value for Brown's assets, which had been estimated to have a value as high as \$250 Million. Since serving, Jg. Williams has suffered a stroke which has left him mentally alert, but with impaired speech.

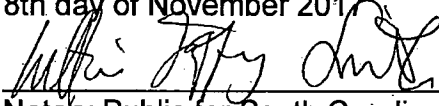
d... **Stephen J. Lambert (Lambert)** – Lambert is one of 3 Trustees of The Graham Foundation, a \$50 million foundation, which hired me in 2012 to help the Foundation conduct a self-study as it moved into its third generation as a family-controlled foundation. Lambert testified in Aiken 1337 that, because of the allegations being made against me by the AG, the Foundation would probably not have hired me had trustees not already been familiar with me work. He testified to the Foundation's satisfaction with my work in the multi-year proje

32. In addition to unavailable witnesses, re-preparation and re-deposition of experts, and other problems, I am informed and believe that if the stay is not lifted there is a substantial likelihood that Tomirae, her son, and other Plaintiffs will further violate the Statute of Elizabeth.

FURTHER DEPONENT SAYETH NOT.


ADELE J. POPE

SWORN TO before me this
8th day of November 2017


_____(L.S.)
Notary Public for South Carolina
My Commission expires: Feb 27, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of
the James Brown 2000 Irrevocable Trust and
the James Brown Legacy Trust, as Personal
Representative of the Estate of James Brown,
and on behalf of Alan Wilson, in is capacity
as Attorney General of the State of
South Carolina, and others

and

ALAN WILSON, in his capacity as Attorney
Attorney General of the State of South
Carolina; and others,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

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) Case No.: 2010-CP-40-4900

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CERTIFICATE OF SERVICE

RICHLAND COURT
FILED
2017 NOV - 8 PM 4:49
JEANETTE W. MCBRIDE
Clerk, S.C. & G.S.

The undersigned hereby certifies that he has served a copy of the foregoing document on counsel for Plaintiff/CC Defendants on November 8, 2017, by hand-delivering a copy of the same, addressed as follows:

Kenneth B. Wingate, Esquire
Everett A. Kendall, Esquire
Mark V. Gende, Esquire
1515 Lady Street
Columbia, SC 29201

J. Emory Smith, Esquire
Rembert C. Dennis Building
1000 Assembly Street
Columbia, SC 29201

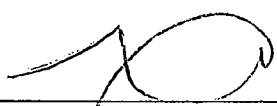

Adam T. Silvernail

EXHIBIT C

IN THE COURT OF COMMON PLEAS

THE FIFTH JUDICIAL CIRCUIT

) Civil Action No.: 2010-CP-40-04900
) APPELLATE CASE NO. 2017-001523

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RICHLAND COUNTY
FILED
2017 NOV 13 AM 10:43
JEANNETTE ECKBRIDE
C.C.P.#839.
OPPOSITION
RE-STAY

Defendant's Motion to Lift the Stay imposed by SCRAP 241(a) should be denied, its

reasons:

1. On its face, the Motion makes no reference to any Rule, the specific relief sought or any statement of applicable law.
2. Statements and accusations made in the Motion are patently false, defamatory, inflammatory, and/or wholly irrelevant.
3. The filing of this Motion, given its contents and tone, is in violation of the Supreme Court's Order admonishing the Defendant against interference with the administration of the Estate.

4. The statements made by subscribing attorneys are a flagrant subterfuge to avoid this Court's directive that similar statements by the Defendant must be filed under seal. Counsel has subsequently filed an Affidavit of Ms. Pope in violation of prior Court order.
5. The statements made by the subscribing attorneys regarding elected officials, attorneys, parties, and other individuals are outrageous, disrespectful, uncivil and have no place in our judicial system.
6. The "argument" of the subscribing attorneys is wholly without merit, bears no relationship to the standard for lifting the automatic stay and violates the requirements of SCRCF Rule 11 requiring a good faith basis for filing any pleading.

FACTS

Defendant has twice filed a Notice of Appeal on multiple orders of the Trial Court. In conjunction with the first Notice of Appeal, the Defendant filed a Motion to hold the appeal in abeyance.¹ The appeal was dismissed *sua sponte* by the Court of Appeals as interlocutory, without any ruling on the motion. Within a few weeks, Defendant filed a second Notice of Appeal² as to many of the same orders.³ Now Defendant, once again, seeks to avoid the consequences of filing a Notice of Appeal by seeking to lift the stay.

Defendant's contention that the stay has been waived is based on a false statement of facts. Plaintiffs' counsel appeared before the trial court on a Motion to Reconsider the Order Granting Summary Judgment to Plaintiffs as to all of the Defendant's counterclaims on October

¹ There is no such relief provided by SCRAP or SCRCF.

² The Court of Appeals has requested that the parties brief the issue of the appealability of the orders. No ruling has been issued.

³ The orders appealed from relate to the dismissal of the Attorney General as Plaintiff, a Protective Order regarding the deposition of the Attorney General, denial of a motion to remove Sweeny, Wingate & Barrow, PA as counsel for the Plaintiffs, and setting aside an entry of default.

10, 2017. That motion to reconsider had been pending since July 13, 2017. No other activity has taken place in this matter since the Notice of Appeal was filed on September 12, 2017. Defendant's suggestion that any discovery has taken place since the appeal was filed is false.

STATEMENT OF LAW

"As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, decree or decision." SCRAP 241(a). "After the service of the notice of appeal, any party may move for an order lifting the stay in cases which involve the general rule." SCRAP 241(c)(1). "In determining whether an order should issue pursuant to this Rule, the lower court . . . should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." SCRAP 241(c)(2). The circuit court has discretion whether to lift a stay of a matter pending before the court. *See Carolina Water Service, Inc. v. Lexington County Joint Mun. Water and Sewer Com'n*, 367 S.C. 141, 625 S.E.2d 227 (S.C.App. 2005) ("The primary issue in this case is whether the circuit court erred in lifting the stay as to the Challenge Actions.... Accordingly, the appropriate standard of review is abuse of discretion. An abuse of discretion arises where the [circuit] court was controlled by an error of law or where its order is based on factual conclusions that are without evidentiary support. *Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 398, 520 S.E.2d 142.") *See also Gaddy v. Douglass*, 597 S.E.2d 12 (S.C.App. 2004) (Court of Appeals immediately lifted automatic stay as provided in Rule 225, SCACR.)

ARGUMENT

Nothing in Defendant's Motion makes any reference to Rule 241 or the basis for lifting the stay as set forth therein. Nothing in Defendant's Motion makes any reference to the effect of the particular orders from which the appeal is taken. Nothing in Defendant's Motion makes any reference to the scope of the relief she is seeking or the reasons why it is necessary. The dearth of legal argument amplifies that the true purpose is something other than the stated purpose.

I. DEFENDANT'S AGENDA IS TO INTERFERE WITH THE ADMINISTRATION OF THE ESTATE IN DIRECT CONTRAVENTION OF THE PROHIBITION OF THE SUPREME COURT.

In an Order dated June 10, 2015, the South Carolina Supreme Court gave the following admonition and warning to Ms. Pope, the Defendant here:

Pope is hereby prohibited from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, such as the above actions, in which she clearly has no standing. We caution Pope that continued attempts to involve herself in resolution of the Estate and Trust may result in contempt charges.

Order dated June 10, 2015, Appellate Case Nos. 2013-001649, 2014-000250, 2014-001279, 2009-142286 (Attached hereto at Exhibit 1)

Although Pope has standing to file appeals and motions in this matter on germane subjects, she has no standing to complain about any of the actions, alleged "schemes," or "derelictions" that are stated in the Motion. Since 2009, Pope has been disassociated from every role of administration, fiduciary or beneficiary of the Estate and Trust. In light of that, the clear intention of the Supreme Court was to enjoin her use of the judicial system to pursue her self-serving agenda. Bauknight--not Pope--is the protector and administrator of the Estate and Trust. The beneficiaries—not Pope—may have standing to complain.

The allegations that she makes in this Motion clearly indicate an agenda: to interfere with and disrupt the administration and resolution of the Estate and Trust. Whether in actions where she has no standing or on issues where she has no voice, the Supreme Court has prohibited this type of behavior by Pope. The Motion should be stricken and not entertained by the Court.

II. DEFENDANT'S MOTION IS A VIOLATION OF THIS COURT'S ORDER REQUIRING POPE'S AFFIDAVITS TO BE FILED UNDER SEAL.

In response to a Motion to Strike by the Plaintiff, complaining about similarly outrageous and scurrilous statements contained in an affidavit filed by Pope, this Court ordered that all future affidavits by Ms. Pope should be filed under seal. Order, March 9, 2017. A copy of this Order is attached at Exhibit 2. To circumvent that Order, Defense Counsel has instead made these same scurrilous and baseless allegations in the body of the Motion. Officers of the Court are thereby seeking to do what their client has been prohibited from doing—leveling defamatory charges against persons, parties, attorneys, elected officials, and the Court in a public document that permits no rebuttal.

As further evidence of Defendant's disdain for the Court, Pope has also submitted an Affidavit in support of this Motion not under seal. Both the Motion and the Affidavit should be stricken and not considered by the Court.

III. THE STATEMENTS MADE BY DEFENSE COUNSEL IN THE MOTION WARRANT CENSURE AND SANCTION BY THIS COURT

A. Counsel's statements make defamatory accusations of criminal and fraudulent conduct.

Repeatedly throughout the Motion, Defense counsel makes allegations of criminal, fraudulent, and nefarious acts by lawyers, elected officials and others not involved in this dispute that are completely irrelevant to the underlying matters. For example:

- Attorney Ken Wingate, Attorney General Alan Wilson, and the court-appointed PR Russell Bauknight are accused of “secreting” a fee agreement, the existence of which was disclosed, but for which protection from disclosure was sought. See FN 2. In addition, the Attorney General and the PR are accused of hiding other documents. See p. 6 and FN 11.
- The Attorney General is accused of misusing his official position to prosecute a personal attack on Pope. See Para a.4; e; and g
- The Attorney General is accused of making false and misleading statements to the Supreme Court. See Para. A.5.
- The Attorney General is accused of controlling litigation to which he is not a party. The allegations imply that the Attorney General is manipulating the court-appointed PR of the Estate. See Para. A6
- The Attorney General is accused of being complicit in tax fraud. See Para a.7, a.8
- Attorney David Bell is accused of planting “false” information that was relied upon by the Supreme Court without any substantiation that Mr. Bell was involved or that the information was false. See Para a.9. Counsel goes on to accuse Mr. Bell of a “years-long history of dirty tricks.” Para a.10.
- Counsel makes a back-handed swipe at Attorney Louis Levenson by suggesting that grievance procedures have been initiated against him. See FN 6. Mr. Levenson’s reputation and actions are repeatedly impugned through innuendo and implication.
- Mrs. Hynie-Brown and her minor son are accused of “siphon[ing] off assets.” Peter Afterman, a music agent who is not a party to this suit, is accused of being an accomplice and committing fraud on the U.S. Copyright Office. The Attorney General and the PR are accused of turning a blind-eye to this wrongful conduct. Para b.and FN 8, also p. 6.

Not only are none of the allegations relevant to either the Motion or even the underlying lawsuit, but counsel has chosen to launch this assault in a forum where the individuals have no ability to respond.

B. Counsel shows utter disrespect for parties, attorneys, witnesses, and elected officials.

Throughout the Motion, counsel refuses to refer to people by their proper name or their official title. Instead, counsel provides labels that are intended to reflect negatively or derisively on the individual. For example:

- The wife of James Brown, Tommie Rae Hynie-Brown is repeatedly referred to only by her first name (see a.3; a.4; a.8; a.11; b; c; d; etc.), and it is consistently misspelled.

- The Engagement Agreement between Russell Bauknight, the Attorney General and Sweeny, Wingate & Barrow, PA is referred to as “the Wingate contract.”
- This lawsuit is consistently referred to as “the Wingate lawsuit.”
- Mr. Brown’s children are never referred to by name, but rather through their affiliation with one of the maligned attorneys. See FN3

As has been stated on more than one occasion by our Supreme Court, while a lawyer must represent his client zealously, “[i]n doing so . . . he must act in a dignified and professional manner, with proper respect for the parties, witnesses, opposing counsel, and for the Court.

When a lawyer fails to conduct himself appropriately, he brings into question the integrity of the judicial system, and, as well, disservices his client.” *In the Matter of Charles Reuben Goode*, 374 S.E. 2d 496, 496-97 (1988); *see also, In the Matter of Anonymous Member of the South Carolina Bar*, 709 S.E.2d 633 (2011) (privately reprimanding an attorney for making accusations that opposing counsel’s daughter was a drug dealer as a violation of the oath of civility, and issuing a Letter of Caution to the bar).

C. Counsel continues to promote facts, theories and positions that have been refuted or are moot.

Despite the fact that this Court has granted the Attorney General’s request to be dismissed as a party-plaintiff, counsel continues to frame and promote arguments as if he is still actively involved in this litigation.

Despite the fact that the Supreme Court has set-aside the Settlement Agreement, counsel continues to reference facts and positions that are predicated on that agreement being in force.

Despite the fact that former Defendant Robert Buchanan reached a settlement with the Plaintiff and has been dismissed as a party, counsel argues that he is somehow threatened by this litigation and prejudiced by this appeal.

Despite the fact this Court and the Supreme Court have ruled on the marital status of Mr. Brown and Ms. Hynie-Brown, counsel continues to argue as though that is a matter in controversy.

IV. THIS MOTION WAS NOT MADE IN GOOD FAITH AND IN VIOLATION OF RULE 11.

Defendant's true motivation for filing this Motion is exposed by the utter lack of legal argument. In the first instance, there is no reference to any rule of procedure—appellate or circuit court.

Perhaps the reason not to cite a rule is to avoid its constraints on presenting a persuasive argument. SCRAP 241(c) provides the basis for determining whether to lift the automatic stay initiated by the service of a Notice of Appeal. The analysis must center on the relationship of the rulings under appeal to the overall case. Yet nowhere in the Motion or Affidavit does counsel even mention the Orders under appeal, much less discuss their impact on the underlying proceedings. From there, cogent argument should focus on how the stay jeopardizes the Court's jurisdiction or will make the underlying issue moot. Relevant to that analysis would be the nature of the lawsuit, the claims made and the issues presented. Again, this is not part of Defendant's Motion.

Instead of making any reasoned argument, the Motion and supporting Affidavit simply launch invectives and accusations against the integrity of opposing counsel, parties, witnesses, other attorneys not of record, and elected officials. These statements are made completely without specific citation to any evidence in the record (apart from the boot-strapping Affidavits) and mostly without even general reference.

Even if every statement contained in the Motion and Affidavit were true, none of them are relevant to the only question before the Court. The claims in this suit seek damages from Pope for malfeasance in her role as the fiduciary of the Estate and Trust of James Brown. This is not an action *in rem* where the subject matter of the litigation is in peril. There is no risk that the issues become moot due to the passage of time. Even so, neither Pope nor her attorneys have even countenanced the argument.

This pattern of accusation extends well beyond the contents of the Motion and Affidavit under consideration now. On more than a dozen prior occasions, Plaintiff has filed Motions to Strike Affidavits filed by Ms. Pope that were filled with similar irrelevant, impertinent, and scurrilous accusation. Ms. Pope has also "testified" on the record in her fee claim case, accusing the Attorney General of perpetrating fraud on the South Carolina Supreme Court and the IRS. She has even gone so far as to suggest that this Court may have knowingly passed along false information to the Supreme Court. (See Transcript of Hearing, August 15, 2017, 2013-CP-02-1337, attached at Exhibit 3). Regrettably, her counsel has now become complicit in this behavior by signing and submitting this Motion.

A motion so ill-conceived and so vitriolic in tone cannot be made in good faith. The Motion should be dismissed and counsel should be sanctioned and admonished.

CONCLUSION

This is not the first time the Defendant has engaged in such extreme behavior. She has been admonished by courts at every level for her meddling in the affairs of the Estate and Trust. Regrettably, her attorneys have now descended to similar unprofessional and uncivil behavior.

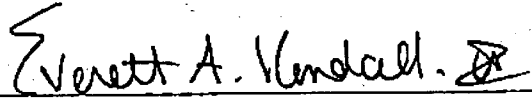
This practice must stop now. Given that prior warnings and prohibitions have not deterred her, only the most drastic of remedies remain.

Therefore, Plaintiff respectfully asks this Court to consider the gravity of this situation and issue an Order:

- (1) Striking Defendant's Answer
- (2) Requiring Defense counsel to personally reimburse Plaintiff for attorney fees and costs required to respond to this Motion
- (3) Striking the Motion and Affidavit from the Record
- (4) Admonishing counsel and Pope from any further attempts to interfere with the administration of the Estate and Trust of James Brown.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
Everett A. Kendall, II
Mark V. Gende
Sweeney, Wingate & Barrow, P.A.
Post Office Box 12129
Columbia, SC 29211
(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

November 10, 2017

CERTIFICATE OF SERVICE

I, the undersigned legal assistant of the law offices of Sweeny, Wingate & Barrow, P.A., attorneys for Plaintiffs, do hereby certify that I have served a copy of the foregoing Memorandum of Law in Opposition to Motion to Lift Stay in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

W.H. Bundy, Jr., Esquire
Brent McDonald, Esquire
Bundy McDonald, LLC
1516 Old Trolley Road, 2nd Floor
Summerville, SC 29485

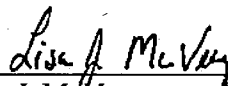
and

Daryl L. Williams, Esquire
Gertz & Moore, LLP
P.O. Box 456
Columbia, SC 29202

and

Adam T. Silvernail, Esquire
Law Office of Adam T. Silvernail LLC
1905 Marion Street (29201)
P. O. Box 7995
Columbia, SC 29202
Attorneys for Defendant Adele J. Pope

2017 NOV 13 AM 10:43
FILED
JEANNETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY



Lisa J. McVety

Columbia, South Carolina
November 13, 2017

The Supreme Court of South Carolina

Ex parte: Adele J. Pope, Appellant,

In re: Estate of James Brown, a/k/a James Joseph
Brown, Respondent.

Appellate Case No. 2013-001649

and

Adele J. Pope, Appellant,

v.

Estate of James Brown, Deceased; The James Brown
2000 Irrevocable Trust; Russell L. Bauknight,
Individually, as former Executor de son tort, and in every
current and former fiduciary status claimed or held as to
the Estate of James Brown and The James Brown 2000
Irrevocable Trust, Respondents,

and

Robert L. Buchanan, Jr., Interested Party.

Appellate Case No. 2014-000250

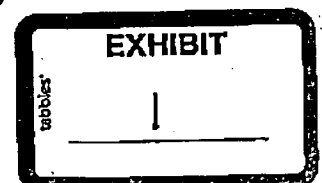
and

Alan Wilson, in his Capacity as Attorney General of South Carolina;
and others, Plaintiffs,

v.

Albert H. Dallas and others, Defendants,

Of whom Adele J. Pope, Individually and on behalf of Others under
South Carolina Trust Code Section 62-7-405, is Petitioner,



And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas and Tommie Rae Hynie are Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna J. Brown Thomas and Robert L. Buchanan, Jr., are Additional Interested Persons.

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

Appellate Case No: 2014-001279

and

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

v.

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

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

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

Appellate Case No. 2009-142286

ORDER

By order dated February 19, 2015, this Court stayed all proceedings in the Aiken County Circuit Court involving the Estate and Trusts of James Brown and the marital status of Tommie Rae Hynie a/k/a Tommie Rae Brown. We hereby lift that stay.

This Court greatly appreciates the attention the Honorable Doyet A. Early, III, has paid to the management of these complicated and contentious matters and expects the actions in the circuit court to continue as expeditiously as possible as set forth in the status report and in accordance with this Court's opinion in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). Judge Early shall order payment of any personal representative and trustee distributions that have been finally determined.

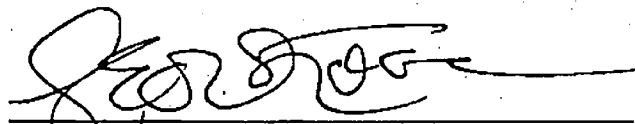
Adele J. Pope has filed a motion seeking confirmation that the stay does not affect Richland County cases in which she is involved. Because we lift the stay, we deny Pope's motion as moot.

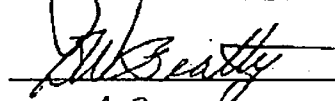
In addition, Pope has filed a motion to reopen another case involved in the Estate and Trust. In that case, the Court of Appeals dismissed Pope's appeal because she was not an aggrieved party. This Court denied Pope's petition for a writ of certiorari, and the remittitur was sent on October 28, 2014. We deny Pope's motion to reopen the case because this Court no longer has jurisdiction over the matter. *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893) (the appellate court has no

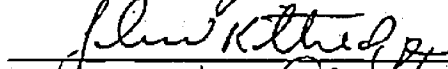
jurisdiction in a matter when the remittitur was properly sent).

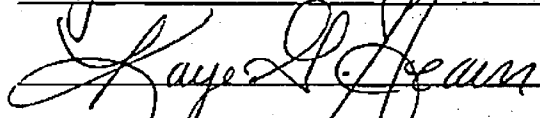
By opinions filed simultaneously with this order, we affirmed Pope's appeals in Appellate Case Nos. 2013-001649 and 2014-000250. David C. Sojourner, Jr. has filed a motion to intervene in those appeals. Based on the affirmance of the circuit court's orders, we deny the motion to intervene as moot.

Pope is hereby prohibited from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, such as the above actions, in which she clearly has no standing. We caution Pope that continued attempts to involve herself in the resolution of the Estate and Trust may result in contempt charges.

 C.J.

 J.

 J.

 J.
Pleicones, J., not participating

Columbia, South Carolina

June 10, 2015

cc:

Adele J. Pope, Esquire
Eugene C. Covington, Jr., Esquire
Robert N. Rosen, Esquire
Albert P. Shahid, Jr., Esquire
William W. Wilkins, Esquire
J. David Black, Esquire
Fred Lewis Kingsmore, Jr., Esquire
Burl F. Williams, Esquire
John Andrew Donsbach, Sr., Esquire

Corey Ty Landon Smith, Esquire
David G. Cannon
James B. Richardson, Jr., Esquire
David Lawrence Michel, Esquire
Tressa T.H. Hayes, Esquire
Louis Levenson, Esquire
Robert D. Cook, Esquire
S. Alan Medlin, Esquire
Alan McCrory Wilson, Esquire
T. Heyward Carter, Jr., Esquire

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010CP4004900

Russell Bauknight

Adele J Pope

James Brown 200 Irrevocable Trust

Tammie Rae Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. No. Suit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge _____

Judge Code 2136

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the 5 day of May, 2012 and a copy mailed first class or placed in the appropriate attorney's box on this 5 day of May, 2012 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth B. Wingate
Mark V. Gende
Robert N. Rosen

Everett Augustus Kendall II
John Andrew Donsbach Sr.
Joseph Odell Thickens

Daryl L. Williams
Adam Tremaine Silvernail
Walter Henry Bundy Jr.
Michael Brent McDonald

J. Calhoun Watson
J. Emory Smith Jr.
Adele J Pope
Adele J Pope

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Janette W. McBride

EXHIBIT

2

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

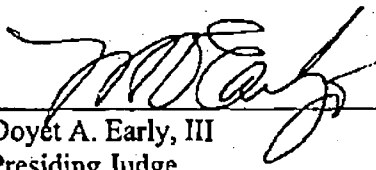
RICHLAND COUNTY
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JEANE L. C. C.

ORDER CONCERNING PLAINTIFFS'
MOTION TO STRIKE A JANUARY 17,
2017 AFFIDAVIT OF DEFENDANT

DAVE

Plaintiffs in Richland Case 4900 moved this Court for an Order striking the Affidavit of the Defendant that was filed by her on January 17, 2017. A hearing was held on the motion on February 6, 2017, at which time all parties were heard. After having considered the arguments, the Court orders as follows: (1) The subject Affidavit will be placed under seal; (2) All further Affidavits filed by the Defendant will be filed under seal; (3) A determination will be made at the time of trial which Affidavits will be used in the trial of this matter. This Order specifically makes no finding about the content of the January 17, 2017 Affidavit. Motions, which have previously been filed in this matter to strike other affidavits, will be heard by this Court, only after at least ten days notice.

IT IS SO ORDERED.


Doyet A. Early, III
Presiding Judge

March 9, 2017
Bamberg, South Carolina.



SWEENEY WINGATE & BARROW P.A.

March 10, 2017

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x7121
mvg@swblaw.com

The Honorable Jeanette W. McBride
Richland County Clerk of Court
Post Office Box 2766
Columbia, South Carolina 29202

RE: Russell L. Bauknight, et al. v. Adele J. Pope
C/A No. 2010-CP-40-4900
Our File: 4077-7389

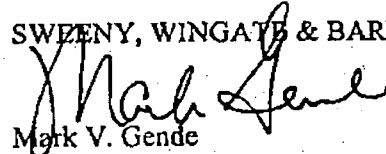
Dear Ms. McBride:

Enclosed please find the original and one copy of Motion Cover Sheet and Order Concerning Plaintiffs' Motion to Strike a January 17, 2017 Affidavit of Defendant in the above-referenced case. Please file the original and return the clocked copy to me in the envelope provided. By copy of this correspondence I am serving opposing counsel with same.

Thank you for your assistance and should you have any questions or concerns please do not hesitate to contact me.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.



Mark V. Gende

MVG/ljm
Enclosures

cc: W. H. Bundy, Jr., Esquire
M. Brent McDonald, Esquire
Adam T. Silvernail, Esquire
Daryl L. Williams, Esquire
C. Havird Jones, Jr., Esquire

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

RICHLAND COUNTY
FILED
2017 MAR 15 AM 9:01
SEARCHED
C. C. B. B.

MOTION COVER SHEET

Plaintiff's Attorney:
Mark V. Gende, Bar No.
Post Office Box 12129
Columbia SC 29211
Phone: (803) 256-2233 x7121
Fax: (803) 256-9177

Defendant's Attorney:
W.H. Bundy, Jr., Esquire, Bar No.
P. O. Box 1542, Mt. Pleasant, SC 29465-1542
Phone: Fax
E-mail: Other:

E-mail: mvg@swblaw.com Other:

☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed:

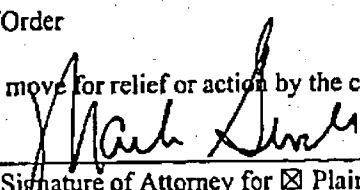
Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached

☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☒ Plaintiff/☐ Defendant

March 10, 2017

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$

☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☒ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☒ Other: Paid filing fee when original Motion was filed.

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

State of South Carolina
County of Aiken

Court of Common Pleas

Adele Pope	)	
	)	
Plaintiff,	)	Transcript of Record
v.	)	2013-CP-02-1337
	)	
Estate of James Brown	)	
	)	
<u>Defendant.</u>	)	

August 15, 2017
Aiken, South Carolina

B E F O R E:

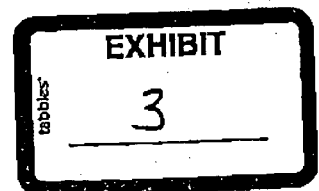
The Honorable Doyet A. Early, III, Judge.

A P P E A R A N C E S:

Adele Pope, Esquire
Pro Se

William G. Newsome, III, Esquire
Burl F. Williams, Esquire
Attorneys for the Defendant

Bethanie K. Creppon
Circuit Court Reporter



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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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P R O C E E D I N G S

* * *

THE COURT: Okay. As I told y'all in chambers, we're going to start off with the Aiken case first. I'll take the motions in whatever order you would like to hear them. We have a motion to send it to the nonjury roster, a couple motions for summary judgment, and some witness problems or depositions.

MS. POPE: Your Honor, I had one, what I think is a real quick thing I think we can agree on.

THE COURT: Yes, ma'am.

MS. POPE: Prior to their depositions, Bill Sellers and Mary Jo Cole, his partner, Bill was the court-appointed accountant when Bob Buchanan and I served as personal representatives. He prepared the estate tax return, Ms. Cole prepared --

THE COURT: What's her name?

MS. POPE: Mary Jo Cole.

THE COURT: C-O-L-E?

MS. POPE: Yes, Your Honor.

She prepared the application for determination for the IRS approval of the I Feel Good Trust, appointed by Your Honor August 10, 2007, before Bob and I became personal representatives and terminating shortly after the settlement was

1 announced after the estate tax return was filed.
2 Prior to their depositions, they ask, please, to be
3 excluded from trial because they have a partner with
4 serious life-threatening cancer. He is still alive,
5 but he is not working.

6 They ask again at their depositions to be
7 excluded, and Defendant's counsel did note at the
8 time of the depositions that they were seeking to be
9 excluded and said they'd wait until after the
10 depositions. We took the depositions with full
11 notice that they wanted to be excluded.

12 Essentially the testimony of the two is this:
13 Mr. Sellers' is that he would not have signed the
14 estate tax return if it had not been reasonable,
15 although he got the \$84 million amount for various
16 assets from Bob and me. But he would not have
17 signed it if it was reasonable [sic].

18 He -- as soon as he heard about the settlement,
19 he said he would finish the estate tax return, but
20 then he didn't want to have anything further to do
21 with the estate and trust because the settlement
22 changed all the tax consequences; that after he
23 stopped working in 2008, nobody ever asked for his
24 file, which is now non-existent because it was
25 destroyed under an old policy and nobody ever

1 complained and his bills were paid.

2 Ms. Cole's is essentially the same thing except
3 she didn't do the estate tax return. And they asked
4 at the deposition and then asked again last week to
5 be -- to allow their deposition testimony to be used
6 in lieu of their personal appearance at trial. And
7 I have repeatedly asked -- I've moved and I have
8 repeatedly requested, but I can't get consent.

9 And I think it would be unconscionable to make
10 this gentleman who's -- and his partner, who were
11 appointed by the Court in 2007, worked for what are
12 now the defendants and were never questioned at all,
13 to have to be compelled -- and their accountants to
14 be compelled to come here and not allowed to testify
15 at a deposition.

16 THE COURT: So you want to use their deposition
17 in lieu of trial testimony?

18 MS. POPE: Yes, Your Honor.

19 THE COURT: Who wants to address that?

20 MR. WILLIAMS: Good morning, Your Honor. Burl
21 Williams, counsel for the Estate and Trust. Mary Jo
22 Cole is Bill Sellers' partner. We agree to allow
23 her deposition to be used at trial. Bill Sellers
24 provided the 706 estate tax return, he signed it on
25 behalf of the Estate and Trust. I've been trying to

1 find his actual deposition testimony. It's my
2 recollection that he said something to the effect
3 that he wouldn't sign it under the current
4 valuation -- is that right -- implying that he found
5 something wrong with the current valuation that was
6 done under the present fiduciary administration.

7 We'd like him to be in open court and testify
8 and look Your Honor in the eye, explain why that
9 testimony he believes to be true. We think it's
10 probative of the total value of the estate. I can
11 tell you, as a compromise, perhaps we can do a
12 videotaped deposition. It would probably take 30
13 minutes of his time, perhaps even 20. It costs a
14 little more, but it's certainly within the subpoena
15 power of the Court. But we think that that critical
16 testimony is important for Your Honor to see and not
17 read a cold record.

18 THE COURT: Thank you.

19 MR. WILLIAMS: Thank you, Your Honor.

20 THE COURT: Ms. Pope, would a video suffice?

21 MS. POPE: They had the opportunity to do that
22 and didn't, Your Honor.

23 THE COURT: Thank you. Video be any different
24 than what he's already said? You just want me to
25 look in his eyes instead of reading his testimony --

1 MR. WILLIAMS: And we'd like to --

2 THE COURT: -- or him look in my eyes?

3 MR. WILLIAMS: No, Your Honor. We would just
4 like it -- we'd like to be able to explore why he
5 said that more and have the benefit of the Court see
6 that with its eyes.

7 THE COURT: All right. I'll take that under
8 advisement. But y'all agree on Ms. Cole, right?

9 MR. WILLIAMS: Yes, Your Honor.

10 THE COURT: All right. Next? How long is
11 Mr. Sellers' testimony if he were live and how long
12 is his deposition?

13 MS. POPE: I think his testimony would be about
14 30 minutes.

15 THE COURT: So a short witness?

16 MS. POPE: His deposition testimony would be
17 about ten.

18 THE COURT: All right. I will consider that in
19 the totality of everything as we go along today.

20 MR. WILLIAMS: And just so --

21 THE COURT: Agree on Cole.

22 MR. WILLIAMS: Just so it's clear, Your Honor,
23 both Cole and Sellers are healthy, it's their other
24 business partner that is not in the accounting firm.

25 THE COURT: Thank you.

1 MR. WILLIAMS: Yes, Your Honor.

2 THE COURT: All right. Next on the list?

3 MR. WILLIAMS: I believe we think the motions
4 for summary judgment, cross motions, should be heard
5 next, if Your Honor is okay with that.

6 THE COURT: Okay.

7 MR. WILLIAMS: I'm actually arguing neither,
8 but --

9 MR. NEWSOME: You filed yours first. Do you
10 want --

11 THE COURT: It makes no difference. Ladies
12 first. Or if you don't want to go first, I'll make
13 them go first.

14 MS. POPE: Let's make them go first.

15 THE COURT: Thank you.

16 Mr. Newsome?

17 MR. NEWSOME: Thank you, Your Honor. Give me
18 just one second because I was assuming she would
19 want to go first since hers was filed first.

20 THE COURT: That's okay.

21 MR. WILLIAMS: I need to get my exhibits
22 together to hand up. If it's all right, I'll hand
23 them up as I address them.

24 THE COURT: That'll be fine.

25 MR. WILLIAMS: Okay. Your Honor, we filed a

1 motion for summary judgment in this case to dispose
2 of Ms. Pope's claim for the PR fee. Regardless of
3 all the filings and the accusations and so forth,
4 this is actually a fairly simple straightforward
5 case; this is a PR fee claims case. Probate judges
6 decide these cases all the time.

7 What's relevant for the Court's analysis is
8 what happened between November 20th, 2007, the day
9 Ms. Pope was appointed, and May 26, 2009, when she
10 was removed for cause, which has been affirmed by
11 the Supreme Court. Summary judgment is appropriate
12 when there's no material facts in dispute, and the
13 there are lots of disputes in this case. But I
14 think we agree that all parties are bound by the
15 decision in Wilson v. Dallas.

16 In Wilson v. Dallas, the Supreme Court affirmed
17 that Ms. Pope was removed for cause and it was in
18 the best interest of the Estate. The Court has the
19 discretion to determine Ms. Pope's fee, and the case
20 law is clear that where a PR has been removed for
21 cause, the Court has the discretion to determine
22 that she's entitled to no compensation.

23 Ms. Pope didn't quit, she was fired. And she
24 was fired because she made some mistakes that were
25 not in the best interest of the Estate. That's the

1 law of the case. Ms. Pope has made numerous filings
2 to try to argue with that. After the Court found
3 that she had been removed for cause, she petitioned
4 for rehearing on that issue and objected to it. Her
5 petition was denied and the court kept that part of
6 the opinion unchanged, her removal for cause was in
7 the best interest of the Estate.

8 They cited certain issues and pointed to those
9 as reasons why it was in the best interest of the
10 Estate for her to be removed. The first was that
11 she sought a \$5 million fee for a relatively short
12 interval of time. And just for the Court's -- just
13 to sort of clarify why that's so important,
14 \$5 million for an 18-month period, if you do the
15 math, that's 3.3 million per year.

16 This December Mr. Brown will have been dead 11
17 years. Okay? That's almost \$37 million in PR fees
18 if you pay that each year. That is outrageous on
19 its face, so much so that the Supreme Court cited
20 that as one of the reasons why her removal was
21 proper. Second, they noted that she sold iconic
22 assets and that a large portion of the proceeds went
23 to pay their own attorneys' fees.

24 And just -- if I could, Your Honor, I want to
25 hand up a copy of the order. Your Honor, we're

1 handing up this Court's order approving sale of
2 tangible personal property and real estate in
3 granting relief. Your Honor, you signed this order
4 on February 20th of 2008. And there's some language
5 in there I just want to direct your attention to
6 remind you what was happening at the time.

7 On page 3 of your order, it's Bates-labeled
8 AikenProbate1993. Paragraph 1 under condition of
9 the estate and trust on February 7, 2008, you found
10 that the condition of the estate and trust, as of
11 November 20, 2007, was deplorable; basic security
12 for Mr. Brown's home estate was in arrears; valuable
13 and deteriorating masters had been left in his home
14 for almost a year; the income taxes were unpaid for
15 a number of years; and the former PR trustees had
16 not prepared or filed an inventory for the estate of
17 the 2000 Trust.

18 Paragraph 2 notes that no estate taxes for
19 Mr. Brown's estate were paid when due and that his
20 estate taxes were estimated at a minimum of \$400,000
21 and they were overdue. On the next page, page 4,
22 you noted there are no funds to pay court-ordered
23 payments to counsel in the New York litigation or
24 the special administrators.

25 Paragraph 6, you found that the estate and

1 trust needs at least \$1.6 million in 2008 to pay
2 outstanding priority administrative claims. And
3 then getting down to paragraph 8, you note that the
4 PR and trustees have Mr. Brown's masters to secure
5 storage, but they do not have the funds to take
6 necessary steps to preserve and catalog them. So
7 that was your order February 20th of 2008.

8 The next month, Ms. Pope -- let me just note
9 this for the record: This is a confidential
10 document, it's covered by the confidentiality order,
11 so we're filing this under seal. This relates to
12 the tax filings that occurred while Ms. Pope was
13 co-personal representative. This is a letter dated
14 March 24th, 2008, signed by Bill Sellers, Ms. Pope's
15 expert, notifying the IRS that the estate tax
16 return, which was extended, will not be completed
17 and filed by the extended due date.

18 The next page, what's marked BrownPope682, is
19 what's known as an application for extension of time
20 to pay U.S. estate taxes. What's handwritten above
21 it is hardship request. Just by way of education
22 for the Court, an estate tax return is due nine
23 months from date of death. You can get a six-month
24 extension of time to file, but that does not
25 ordinarily extend the time to pay. So at this

1 point, the estate taxes were overdue.

2 Ms. Pope had, the month before, obtained an
3 order from the Court approving the sale to try to
4 generate some cash to pay the estate taxes. So
5 you'll note this document, this Form 4768, is signed
6 by Ms. Pope as co-personal representative on March
7 24th, and it is signed under penalties of perjury.
8 It says: I declare I'm the executive of the estate
9 of the above-named decedent and that to the best of
10 my knowledge and belief, the statements made herein
11 and attached are true and correct.

12 Attached to this hardship request you'll see a
13 fairly lengthy explanation of the status of the
14 estate submitted by Ms. Pope and Mr. Buchanan.
15 What's particularly noteworthy, Your Honor, is the
16 last page of this submission, what's labeled
17 BrownPope687. In the third full paragraph it says:
18 The PR trustees intend to make a substantial deposit
19 toward the estate taxes when the net proceeds of the
20 Christie's sale are received. This is estimated to
21 be in September or October if the Christie's sale
22 proceeds according -- proceeds according to the
23 court-ordered schedule. So that's a statement made
24 under penalties of perjury to the Internal Revenue
25 Service.

1 And, Your Honor, to help show what, in fact,
2 happened, our expert Kelly Thomas has prepared a
3 schedule for the cash flow during the time that
4 Ms. Pope was co-personal representative. It shows
5 all the receipts and disbursements to the estate for
6 November 20th of 2007 through March 26th of '09. In
7 this schedule you'll see -- just to show you, on the
8 first page you'll see the date on the left side.
9 You'll see receipts.

10 You have a beginning balance of what was in the
11 estate account when Ms. Pope was appointed; it was a
12 little over \$151,000. And then all the way to the
13 right, you'll see a running total. So each item,
14 there's a disbursement, you see the running total.
15 Go down when there's a disbursement and go up when
16 there's a deposit. So what's relevant, Your Honor,
17 is you can see every dollar in and every dollar out.
18 This was prepared based on the account statements of
19 the estate. And what's particularly relevant, Your
20 Honor, you'll see on page 8 --

21 THE COURT: Hold on one second. Page 8?

22 MR. NEWSOME: On page 8 of 17, at the bottom
23 you'll see the first deposit from the Christie's
24 sale. So you'll see that August 22nd the balance
25 dropped down \$5,827, but then you see an infusion of

1 cash once the Christie's sale took place.

2 THE COURT: That's the \$463,000?

3 MR. NEWSOME: Yes, Your Honor. And then you'll
4 see there were other additional deposits from the
5 Christie's sale that are reflected. That's the
6 largest one, which you'll see on the next page. For
7 example, there's a separate \$5,000 deposit. About a
8 week later you'll see Ms. Pope and Mr. Buchanan were
9 each paid \$100,000, so 200- of that 400,000 went out
10 to them, plus 50,000 to Mr. Bailey and 10,000 to Ms.
11 Hayes and some money to Hogan & Hartson.

12 THE COURT: Hold on one second. I see the 100-
13 to Buchanan, 100- to Ms. Pope.

14 MR. NEWSOME: Yes. On line 2, 50,000 to Hogan
15 & Hartson, 50,000 thousand to Jim Bailey, and 10,000
16 Shipley Hayes. I don't know Sherry Barnes; she may
17 have also been an attorney for Ms. Pope and Mr.
18 Buchanan. And there's a summary schedule at the
19 back, so I just wanted to sort of highlight. You'll
20 see every check in and every check out
21 chronologically with a description and running
22 total.

23 So, Your Honor, you can flip, if you will, to
24 page 17 of 17, and you'll see on May 22nd of '09
25 that the running balance at the time was a little

1 over \$12,000; \$12,331.97. So that was the total
2 when Mr. Bauknight took over as personal
3 representative. And you'll recall, based on -- and
4 this is in the record: The first thing he had to do
5 was obtain an unsecured loan to maintain the house,
6 pay the taxes and the insurance, because there was
7 insufficient funds. Attached to that you'll see two
8 summary schedules and a graph.

9 The very next page is a summary schedule that
10 shows the receipts from November 22nd of '07 to May
11 22nd of '09. You'll see the total is \$855,430.
12 That's the total receipts during the administration
13 of Ms. Pope. And you'll see at the top that almost
14 65 percent of those receipts came from the
15 Christie's deposit.

16 On the next page you'll see a similar schedule
17 for disbursements. That's all the disbursements
18 that took place during Ms. Pope's administration.
19 The largest disbursement was to Ms. Pope, the next
20 largest was to Mr. Buchanan, then Mr. Bailey.
21 You'll also see down just a little ways the
22 disbursement to Shipley & Hayes. There's also
23 another disbursement to Harley Ruth. The total
24 disbursements to Ms. Pope, Mr. Buchanan, and their
25 attorneys was over 55 percent of the disbursements.

1 And in the last page of the schedule that
2 Mr. Thomas prepared shows you graphically what
3 happened during the time period. You'll see on the
4 left-hand side the cash balance, you'll see where it
5 went up and down, and then across the bottom is a
6 chronological timeline. So you'll see as of the
7 time of March of '08 when Ms. Pope represented under
8 penalty of perjury to the IRS that she was going to
9 make a substantial deposit towards the estate tax,
10 there was very little money in the estate.

11 And then you see it jump up when Christie's
12 deposit was made in August of '08 and then you'll
13 see the payments right back out to Ms. Pope and
14 Mr. Buchanan. And in the schedules you'll see that
15 the payments made to the IRS was only \$10,000. Then
16 you'll see where it drops an additional \$30,000 to
17 Ms. Pope and Mr. Buchanan.

18 That's important, Your Honor, because that
19 is -- this highlights one of the things -- well, two
20 things. It shows that she acted inconsistent with
21 the representation she made to you in February when
22 she stated that the liquidity needs were for the
23 estate to preserve the masters and to do all these
24 things on behalf of the estate, and then she paid
25 herself. And in the Wilson v. Dallas court, that

1 was one of the things that they cited, that she sold
2 the iconic assets and she paid herself, and that
3 that was part of what supported her removal for
4 cause as being in the best interest of the estate.

5 They also noted that she unsuccessfully tried
6 to sell a Grammy. So that was, of course, a cause
7 of much dissension. She still agree -- or argues
8 that that's not a proper finding of the court. But
9 she petitioned for re-hearing and they denied that.
10 So that is the law of the case. And not only was
11 that cause for her removal, she's now asking you to
12 approve payment to her for mishandling that issue
13 and asking you to approve a premium over and above
14 her hourly rate.

15 And then the final thing that the noted was the
16 extreme discord, Your Honor, among all the parties.
17 I hope you would note, based on the conduct that the
18 Estate, since Mr. Bauknight has been appointed, that
19 we're not here in front of Your Honor, on a weekly
20 basis asking you to approve every administrative
21 decision. Mr. Bauknight is a professional fiduciary
22 and he makes these fiduciary decisions in a way that
23 doesn't invite lots of comment or dissension among
24 the interested parties.

25 I'd also like to hand up to Your Honor

1 something that Ms. Pope has argued to the Court on
2 sort of a fairness basis. She keeps arguing that
3 Mr. Buchanan has been paid and that she has not. I
4 wanted to just remind the Court Mr. Buchanan was
5 involved in a global settlement of case 1337 and
6 case 4900. He did not receive any payment of any PR
7 or trustee fee; he renounced any PR or trustee fee.
8 This is filed with the Court. I just wanted to hand-
9 this up to remind Your Honor Mr. Buchanan hasn't
10 been paid. Your Honor, Ms. Pope shouldn't be paid
11 either.

12 It's within your discretion to find that she
13 was removed for cause based on malfeasance and that
14 it's, therefor, appropriate for her to receive no
15 compensation. Your Honor, this is a simple claims
16 case, summary judgment is appropriate.

17 I just want to remind you that at the outset of
18 this case Ms. Pope filed a voluminous complaint
19 alleging all different sort of causes of action and
20 Your Honor dismissed all of those other causes of
21 action other than the petition for allowance of
22 claim.

23 Ms. Pope has been allowed wide latitude in
24 discovery, she's deposed the governor basically
25 twice, the attorney general, she's alleged lots of

1 wrongdoing, and now she wants to put the governor
2 and the attorney general's office on trial in her
3 claims case. Those issues aren't relevant; it's
4 really just what did she do between November 20th of
5 '07 and May 26th of '09. We would submit that when
6 you look at the Wilson v. Dallas case, Your Honor
7 has the discretion to determine, based on undisputed
8 facts, that she should receive no compensation.

9 THE COURT: Do I have the right under your
10 argument to allow some compensation, not
11 withstanding the fact that she was removed for
12 cause?

13 MR. NEWSOME: You could determine that she's
14 entitled to some compensation, Your Honor.

15 THE COURT: Thank you.

16 Ms. Pope?

17 MS. POPE: Your Honor, I'd like to, if I could,
18 find out whether he's abandoned his argument related
19 to the June 10th, 2015 orders, because it's very
20 important for me to argue that if he has not
21 abandoned it.

22 THE COURT: You can ask him.

23 MR. NEWSOME: Well, we have a motion in limine,
24 so I didn't raise it. But it is addressed in our
25 motion and I think it's important for the Court to

1 consider this. I mean, Your Honor, I've been at
2 this 25 years, and I've never seen an order like the
3 Supreme Court's order admonishing Ms. Pope. She has
4 interfered with the administration of the estate --

5 THE COURT: What order are you talking about?

6 MR. NEWSOME: This is the -- it's referenced in
7 our motion. It's the June 10, 2015 order of the
8 Supreme Court.

9 THE COURT: That's the one that said no more
10 meddling, so to speak?

11 MR. NEWSOME: It says: Pope is hereby
12 prohibited from filing any further motions or
13 appeals in actions involving the estate and trust of
14 James Brown such as the above actions clearly in
15 which she clearly has no standing. We caution Pope
16 with continued attempts to involve herself in the
17 resolution of the estate and trust may result in
18 contempt charges.

19 I note they said charges, which is criminal
20 contempt, and I've never seen an order like that.
21 But it shows that she has used her position as a
22 former fiduciary to interfere with the
23 administration of the estate. It has cost the
24 Estate tens of thousands of dollars. We've been
25 here in front of Your Honor on countless motions.

1 And it's really just a claims case; it's time to end
2 it, Your Honor.

3 THE COURT: Well, what's your position on that
4 order, I mean, as it affects her claim for fees?

5 MR. NEWSOME: I think it's supportive of the
6 fact that she should receive no fee.

7 THE COURT: Thank you.

8 MS. POPE: Your Honor, the one thing I've
9 learned since March 7th, 2017 is if you call me and
10 ask me to do something, I'm saying no, and you'll
11 probably never call me again, because you and I are
12 the only two people in this room who have been here
13 since the beginning other than Adam Silvernail who
14 is one of my lawyers in case 4900 -- Judge, should
15 we stop?

16 THE COURT: No, ma'am. Go ahead.

17 MS. POPE: Other than my lawyer in case 4900
18 who was a freshman undergraduate runner at my law
19 office when you called me and asked me to take the
20 position as special administrator of the estate of
21 James Brown.

22 I have filed and will pass up a little
23 chronology that will help us refresh our memories
24 about what actually happened between March 7th, 2007
25 and September of 2009 when Your Honor declined to --

1 THE COURT: Do you have a copy?

2 MR. NEWSOME: Ms. Pope, do you have a copy for
3 me?

4 MS. POPE: No. It's on file. I may have one,
5 but it was served yesterday by e-mail.

6 If Your Honor will look at the back page of
7 that -- I don't have it before me. I just handed my
8 copy to Mr. Newsome.

9 But in September of 2009, Alan Medlin began --
10 I'm sorry, it's on page 29. Alan Medlin began to
11 make to Your Honor some of the outrageous claims
12 that would be made over the years from 2009 until
13 today. The purpose of that motion hearing was to
14 reconsider Your Honor's ruling which was made on May
15 26th, 2009, and by which Your Honor, misled by
16 numerous false representations --

17 THE COURT: All right. Hold on. May 26, '09?

18 MS. POPE: Each deposit taken is important.
19 It's appearing in the middle of the page. Is this
20 supplemental return and memorandum?

21 THE COURT: Yes, ma'am.

22 MS. POPE: Page 29. Okay. Just trying to get
23 us back to the time that only you and Adam
24 Silvernail and I know about in this whole room. And
25 this was the September 2009 motion for -- to --

1 partial lifting of the stay in connection with Your
2 Honor's May 26th, 2009 order, which the Supreme
3 Court later found dismembered James Brown's Noble
4 Estate Plan and his I Feel Good Trust.

5 At that hearing Mr. Medlin began to make some
6 of the outrageous and false allegations that would
7 be made to the Supreme Court in the coming years.
8 When -- when -- then after that, from Nexsen Pruet,
9 Mr. Wilkins got up and talked about how the stay
10 needed to be lifted because all -- there were so
11 many economic opportunities just waiting for the
12 estate of James Brown. And then our pro bono
13 publico counsel, James Richardson, got up and --

14 THE COURT: This is on the argument on --

15 MS. POPE: On the lifting of the stay and just
16 after Your Honor's order in 2009. Your Honor issued
17 his order in 2009 and we did a motion for
18 reconsideration and the lifting of the stay. So
19 here we are now before the Supreme Court gets
20 involved, essentially. We're looking at what Bob
21 and I did and what Your Honor did.

22 And as you'll recall, Your Honor did not remove
23 us for cause. The order specifically says: I'm
24 reserving all the issues on the petition for removal
25 for cause, which was not just for Bob and me. It

1 was for Bob, me, Cannon, Dallas, and Bradley. You
2 said you're reserving all issues on that til later.

3 So here we are, moving now from May 26th, 2009,
4 where Your Honor has specifically ruled you're not
5 removing us for cause, but in conjunction with the
6 settlement where the attorney general of South
7 Carolina had contracted to remove us with Tommie Rae
8 and the Levenson clients, and to select a fiduciary
9 of his choice.

10 And that fiduciary, Russell Bauknight, had been
11 appointed by you to do two things; to run the estate
12 and to run the trust. And he had been appointed
13 serving at the pleasure of the attorney general to
14 run this Legacy Trust. The entity that the attorney
15 general of South Carolina was going to take all of
16 James Brown's assets and put into that, and
17 Mr. Bauknight was going to serve at the pleasure of
18 the attorney general. And the purpose of the
19 lifting of the stay was to allow the attorney
20 general to run James Brown's assets through
21 Mr. Bauknight.

22 Mr. Buchanan and I did not resist
23 Mr. Bauknight's running the assets. We were
24 concerned about the creation of what we thought was
25 an improper entity and what the Supreme Court later

1 found was an improper entity.

2 So Mr. Wilkins got up and talked about the
3 wonderful opportunities, and then Mr. Medlin got up
4 and started saying nasty things about Bob Buchanan
5 and Adele Pope. Interesting because Mr. Medlin had
6 twice recommended me to serve as a fiduciary for
7 James Brown and once recommended Bob Buchanan. But
8 he got up and started making nasty remarks. And we
9 can look specifically and I urge Your Honor to look
10 at the full transcript of this hearing. I only put
11 in a part.

12 Then Mr. Wilkins talked about all the
13 opportunities just waiting. Mr. Wilkins did not
14 know that the month before, before Your Honor's
15 order was even cold, Alan Medlin had already
16 suggested devaluing James Brown's estate to about
17 \$24 million. But nobody knew it then and nobody
18 knew it for a long time.

19 Mr. Wilkins stood there and told Your Honor
20 movie deals were waiting, publicity rights deals
21 were waiting, just lift the stay, everything is
22 ready to go. But let's see what really happened.
23 But let's begin on that day because that's the day
24 that we talk about my service.

25 On that day Your Honor said:

1 "THE COURT: This is not an action to remove
2 them. I have stayed away from that since the day
3 this petition was filed purposefully."

4 And Mr. Levenson said -- oh, Mr. Levenson [sic]
5 said: "I am here today simply to consider
6 whether or not I should lift the stay and
7 whatever order I issue will certainly not give
8 credence to any arguments or anything else about
9 the job done by Judge [sic] Buchanan and
10 Ms. Pope. It will simply be whether or not I
11 will lift the stay."

12 That was Your Honor's position until the ruling
13 of the South Carolina Supreme Court. Now let me
14 tell you --

15 THE COURT: That's right. My position was a
16 lot of things until they ruled.

17 MS. POPE: Well, let me tell you, Your Honor,
18 what happened between those two.

19 THE COURT: Well, unfortunately, what happened
20 is they issued the decision and the other subsequent
21 decision which --

22 MS. POPE: Well, Your Honor --

23 THE COURT: I'm listening. Go ahead.

24 MS. POPE: Your Honor --

25 THE COURT: Yes, ma'am.

1 MS. POPE: Shortly after the decision, I was
2 asked did I agree that that meant that I was not
3 entitled to be paid. And my answer was, no, the
4 decision of the South Carolina Supreme Court to the
5 extent that it had dicta about Bob Buchanan and me
6 was based on fraud, fraud. If we're going to talk
7 about before 2009, we can talk about incompetence,
8 the attorney general not knowing what he was doing.
9 But if we're going to talk about after September of
10 2009, we got to talk about fraud because that's what
11 happened.

12 THE COURT: Well, you're claiming that fraud
13 was perpetrated on the South Carolina Supreme Court?

14 MS. POPE: Not only was it perpetrated, but I
15 personally, on March 6th, 2013, discussed it with
16 the attorney general of South Carolina. He told me
17 he was hearing it all for the first time. I
18 suggested a way to fix it without anybody ever being
19 embarrassed. He thanked me for coming where I drove
20 from Spartanburg after my daughter had a brain
21 tumor. He thanked me for coming. He called me, he
22 said, Ms. Pope, I'm dropping out of case 4900. He
23 didn't drop out. He did everything he said he
24 wasn't going to do.

25 And there's more, but that's for another day.

1 Today we have to decide whether you can say I'm not
2 entitled to payment. And so -- but my position
3 about that is the attorney general and the Estate of
4 James Brown knew about the fraud and they were in a
5 position within a year to straighten it out. They
6 didn't; they continued it, and they continued to --

7 THE COURT: Fraud on the Supreme --

8 MS. POPE: Fraud on the Court and fraud on the
9 IRS. And I'm going to tell Your Honor about it now.
10 Okay?

11 Well, now, let's start with Mr. -- Mr. Newsome
12 has cited that I should have paid taxes and that was
13 a reason for removing me. Let's just talk about
14 that a minute. In -- and, by the way, he says this
15 document is confidential, but Your Honor agreed that
16 all the documents that I've had for years are not
17 confidential. And this document is all over the
18 place, so I hope you won't mind my talking about it.

19 And I will talk about it. And I ask Your Honor
20 to refer both to my claim, which Your Honor has told
21 the Supreme Court is 200 pages. And I would like to
22 talk about -- and my affidavit, which supported the
23 joint claim that Bob and I made in 2009. You don't
24 need it to look at it now, I'm just referring to the
25 joint claim that Bob and I filed in 2009.

1 So what did Sellers and Durant and Bob Buchanan
2 and Adele Pope tell the Internal Revenue Service in
3 on March 25th, 2008? Now let's get it in context.
4 March 25th, 2008, we have been the personal
5 representatives for -- since November 20th, 2007.
6 We, similar to Mr. Bauknight, had almost nothing in
7 the bank. We had uncovered \$17 million of stealing.
8 Your Honor had ordered that we be paid \$317,000,
9 about 70 percent mine and 30 percent Bob's because I
10 had a huge staff then.

11 I had not been -- I had not, at this point,
12 been paid anything either from my SA service or my
13 PR trustee service. Today I've still not been fully
14 paid for my SA service and I have not been paid a
15 nickel for my PR trustee service. But we'll talk
16 about that another day. But here we are, we're in
17 March.

18 Now, in January Your Honor has ordered that --
19 on the 8th of January Your Honor has ordered that
20 Bob and I be paid on a time-plus-cost basis for our
21 service beginning on November 20th and has approved
22 our SA fee and praised us, talked a lot about what a
23 good job we had done. And something else is going
24 to happen after that.

25 By January 4th though, four days before --

1 2008, four days before Your Honor issued the order
2 approving our fees, the attorney general's attacks
3 had become so vicious on us that Bob and I had filed
4 a petition with Your Honor. And we said if Your
5 Honor does not find that both our appointment and
6 our service is ethical and appropriate, we want to
7 resign, we don't want to be here; we want to resign,
8 however, in a way that the people who stole \$17
9 million won't be reinstated. And the hearing on
10 that had just been heard just before this day, March
11 25th, 2008.

12 Your Honor, on March 7th, 2008, had held a
13 hearing to determine whether our service was
14 appropriate, whether our appointment was
15 appropriate, because you'll remember the attorney
16 general never challenged our service or appointment
17 as personal representatives. But he wanted control
18 of that trust, so he said we couldn't have both
19 positions, and he was saying that Your Honor lacked
20 the jurisdiction to appoint us. And he -- and Buddy
21 Dallas was saying the same thing.

22 So here we were, we had just had the hearing
23 where Your Honor had examined everything we did on
24 March 7th, 2008. And that very day Your Honor had
25 said Buddy Dallas -- in an order that's cited in

1 what I handed Your Honor, had said that Buddy Dallas
2 and -- and Al Bradley can't undo their appointments.
3 Remember they were trying to undo their
4 appointments; the people who had been co-trustees
5 with -- I mean, I'm sorry, their resignations --
6 undo their resignations.

7 The trustees who had served with David Cannon,
8 who had stolen \$17 million, were trying to be
9 reinstated, and the attorney general was helping
10 them. And that was -- that hearing was on -- first
11 Your Honor issued the order on March 7th saying they
12 can't come back. And then on March 7th it said --
13 you said: "Now I'm going to examine whether Bob
14 Buchanan and Adele Pope are going to stay and
15 whether their service has been appropriate and
16 ethical." So here we are, right in the middle of
17 that.

18 And so -- and we had done a lot by the way --
19 as a tax matter. By then we'd found the estate in
20 shambles. All those things that were just read from
21 Your Honor's February 20th, 2008 order that
22 Mr. Newsome read, that was all about what Mr. Dallas
23 and Mr. Bradley had done. So there we were, and we
24 were straightening out the tax matters. And we were
25 doing a number of things.

1 You might remember that Mr. Farr had filed
2 false tax returns claiming that the assets had been
3 transferred over from the estate to the trust just
4 by virtue of his signature. I mean, there was lots
5 going on. But, anyway, here we are. Bob Buchanan
6 and Adele Pope send to the IRS, aided by Bill
7 Sellers, a hardship request. And to tell a lot of
8 things -- and I invite Your Honor to read it
9 carefully, not to look at the important parts.

10 But what I do need you to look at, because it's
11 very, very important, we tell them that there is tax
12 due -- tax due because we need to hold on to that
13 fault, we tell them that there is tax due because
14 even though James Brown gave every dime to his I
15 Feel Good charity, he had given \$2 million for the
16 education of needy students. And so every dollar,
17 both before and after the McMaster settlement, that
18 went to James Brown's children, was going to be
19 taxed at about 40 cents on the dollar. There was
20 tax due before the McMaster settlement and there was
21 lots more due after. But let's just stick with this
22 figure.

23 So we had -- as Your Honor might recall, we had
24 done -- we had gotten an order from Your Honor and
25 asked that everybody have to sign gift affidavits to

1 tell us whether James Brown had made gifts to them
2 so we could get the estate tax return correct. So
3 there were lots of things that were going on with
4 respect to the estate tax returns. And I will tell
5 you that I was an expert and knew all about it then.
6 I haven't done but one or two since, but I did know
7 all about it then.

8 So let's see what we told James Brown -- I mean
9 told the IRS about James Brown. We put his Schedule
10 F assets: Royalty, image, persona, publicity
11 rights, and all rights associated with his published
12 songs, \$80 million. Nobody said a word, nobody said
13 that figure was silly. Amount going to the James
14 Brown I Feel Good Charitable Trust: \$59,600,000.
15 So that was in March.

16 In August, the 10th of August, several months
17 later, after the Christie's sale but before the
18 Christie's money comes in -- after the Christie's
19 sale but before the Christie's money comes in -- and
20 I'm just going to talk a minute about the Christie's
21 sale because there's been a lot said wrong about the
22 Christie's sale, so let's put ourselves in context.
23 And in my supplemental return I've got a little
24 chronology. And I'm sort of following that if it
25 would be helpful to the Court. But --

1 THE COURT: Just tell me what pages you're on
2 so I can follow.

3 MS. POPE: Well, here we go. Let's see. Let's
4 look on about page -- January 8th on page 14 is when
5 Your Honor does the payment order. And then in
6 February 2008, on page 15, that's when we engage
7 Mr. Few and Mr. Gilreath to try to recover the
8 \$17 million that David Cannon stole and the money
9 from the Greenberg Traurig October 18th letter and
10 the money from Morgan Stanley and the money from
11 Phil Farr who filed all the bad tax returns. And,
12 as Your Honor knows, I haven't seen the settlement,
13 but those recoveries, I hear from the grapevine,
14 that were instituted by Bob Buchanan and me over the
15 objection of the attorney general -- remember he
16 wanted us to hire Mark Eyfe and he wanted us to hire
17 Steve Hamm, but we believed that Mr. Few and
18 Mr. Gilreath were the right lawyers, and Your Honor
19 ruled with us, and Mr. Jones got mad and stayed mad
20 until today. But then we go to February. Well,
21 let's look there at the bottom of 15. February --

22 THE COURT: For the record, now, that case has
23 been settled.

24 MS. POPE: I know.

25 THE COURT: And --

1 MS. POPE: I know, Your Honor. We've tried to
2 see the settlement. I know it was good.

3 THE COURT: I signed an order of dismissal. I
4 haven't seen the settlement.

5 MS. POPE: Oh, well that's what -- Your Honor,
6 I'm just saying --

7 THE COURT: Okay.

8 MS. POPE: -- I hear it went well.

9 THE COURT: Well, I --

10 MS. POPE: I can't -- well, I'll just say this
11 much, Your Honor: I can't believe that Jim Gilreath
12 and Kendall Few would have settled it if they didn't
13 do a good job by James Brown's estate and trust. I
14 don't believe it.

15 THE COURT: I don't either. And I think they
16 did.

17 MS. POPE: Yeah. We can take judicial notice
18 that we did a good job in the selection of Jim
19 Gilreath and Kendall Few. And I'll say --

20 THE COURT: You did, and I affirmed it then and
21 I'll affirm it now.

22 MS. POPE: Thank you. We're in agreement.
23 Okay. So the Christie's sale has started out on --
24 since this relates to the Christie's sale, let's
25 begin at the bottom of page 15.

1 February 1 Judge Early directed that the
2 Christie's sale take place. That was the first
3 order, February 1. And you allowed people to
4 withhold items, so if anybody had anything real
5 special to them, they could withhold -- you know,
6 Your Honor, I think that it -- it was in February,
7 but I think I may have the dates wrong for that.
8 Yes, it's the 20th. I apologize. Let's
9 double-check. It's the 20th. I apologize. I put
10 the 1st, but it is the 20th.

11 THE COURT: No problem.

12 MS. POPE: Let me look. Yeah, that's the order
13 right in front of you. I apologize. We'll mark
14 bottom of page 15, February 20. I apologize. I did
15 this quickly yesterday. We'll just fix that right
16 now. This is the order right here before us.

17 THE COURT: That's the one they just passed
18 up --

19 MS. POPE: That they just passed up, Your
20 Honor.

21 THE COURT: 2/25/2008.

22 MS. POPE: Right. But I like to go by the date
23 Your Honor actually signed them; I don't know why, I
24 always have. You signed it on February 20th. So
25 Your Honor orders that sale. And, you know, it's

1 interesting that they passed up that order but they
2 didn't pass up the other two orders approving the
3 Christie's sale. That was just the first of three.
4 Your Honor gave the family -- well, Your Honor did
5 two things; Your Honor provided for -- well, and
6 other things are going on in there too. But you did
7 provide for an appraisal by Christie's of the
8 household goods, which came up at a little over a
9 million two and which Mr. Bauknight later told the
10 IRS were worth zero, I think, as best I can tell.
11 But, anyway, so on February 20th Your Honor ordered
12 the Christie's sale.

13 And then let's look at page 16 because that
14 puts this IRS notice in context. I just mentioned
15 on page 16: "March 7th, Judge Early ruled that
16 Dallas and Bradley could not return as trustees.
17 That day Judge Early held a hearing on whether Bob
18 and Adele should remain." And that relates to the
19 motion that we had filed back on January 8th, which
20 is top -- which is January 8th -- January 6th. I'm
21 sorry.

22 Let's look back on 14: "Bob and Adele filed
23 their return in opposition to all the motions to
24 vacate, alter, or amend the November 20th order."
25 That's the order that appointed us as PRs and

1 trustees. And we supported it by affidavits and I
2 give you the references. "The Circuit Court --"
3 that would be -- "bifurcated these reconsideration
4 motions, first granting a hearing on the return of
5 Dallas and Bradley --" oh, I said: "They --"
6 that's Bob and me -- "asked to be allowed to resign
7 if after a hearing the Court did not find their
8 appointment and service to be entirely appropriate."
9 So we had just had that hearing then on March 7th.
10 Okay?

11 So now we're going to take this forward and see
12 why we didn't pay any taxes. The Estate was
13 extremely illiquid. Your Honor had ordered that we
14 be given -- paid interest on all amounts that you
15 awarded us, including our SA fee, if we were not
16 paid within 60 days that it became due. So my
17 little \$47,000, which remain unpaid then and today
18 remains unpaid, was earning eight-and-three-quarters
19 percent.

20 And it's hard to imagine, but back then I had
21 some concern that somebody would think that I was
22 delaying payment to myself in order to earn a high
23 interest rate. That's certainly not the case
24 anymore, but that was something Bob and I thought;
25 we don't need to, you know, let the Estate accrue a

1 large interest on what it owes us if it's in a
2 liquidity position to pay.

3 All right. So here were are. So then the
4 Defendants failed to mention that right after this
5 is the second Christie's sale order, and that is the
6 one in which Your Honor specifically, with the --
7 with the consignment sheet in hand and the Grammy
8 listed on it and with no objection from anyone and
9 if we had all looked with knowledge that Grammys had
10 been sold before, directed Bob and me to sign the
11 Christie's consignment order, directed us to. All
12 right. That was April 1, 2008.

13 Another thing Your Honor did, and this is
14 important, it specifically found -- Your Honor
15 specifically found that nobody had timely sought to
16 remove anything from the Christie's sale. So this
17 whole Grammy thing does not get fabricated until
18 2011 by David Bell, but we'll talk about that later.
19 All right. So, anyway, we -- we -- Your Honor
20 approves the Christie's sale on April 1. The
21 Christie's sale takes place on July 17, and that got
22 us up to July 17. I -- a lot of this is left out,
23 so we're still on page 16.

24 And after the sale on July 17 -- which, by the
25 way, reaped about \$770,000 which Mr. Bauknight later

1 told the IRS had a value of zero, and that's going
2 to become important for this paper, okay -- then on
3 August 10 Your Honor brokered a settlement -- I
4 mean, the attorney general, not Your Honor. The
5 attorney general brokered a settlement deal with
6 Tommie Rae and Levenson which dismembered Brown's
7 the estate plan and threatened its 900 copyrights.

8 Okay. Now, so in March we say we're going to
9 try to make a substantial deposit when we -- when
10 the time comes. But what happened? On August 12th,
11 two days after the settlement, we got an e-mail from
12 Robert Rosen stating stand down, stop administrating
13 the estate. Now, I'm going to tell you that it was
14 not in anybody's head in 2008 that this estate might
15 be worth \$5 million, nobody, nobody.

16 So Bob and I still believed, as I do today,
17 that about a couple hundred thousand dollars in
18 estate taxes was still due on the gifts going to the
19 children because the 2 million exemption had been
20 used up by the grandchildren's trust. So every
21 penny that went to James Brown's grandchildren was
22 going to be taxed at 40 cents or more on the dollar.
23 We knew that.

24 But what had happened is, on August 10th of
25 2008 -- two days after August 10th, 2008, Your Honor

1 was asked to stop everything, stop everything, and
2 to approve a settlement which we could not in good
3 conscious support, a settlement which took away half
4 of James Brown's I Feel Good Trust and gave it to
5 people who, according to the Supreme Court, had
6 cobbled together baseless claims. And that was,
7 Your Honor, the case. Your Honor was told a lot
8 that was not correct, but that was the case.

9 It's not my headache anymore; what happens to
10 it now, I don't have anything to do with it. But on
11 that day, no trustee who had any respect for the law
12 or for James Brown could have done anything other
13 than to challenge that settlement, which Bob
14 Buchanan and I did, and which I continued to do at a
15 rather substantial personal cost until May 8th,
16 2013.

17 Okay. But we have to remember where we were
18 then. So this is -- so they say stop, stop
19 administering the estate, and then something
20 interesting -- Alan Medlin calls us and says, will
21 you help us, Sonny wants to know if you will help us
22 file a petition in probate court to get rid of
23 Cannon and Dallas. Nobody was thinking we were bad
24 guys. They wanted us to go away because they wanted
25 the 20 million in legal fees, but they weren't

1 thinking we were the bad guys.

2 So we told Alan that, no, we couldn't help him
3 with that petition. Why? Because Cannon and Dallas
4 were up in the court of appeals and we didn't think
5 that the probate court or Your Honor had
6 jurisdiction to get rid of Cannon and Dallas when
7 they were up in the court of appeals.

8 And so first you might recall in September,
9 Sonny filed a motion just to get rid of them, and
10 then in October he added us to. Nobody was thinking
11 we were the bad guys back then; not you, not anybody
12 else. They wanted us to go away, but they weren't
13 thinking we were the bad guys.

14 All right. So what happened? As soon as the
15 order -- I mean, as soon as the settlement was
16 announced and as soon as it became clear to
17 Mr. Sellers and to me and to anybody else that had
18 any understanding about taxes, which would not have
19 been Mr. Newsome because he wasn't there, anybody
20 who had any understanding of taxes knew that that
21 settlement had turned the tax situation on its head,
22 to put it mildly.

23 So we knew -- now remember, we're in September
24 of 2008 and we're not going to even have Your
25 Honor's answers to these questions until May of

1 2009. And we've got tax returns and the income tax
2 returns. So we call Hayward Carter, who was one of
3 the tax attorneys for them, and we say, look, we are
4 opposed to this settlement, but we want -- you know,
5 we understand you have a right to put a good face on
6 it.

7 For us, James Brown's estate, his estate, did
8 not create big estate tax problems; we were going to
9 pay it on the value of the personal property going
10 to the children, that was it. I mean, there's
11 some -- some little bit. But this settlement turned
12 the tax consequences on their head. You'll remember
13 that the next April, Harley Ruth will tell you that
14 millions and millions of dollars, not just in estate
15 tax, excise tax, income tax, other problems.

16 But -- so here we are, we're in September.
17 Bill Sellers says, I appreciate the courts having
18 appointed me, I will get you through the estate tax
19 return. But when he learned of Russell, he said,
20 there's a CPA on who is representing these similar
21 parties, we quit. So everybody knew that, that Bill
22 Sellers was leaving as soon as the estate tax return
23 was over. Everyone knew they were invited to file
24 the estate tax return with us, but they refused,
25 they refused.

1 But Your Honor might remember there was a huge
2 scurry to get the estate tax return. I delivered it
3 to Alan Medlin on the day of the death of one of my
4 closest friends because he was in such a hurry to
5 get it. They said they needed the estate tax return
6 to do the settlement. Well, that was funny because
7 this was October and the settlement had been done in
8 August, but that's what they said.

9 So then we have seven days of hearings before
10 Your Honor, and nobody talks about us having done
11 things wrong, nobody talks about the estate might be
12 worth \$5 million instead of 85. Huh-uh, none of
13 that comes up in seven days of hearings.

14 Now, what had Bob and I done? We had paid
15 ourselves Bob's full SA fee and a portion of mine,
16 our fee from 2007. I had ten people in my law
17 office working on this, Bob had one and a half. We
18 were really stretched trying to do -- trying and
19 doing a good job. So when the Christie's money
20 comes in the fall, we are absolutely under siege by
21 people who want this estate and this Noble Estate
22 Plan of James Brown dismembered.

23 So I said to Bob, look, I know my part is 70
24 percent and yours is 30, let's just do it down the
25 middle and we'll straighten it out later, and that's

1 what we did, that's what we did. So Bob -- at the
2 end of May 26th, 2009, Bob had gotten his pay for
3 2007 and a little tiny bit of early 2008. I had
4 gotten the pay for me and my huge staff not even all
5 the way through 2007. These were not greedy people
6 looking to rape this estate, no; this was us trying
7 to save the Noble Estate Plan of James Brown, which
8 we did.

9 But it's important now. If we're going to go
10 past that -- that's the story, but they want to go
11 past the story and they want to talk about what the
12 Supreme Court did, so we have to talk about what
13 they did to the Supreme Court before the Supreme
14 Court did it to us.

15 In 2009, I told you, Alan Medlin had started
16 suggesting the devaluation of James Brown's --

17 THE COURT: This is while it's on appeal?

18 MS. POPE: While it's on appeal -- practically
19 before it gets on appeal. In August of 2009, May,
20 June -- three months after Your Honor rules, Alan
21 Medlin sends around an e-mail and he says, let's
22 value this estate like the estate of Harlan Howard
23 at six to eight times royalties. And everybody knew
24 the royalties which related in a year; that's 18 to
25 24 million a year.

1 And then he said something else which was
2 startling. He said -- these are not his exact
3 words, but the thrust of it was, and let's pretend
4 that publicity rights have value. Well, everybody
5 knew publicity rights did have value and that they
6 were descendible in South Carolina because the
7 Gignilliat case had told us that.

8 The Gignilliat case did not start publicity
9 rights, it said we've always had the right of
10 publicity. So to suggest that James Brown's right
11 of publicity on his date of death was zero is heresy
12 at best. So this was started before this hearing on
13 the stay that we're talking about.

14 So when we did the estate tax return, it is
15 true we only paid a \$10,000 deposit, but we had
16 always felt with Cannon and Dallas that we had to
17 just stop the stealing and stop the trust from being
18 moved to Georgia. But, essentially, saving the
19 James Brown trust had been paramount.

20 When the attorney general reached his
21 settlement to give half of it away, he did -- he
22 threatened more damage than Cannon and Dallas
23 together. So our job was to save this trust and we
24 had to have a little bit of money to keep the doors
25 open. I will not be apologetic about that. And, as

1 a matter of fact, I will tell you that both experts,
2 Jim Harden and Steve Johnson, say that paying the
3 administrative expenses are critical. So I'm not
4 apologetic that I've been paid for some of the work
5 I did in 2007 to try to save this charity.

6 But let's keep going. So Alan Medlin suggests
7 to them to let's lower the value to either 20 -- you
8 know, to either 18 to 24 million on the royalties
9 and let's pretend the publicity rights have no
10 value.

11 THE COURT: Hold on one second.

12 (Brief pause in the proceedings.)

13 MS. POPE: So we move forward. Now we're in
14 2010 and Sonny Jones and the Estate and the others
15 filed something in the Supreme Court after our pro
16 bono publico lawyer, Jim Richardson, asks for a
17 little extension and says he wants an extension
18 because this is the most important case he has ever
19 had and he's doing it pro bono publico -- we paid
20 Tressa Hayes a little bit, but he was lead counsel
21 pro bono publico -- and he asked the Court for a
22 little extension and Sonny Jones and the Estate and
23 Tommie Rae answer back, how dare he say that he's
24 working pro bono publico when Bob Buchanan and Adele
25 Pope want a \$5 million commission on an estate and.

1 trust that are going to be worth less than \$12
2 million. That was the first hint of it in August of
3 2010.

4 And we are, what, \$12 million for James Brown's
5 estate? First time we hear it in a filing in the
6 court of appeals. I could not believe what I heard.
7 I was so startled that anybody would suggest that
8 James Brown's trust and estate was worth \$12 million
9 that I actually found a copyright expert whom we had
10 hired but who had been sent by the wayside with the
11 settlement and we wrote an article talking about how
12 terrible the combined settlement and a devaluation
13 to \$12 million would be for the legacy that James
14 Brown left to the state of South Carolina.

15 That article was called Private Foundations,
16 Copyright Heirs and Musical Millionaires: Why the
17 James Brown I Feel Good Trust Doesn't, because I was
18 so heartbroken at the notion that the attorney
19 general of South Carolina was going to do this to
20 the legacy of James Brown. And that article -- and
21 I -- and it's part of my response to the motion for
22 summary judgment -- talks about the devastation to
23 be caused to the needy children of Georgia and South
24 Carolina by the combined giving away of
25 52-and-a-half percent of James Brown's assets and

1 then devaluing it to under \$12 million.

2 THE COURT: What kind of response did you give
3 to the Supreme Court other than having that article
4 published?

5 MS. POPE: Well, I'm going to keep going
6 because -- because that was the first we heard of
7 the devaluation.

8 Now, in January of -- that was in 2010. In
9 January of 2011, Bob Buchanan and I got a copy of
10 the IRS closing sheet. And by the way, Your Honor,
11 even their experts say a closing -- a closing is not
12 an audit. We got a copy of the closing sheet and
13 the closing sheet -- this was January of 2011 -- I
14 see for the first time that this estate -- the music
15 empire, the assets on Schedule F of the estate tax
16 return, are not going to be made at the horrifying
17 \$12 million that Sonny had suggested in a filing
18 with the court of appeals, but instead they'd been
19 reduced to \$4.7 million.

20 Now, I wasn't looking to have a fight with
21 anybody, and Bob and I both did separately what
22 anybody who had ever had respectful dealings with
23 the IRS did, we wrote Freddy Kingsmore
24 Mr. Bauknight's letter and said, each of us
25 separately, do not associate us with that number.

1 We didn't call the hotline, we didn't claim fraud,
2 we didn't do anything, we just said don't associate
3 us with claiming that James Brown's music empire is
4 worth \$4.7 million.

5 In the spring of 2011 -- I'm sorry. In April
6 of 2011 when my article came out, I was still
7 thinking \$12 million even though I had seen that
8 sheet. I mean, I was just like, you know, that
9 doesn't have anything to do with me, I got it by
10 accident. So our article comes out. The next
11 day -- and I'm going to now tell you stuff that I've
12 learned since the Wilson decision. I didn't know
13 all of this now.

14 The next week we send our article around to
15 copyright experts and foundation experts for
16 comment, and then the next week we find that the
17 Estate and the attorney general of South Carolina
18 have asked the Supreme Court to accept a value of
19 \$4.7 million for James Brown's assets.

20 All right. Now you just -- it's just hard to
21 imagine what anybody who had any respect for James
22 Brown or the law would have thought. But now we
23 know --

24 THE COURT: What did the Supreme Court think?

25 MS. POPE: Well, Your Honor, the Supreme Court

1 got very little information, I'm going to tell you.
2 But I'm going to back up and tell you what had
3 happened before that. Medlin had come up with the
4 value --

5 THE COURT: We were in the court of appeals
6 just a little while ago. Now we're in the supreme
7 court.

8 MS. POPE: I know, but I got to tell you
9 what they did to hide from -- you want to know what
10 was hidden, don't you?

11 THE COURT: Yes, ma'am.

12 MS. POPE: Okay. So in September they get an
13 appraisal, which remains hidden today, but which we
14 know about, and we didn't know about until March
15 2013 when James B. told us all about it. But I'm
16 going to tell you what the appraisal said based on
17 what James B. said in his petition for rehearing in
18 the South Carolina Supreme Court. He said James
19 Brown's 900 copyrights were valued at 23.7
20 million --

21 THE COURT: Who is he?

22 MS. POPE: James B., Tommie Rae's son, Peter
23 Shahid. He says James Brown's 900 copyrights were
24 valued at 23.7 million in the Philpott Ball
25 appraisal. Then what did they do? Well, for

1 starters, they must have done exactly what Alan
2 Medlin told them to do because there's very little
3 room for publicity rights in there. And then he
4 said, and then they reduced it by 19 million for the
5 TIAA debt. And let me tell you why that's
6 important; that was hidden in this \$4.7 million
7 appraisal.

8 Well, the publicity rights were not worth zero,
9 the royalties, according to their own expert in 2017
10 in James Brown's death, could have been easily worth
11 45 to 60 million dollars, 15 to 20 times royalties.
12 And the TIAA debt was never 19 million.

13 If Your Honor will look at Bob's and Adele's
14 final accounting, it shows that the TIAA debt
15 everybody thought was 17 million when James Brown
16 died -- but that was before we realized that there
17 was an escrow of about 2 million, which brought it
18 down to 15 million -- the TIAA debt was down to
19 11,300,000 when we turned it over to Russell
20 Bauknight. And that's going to become important
21 because the story gets said and then it just keeps
22 going.

23 So we now know that what -- so in comes this
24 appraisal. And Mr. Wilkins and the attorney general
25 and Alan Medlin get the appraisal in September and

1 Bob Cook of the attorney general's office who does
2 all of the appellate work says if you get something
3 material, that you need to tell the court; you don't
4 wait for eight months to tell the court, but not
5 these folks. They withheld that appraisal
6 intentionally until after the record was closed and
7 the last brief was filed, and the e-mails show that
8 they did that.

9 An e-mail from Mr. Wilkins shared with the
10 attorney -- and to Mr. Black shared with the
11 attorney general says we will tell the Supreme Court
12 about this value at a time of our choosing, at a
13 time of our choosing. So in May, on the 5th or 6th
14 of May, three days after the final briefs are filed,
15 they asked the Supreme Court to supplement the
16 record, not with the appraisal, they're still hiding
17 that because if anybody looked at it, they would see
18 the obvious problems. No. They asked the Supreme
19 Court on May 5th of 2011 to accept that Bob Buchanan
20 and Adele Pope overstated James Brown's assets on
21 Schedule F of the estate tax return by \$79 million
22 to get a big commission.

23 So you might remember that way back David
24 Cannon had said we were greedy because we wanted the
25 \$5 million commission on James Brown's \$100 million

1 estate. Well now it's gotten to these greedy people
2 want a \$5 million commission on a \$5 million estate.
3 Well --

4 THE COURT: What response did y'all give to the
5 Supreme Court that --

6 MS. POPE: Well, there's more, there's more.

7 THE COURT: Okay.

8 MS. POPE: That became the theme and it never
9 changed. It never changed until the end. But you
10 need to know this: We told -- we did a return and
11 we said you can't supplement the record with this, I
12 mean -- well, I mean, it's crazy. But what was said
13 was this -- we didn't say it was crazy. We knew it
14 was crazy, but we didn't say it.

15 We said there are 120 references in the record
16 to James Brown's estate and trust having a value
17 between 80 and 120 million, and some people think
18 it's higher. And on August 1, the Supreme Court
19 denied -- denied their request to supplement the
20 record, did not let the record be supplemented. But
21 had the damage been done? Yes. Because from then
22 on, there were two things that were said that were
23 just boldfaced lies, three maybe: Bob Buchanan and
24 Adele Pope had overstated the assets to get a big
25 fee.

1 THE COURT: Who said that?

2 MS. POPE: Repeatedly. Every --

3 THE COURT: Who?

4 MS. POPE: Oh, the attorney general, the
5 Estate, Tommie Rae, Levenson, that was their theme:
6 Bob Buchanan and Adele Pope intentionally overstated
7 these assets because they are greedy and
8 incompetent.

9 THE COURT: Who said it to the Supreme Court?

10 MS. POPE: Oh, all of them. All of them. I
11 would ask the Court to look at the record.

12 And most importantly, the last one that really
13 tells it all is the petition for rehearing March
14 14th, 2013 in Wilson v. Dallas. It tells it all
15 right in there. But it's all over the record from
16 beginning in 2011 up to the end. And it's worse,
17 Your Honor.

18 And here's the worst part: That -- honestly, I
19 was so bowled over by the devaluation, what it did
20 to James Brown, that I didn't really ever stop to
21 think about what it was doing to me. But let me
22 tell you the worst of it. They not only said that,
23 but they said not only are they greedy, but they're
24 incompetent because they paid \$10,000 to the IRS and
25 we got a refund.

1 Now hold on. They've come today telling you I
2 should have paid more money to the IRS, but they say
3 the IRS was not even owed the \$10,000 we paid them.
4 So they're here today saying I should have paid my
5 taxes, but they told the Supreme Court that I was
6 greedy and Bob was greedy and there were no taxes
7 due and we lied.

8 All right. It gets worse. So when the Supreme
9 Court decision came out, I was so concerned that the
10 attorney general understand that this was an
11 opportunity he had been given to save this charity,
12 so for the two years between May 8th, 2013 and June
13 10th, 2015, I worked tirelessly without expectation
14 of a dime to try to convince the attorney general of
15 the opportunity that had been given him by the
16 decision because Your Honor, quite frankly, had been
17 misled. What was said about the copyrights was not
18 true, what was said about the taxes was not true,
19 and what had been said to the Supreme Court during
20 this time was not true.

21 And there was another aspect of what they said.
22 They not only said we were greedy and we overstated
23 James Brown's assets by \$79 million to get a big \$5
24 million commission on a \$5 million estate, but they
25 said -- and you notice today he said I want the

1 whole \$5 commission. And, Your Honor, I'm sorry to
2 say that in your status report, that's what you told
3 the Supreme Court. But it's okay because they were
4 lying to you.

5 But, anyway, I want to go back. They not only
6 said that, but today they have the audacity to say I
7 should have paid these taxes. That's not what they
8 told the Supreme Court. They told the Supreme Court
9 there were no taxes due and the fact that Russell
10 Bauknight got a \$10,000 refund was proof of how
11 incompetent we were.

12 Well, you might -- I call Your Honor's
13 attention to Harley Ruth's affidavit which supports
14 exactly what we said all along. There was no way
15 under the settlement or any way that there could not
16 have been a couple hundred thousand dollars of taxes
17 due. They were due, but Russell Bauknight got an
18 ill-gotten refund and he told the Supreme Court of
19 South Carolina that the refund based on that tax
20 fraud meant we were not only greedy but incompetent.
21 That, I'll have to say, happens a lot, but it
22 usually doesn't happen with the attorney general
23 agreeing with you.

24 It was the mighty power of the attorney general
25 supporting a false claim to the IRS, a \$5 million

1 overstatement of deductions, \$3 million by the
2 overstatement of the TIAA debt, which was about
3 15 -- it might have been about 16, but it wasn't
4 19 -- and then a 2 million -- this is important,
5 Your Honor, a \$2 million overstatement of what they
6 said was going to go to James Brown's charity.

7 They told the IRS that out of James Brown's
8 charity, 2.8 -- I'm sorry. Out of James Brown's
9 estate, which they claimed had a value of about 6.5
10 million, they said 2.8 million was going to charity.
11 That was a lie. Only .8 million was going to
12 charity, 2 million of that 2.8 was going to
13 grandchildren.

14 So that lie was huge for anybody else. And it
15 was gigantic for the attorney general of South
16 Carolina to endorse an intentional overstatement by
17 \$2 million of a charitable claim saying to the IRS,
18 my charity that I just created is going to get 2.8
19 million when he knew it wasn't.

20 And even if he knew it wasn't then, when I
21 visited him on March 6th of 2013, he knew, and I --
22 he knew and I told him this can be straightened out.
23 I said, I don't care about me, I don't -- I mean,
24 I'd like to be reinstated, it would be nice to have
25 my reputation back, but you need to get Bauknight

1 out of there because Bauknight can't go back to the
2 IRS and say, oh, I made a \$79 million mistake, but
3 anybody else can. They can say we just got this
4 settlement, we're saved, it was a mistake.

5 I told the attorney general that and I told
6 Solicitor Attorney General Cook that and I told
7 Chief Deputy McIntosh -- John McIntosh that. These
8 are the three highest people in that office, and
9 they all looked at me and said they were hearing it
10 for the first time.

11 Then the Attorney General called to say he was
12 going to be dropped out of 4900. But what was most
13 important, he told the Supreme Court he was going to
14 dropped out of 4900 and then he didn't get dropped
15 out; they immediately went back and started working
16 on reinstating Bauknight. That's okay. I'm out of
17 that, but I'm not out of the business of fixing the
18 false claim that I committed a federal felony,
19 not -- I'm not out of that.

20 And the June 10th, 2015 order says that I'm not
21 supposed to be in cases that I don't have standing,
22 but I have standing here. I have standing to show
23 that I served James Brown's estate long and well and
24 that if we only want to look at through when you,
25 Your Honor, and I were working on it, we know I did

1 well. If we want to look beyond that, we have to
2 look at the fraud. A little bit more about the
3 fraud --

4 THE COURT: Who perpetrated the fraud on the
5 Supreme Court?

6 MS. POPE: The Attorney General of South
7 Carolina and the Estate. The other people agreed
8 with those figures. They were false.

9 THE COURT: The Estate is represented by who?

10 MS. POPE: Nexsen Pruet.

11 THE COURT: Billy Wilkins?

12 MS. POPE: Yep -- I'm sorry. Yes, sir.

13 THE COURT: Go ahead.

14 MS. POPE: Okay. So -- and I didn't want to
15 talk about this, that's why I went to the Attorney
16 General. This could have been fixed. It could have
17 been fixed.

18 THE COURT: Well, Ms. Pope, what do I do --

19 MS. POPE: Okay. What you do --

20 THE COURT: -- as a circuit -- well, no. Let
21 me ask a question, with all due respect. What I do
22 as a circuit court judge when I'm faced with a
23 decision by our Supreme Court, a decision out of a
24 petition on rehearing and a subsequent order --

25 MS. POPE: Well, you look --

1 THE COURT: -- and findings that they've made
2 against you? What do I do with that?

3 MS. POPE: You do the same thing you did with
4 Bob Buchanan; you bring him in and praise him and
5 double-approve what he did. That's exactly what
6 Your Honor did on October 12th. That language is
7 dicta. It talks about -- it talks about
8 allegations, accusations. It is not a ruling. In
9 fact it said to Your Honor, go back and find the
10 truth, go back and find out the truth.

11 This case, you're going to find out the truth,
12 Your Honor. It didn't say they don't get paid. It
13 also said -- and this is --

14 THE COURT: I didn't suggest you don't get
15 paid. I suggested what do I do with the filings --

16 MS. POPE: Well, Your Honor --

17 THE COURT: -- the findings --

18 MS. POPE: Your Honor -- I mean, I don't know,
19 Your Honor. But let me suggest, because Your Honor
20 really caused a lot of the problem because when you
21 said that Bob Buchanan and I could not participate
22 in a case, not only not be fiduciaries, nobody
23 wanted to be fiduciaries -- well, we couldn't even
24 be witnesses or experts. That shuts Your Honor into
25 a bell jar where you never heard anything but what

1 Russell Bauknight wanted to say and Tommie Rae
2 wanted to hear.

3 Those people -- and I want to specifically talk
4 about the June 10th orders because they were the
5 direct product of what Your Honor, from this bell
6 jar, told the Supreme Court. It horrified me, but I
7 didn't have any way to do anything about it.

8 THE COURT: Which order are you talking about?

9 MS. POPE: I'm talking about the status report
10 that you rendered to the Supreme Court in 2015. You
11 said: I reappointed Russell Bauknight --

12 THE COURT: I did.

13 MS. POPE: -- because he was by far the most
14 qualified candidate. You said --

15 THE COURT: And I felt that and I still do.

16 MS. POPE: You said he brought this estate from
17 the brink of insolvency, he resolved audits. And
18 then listen to what you said: You said he paid off
19 the -- he paid off the 14 million TIAA debt seven
20 years ahead. It wasn't 14 million when he got it;
21 it was 11,300,000. It's the same lie that they were
22 telling the Court. Now, I don't know where Your
23 Honor got that -- well, I do because that's what he
24 told you on the stand when he wanted to be
25 appointed, but I wasn't there.

1 THE COURT: Well, rest assured I didn't lie to
2 the Supreme Court, if that's what you're
3 insinuating.

4 MS. POPE: No. I don't think you did at all.
5 I think you were --

6 THE COURT: I know I didn't.

7 MS. POPE: I think you were misled. But I
8 think if anybody had been there to ask Your Honor to
9 look at our accounting and to see it wasn't 14
10 million when he got it, it was 11,300,000, just like
11 it wasn't 19 million when James Brown died, it was
12 under 16 million, he's lying to Your Honor. I'm
13 sorry.

14 But it's me now. I have to take care of
15 myself. These people have lied to Your Honor and
16 lied to the court. And the fact that they're lying
17 and concealing the documents that show they're lying
18 and being supported in that lying by the Attorney
19 General of South Carolina remains a problem since
20 the Attorney General got actual knowledge on March
21 6th, 2013 and -- of this, and again, another meeting
22 with his Solicitor General and his Chief Deputy a
23 few days later with my lawyer Adam Silvernail.

24 Henry McMaster has now said that he did not
25 authorize the lawsuit under oath, that he did not

1 authorize Mr. Bauknight and Mr. Wingate to sue Bob
2 Buchanan and me in the name of the Attorney General;
3 he has said he did not authorize Russell Bauknight
4 to represent as a plaintiff that he was acting on
5 behalf of the Attorney General. It is astounding.

6 The governor of South Carolina, says Ms. Pope --
7 and I submit, every single deposition in this case,
8 both in opposition -- every single -- the whole
9 deposition in opposition to their motion for summary
10 judgment and in support of mine, because you will
11 not find any evidence that Bob and I did anything
12 wrong.

13 You will find evidence that the assets were
14 intentionally understated by Mr. Bauknight with the
15 blessing of the Attorney General by \$79 million,
16 that Henry McMaster knew nothing about it, but he
17 let Sonny Jones do it, that Sonny Jones then worked
18 with Mr. Bauknight to conceal this devaluation for
19 eight months. These are just the facts, Your Honor.

20 Unless they concede these facts and say I'm
21 still not entitled to pay, we don't have a motion
22 for summary judgment here and we have some pretty
23 significant facts for the jury: Was this estate
24 worth 99 million as Bob Buchanan and Adele Pope
25 said, or was it worth 23.7 million less the 19

1 million TIAA debt as the Estate says?

2 So there's no basis for summary judgment. You
3 are not bound by the order, I submit, and I will go
4 through them or I will just ask Your Honor to take
5 judicial notice -- Your Honor has said you will take
6 judicial notice of the entire proceeding below of
7 every order that you issued before September of 2009
8 and you will find -- and -- and also of the
9 proceeding about Bob Buchanan in October of 2012,
10 and you will find there is absolutely no basis for
11 you, as a result of fraud perpetrated by
12 Mr. Bauknight on the IRS and on the Supreme Court
13 and endorsed and joined in by the Attorney General
14 of South Carolina, to deny me fair pay for my
15 service, not 18 months, Your Honor, but from March
16 7th, 2007 till May 8th, 2013, to save what should be
17 South Carolina's largest ever private charity for
18 the benefit of needy students.

19 THE COURT: Thank you.

20 Mr. Newsome?

21 MR. NEWSOME: Your Honor, just briefly.

22 Ms. Pope, as I said earlier, filed a petition for
23 rehearing in the supreme court and was denied. She
24 just argued it to Your Honor, and she's asking you
25 it to overrule the Supreme Court. I don't think you

1 have jurisdiction to --

2 THE COURT: Who argued the motion for
3 rehearing?

4 MR. NEWSOME: I think it was denied and they
5 issued a different opinion. I don't think it --

6 THE COURT: I know that. But who argued it?
7 Was it an oral argument?

8 MR. NEWSOME: It wasn't argument.

9 THE COURT: All right.

10 MR. NEWSOME: Second, she just argued a lot of
11 the causes of action that she included in her
12 initial complaint that you dismissed that was
13 sustained on appeal, and she's argued everything
14 under the sun.

15 Okay. She started off using the phrase
16 outrageous claims. And I'm very offended by what
17 she just said. She just accused me, my law firm, my
18 client, the governor, the attorney general, all the
19 lawyers at the attorney general's office, my law
20 partner Billy Wilkins who is the former Chief Judge
21 of the Fourth Circuit Court of Appeals, all of us, a
22 fraud, and it's just outrageous.

23 She accused you of making incorrect statements
24 to the Supreme Court that resulted in her being
25 threatened with criminal contempt for all these

1 outrageous filings that she's made in this case.
2 It's outrageous. This is a claims case. It's a
3 claims case. She wants to be paid for her service
4 as PR and trustee; that's it, not all this other --
5 you know. I don't know where all that's coming
6 from. She's seeking payment. That's all that is
7 before the Court is a petition for allowance of the
8 claim.

9 It's our position that summary judgment is
10 appropriate; she shouldn't receive any compensation
11 because she did a poor job. Now, one thing she
12 mentioned in all of this reply, she mentioned that
13 she's entitled to argue the estate is worth \$100
14 million. On summary judgment, I think you have to
15 assume the facts in the light most favorable to the
16 non-moving party, that means you assume it is a \$100
17 million estate. We disagree with her in terms of
18 the value of the estate. We've hired experts to
19 value it rather than relying upon ourselves to just
20 come up with a number. We have experts who do
21 business valuations. But that's not appropriate on
22 summary judgment.

23 Assume it's a \$100 million estate. She did a
24 poor job, she was removed for cause; she didn't
25 quit, she was fired. That's the law of the case

1 until the Supreme Court issues a new petition. She
2 was removed for cause and the Supreme Court cited
3 the reasons why that was in the best interest of the
4 estate, she should not be paid.

5 THE COURT: All right. Thank you.

6 MS. POPE: Your Honor, if I could, just
7 briefly.

8 THE COURT: Yes, ma'am.

9 MS. POPE: Another thing Your Honor told the
10 Supreme Court -- and I don't accuse Your Honor of
11 intentionally misstating. But Your Honor said to
12 the Supreme Court, I have never heard the first --
13 this is in 2015. You said, I've never heard the
14 first suggestion of a settlement, I have not even
15 heard courthouse talk about a settlement.

16 THE COURT: That is exactly correct and
17 truthful.

18 MS. POPE: Your Honor, it's not. I was present
19 in the court -- I was present in the courtroom on
20 May 29th, 2013. There is not a transcript. I tried
21 to order it. It's one of the very few cases --
22 hearings that there hasn't been a transcript. I
23 tried to order one immediately afterwards.

24 And let me tell you what happened. Mr. Medlin
25 and Mr. Rosen -- I'm sorry. Mr. Medlin and

1 Mr. Levenson stood up and said, Your Honor, we want
2 to go in-camera and tell Your Honor why this
3 statement should be reinstated -- settlement that
4 just had been overturned, the remittitur about one
5 day early it should be reinstated -- I was there, I
6 heard it -- and following, telling Your Honor --
7 requesting to go in-camera and tell you why the
8 McMaster settlement should be reinstated, which Your
9 Honor did not allow.

10 But they said, now what you have to do is make
11 sure that Bob Buchanan and Adele Pope are put out of
12 everything. And that was followed by Mr. Black
13 standing up and saying, they're right, you have to
14 put Adele Pope and Bob Buchanan out of everything.
15 And that was followed by Sonny Jones telling you how
16 pleased he was with the reinstatement of
17 Mr. Bauknight. And this is after I had talked to
18 the Attorney General about -- quietly about the very
19 problems I've discussed with you.

20 In open court they announced to you their
21 intent to reinstate the McMaster settlement on May
22 29th of 2013. I know Your Honor didn't mean, but
23 that was an important thing to tell the court, and
24 it was wrong, just like the claim --

25 THE COURT: I beg to differ with you, Ms. Pope.

1 MS. POPE: -- that I wanted to \$2 million for
2 my SA services through, I think you said May 26th,
3 2007, and that my total commission claim was \$5
4 million. I mean, I don't hold that against Your
5 Honor, but it was clearly incorrect.

6 THE COURT: Thank you.

7 MR. NEWSOME: Your Honor, just, I'm sorry, one
8 thing I have to say. One significant issue after
9 Mr. Buchanan settled, he renounced his right to any
10 fee, so one question that I had was whether or not
11 Ms. Pope was seeking the entire \$5 million statutory
12 fee or only the prorated portion. That, to me, was
13 an important question in trying to resolve the
14 issue.

15 I could not get her to tell me an answer to
16 that. I finally said, if I wrote you a check for
17 the full amount you're seeking, how much would that
18 be? She refused to tell me. I had you ask her on
19 the record in a motions hearing and you asked her,
20 how much are you looking for? And she said, I don't
21 know, I can't tell you. So your answer to the
22 Supreme Court was reasonable based on her statements
23 on the record.

24 THE COURT: Thank you. All right. I'm going
25 to take it under advisement.

-- END OF TRANSCRIPT OF RECORD --

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Aiken County, South Carolina, on the 15th of August, 2017.

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

August 23, 2017

s/Bethanie K. CrepponBethanie K. Creppon
Circuit Court Reporter



SWEENEY WINGATE & BARROW P.A.

November 13, 2017

Reply to: Main Office

Everett A. Kendall, II
(803) 256-2233 x7130
eak@swblaw.com

The Honorable Jeanette W. McBride
Richland County Clerk of Court
Post Office Box 2766
Columbia, South Carolina 29202

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Case No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Ms. McBride:

Enclosed please find the original and one copy of Plaintiffs' Memorandum in Opposition of Motion to Lift Stay in the above-referenced case. Please file the original and return a clocked copy via the courier. By copy of this correspondence to counsel of record, I am serving them with same.

Thank you for your assistance in this matter and should you have any questions or concerns, please do not hesitate to contact me.

Respectfully,

SWEENEY, WINGATE & BARROW, P.A.

Everett A. Kendall, II

EAK/ljm
Enclosures

cc: Adam T. Silvernail, Esquire, Law Office of Adam T. Silvernail LLC
Daryl L. Williams, Esquire, Gertz & Moore, LLP
W.H. Bundy, Jr., Esquire, Bundy McDonald, LLC

EXHIBIT D

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**Appeal from Richland County
Court of Common Pleas**

**The Honorable Doyet A. Early, III, Circuit Judge
The Honorable L. Casey Manning, Circuit Judge**

**Appellate Case No. 2017-001899
(Appeal from Richland County Case 2010-CP-40-4900)**

RICHLAND COUNTY
FILED
2017 NOV 13 PM 3:53
JEANNETTE W. McBRIDE
C.C.P. & G.S.

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

And

ALAN WILSON, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Respondents.

v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

**APPELLANT'S REPLY TO RESPONDENTS' MEMORANDUM
IN OPPOSITION TO LIFTING STAY**

For each reason stated herein, Appellant opposes the Memorandum of Respondents opposing lifting of the stay imposed by Rule 241(a) SCACR as a result of this appeal of the Order of the Honorable Doyet A. Early, III ("Judge Early") dismissing the Attorney General of South Carolina ("AG" or "State/AG") as a party to this action at the AG's request.

Summary of Relief Requested in Reply

The Court should lift the stay imposed by Rule 241 as requested in Appellant's motion and supported by the record and Appellant's affidavit. The allegations in the Memorandum are incorrect and unsupported by the record. The case should proceed to trial by July 2018, which will be more than eight years after it was filed by Respondents.

The AG has not opposed the stay. Sweeney, Wingate & Barrow, P.A. (the "Wingate Firm") lacks the legal authority to act on behalf of State/AG in opposing the stay, and its authority to speak for 12 of the remaining 17 Plaintiff/Respondents is tenuous, at best.

The request for sanctions should be summarily denied.

The AG Has Not Opposed Lifting the Stay

This is the second of two appeals from Richland County Case 2010-CP-40-4900. The first, Appellate Case No. 2016-001708, is ready for consideration by the S.C. Court of Appeals.

Neither Judge Early, the State/AG, nor the remaining Respondents sought to enforce any Rule 241(a) stay imposed as to the first appeal. The State/AG and other

Respondents continued to pursue discovery and sought partial summary judgment following the filing of the appeal.

Under Rule 241(a) the AG remains a party to this case until the stay is lifted. The AG has not alleged that either the State/AG or any other party would be prejudiced by lifting the stay.

While the Wingate Firm is the only attorney of record for the State/AG, and Russell L. Bauknight ("Bauknight") continues to claim to be pursuing this case "on behalf of " the AG, both lack the legal authority to do so.

Where the State/AG has stated, by special appearance, a desire to be out of a case, it would be contrary to public policy and Due Process for the AG's *private* attorney of record, who also speaks for *private* Co-Plaintiffs seeking to be bolstered by the presence of the State/AG, to have the authority to force the State/AG to stay in.

The Motion to Lift Stay is Fully and Properly Supported by the Record.

Appellant's motion and the reasons to lift the stay in accordance with Rule 241 are fully articulated in the motion and affidavit, and fully supported by the record in this case.¹

¹¹ See depos. of J. Richardson, 3/3/16; TR Brown, 6/17/16; Gov. H. McMaster, 8/18/16; L.D. Brown, 9/19/16; Janise Brown, 9/19/16; Attempted Deposition of Venisha Brown, 9/22/16; Depos. Terry Brown, 11/2/16; Yamma Brown, 1/27/17; Deanna B Thomas, 3/1/17; Jason Brown Lewis, 4/3/17; 111-page Opinion of Termination Rights expert Wm. Jeffrey Smith which contains page references and excerpts from the depositions of Bauknight taken 8/20/13 in Case 3:08-cv-00014;WOB; [pp.4 – 9]; Deposition of Respondents' Termination Rights expert, Roger Miller, 3/16,2017 [pp. 10-11]; Deposition of Respondents' expert CPA Wm. Ellison Thomas, taken 4/14/17 [pp. 46 – 57]; Depos. of Appellant's IP Expert Wallace Lightsey, dtd. 4/10/17 [pp.580- 78]; Affid. Eliz. Alexander re: Grammy plant, reference only [p.48]; Deposition of Appellant's valuation expert, R.B. Alexander, 3/27/2017, [pp. 79 -92]; and Deposition of FOIA litigator Thomas H. Pope III, 4/11/17 [pp. 91-110]. Also see Affidavit of Russell L. Bauknight filed in this case on June 16, 2017, discussing his "major, emergency heart

Respondents' Memorandum of Law opposing lifting the stay presents no facts within the record to show that the AG or anyone else will be damaged by lifting the stay, concluding discovery and proceeding to trial by mid-2018.

Even if the Wingate Firm had the authority to speak for all remaining Plaintiffs, which is denied, lifting of the stay would be appropriate.

Wingate Firm Should be Estopped to Speak for Bell and Levenson Clients

On May 18, 2010, Louis Levenson, Esq., ("Levenson") and David Bell, Esq. ("Bell") signed the 40% Wingate contingency fee contract. {See Wing. Priv. Log, Ex.12} They approved the complaint in this case, despite knowledge that it contained false, career-threatening claims against Appellant and Buchanan. They spoke for twelve of the Respondents - Daryl Brown; Terry Brown; Larry Brown; Deanna B. Thomas; Yamma Brown; Venisha Brown; Tonya Brown; Jason Brown Lewis; Lindsey Brown; Janise Brown and minors Sydney L. and Carrington L.

None of the twelve Respondents signed the 40% contingency fee contract. Many did not know it had been signed, or that this case had been filed. None had pre-approved the scurrilous, false allegations in the Complaint before it was filed on May 19, 2010. Some did not recognize it when they were deposed six years later.

Neither Levenson nor any of the eleven Respondents for whom he signed the contract, was aware that the Wingate Firm had moved in 2011 on their behalf to intervene in a FOIA suit to stop public release of the Wingate contract.

surgery" and "significant occurrences of premature ventricular contractions (PVC) that are causing significant delay in my recovery."

By 2017 Levenson and Bell had been fired by their clients. Represented by others, all are taking positions today in the S.C. Court of Appeals and elsewhere which are directly contrary to the positions asserted in their names in the Complaint.

Most of the adult former Levenson clients later hired new lawyers and actively made claims in Aiken County or the S.C. Court of Appeals directly contrary to the position in the never-amended Complaint. Most assert Respondent Tomirae's ceremony with Brown was bigamous. They assert she was not Brown's spouse, and has no Termination Rights under the Federal Copyright Act. Some have directly refuted the \$4.7 million value claim. These admissions support the Answer and Counterclaim filed by Appellant and Robert L. Buchanan, Jr. ("Buchanan").

The Wingate Firm advised the Court in 2013 that it was "judicially conflicted" by the Supreme Court's decision in *Wilson v. Dallas*. Its statement was correct. Depositions show the Wingate Firm's contact with twelve of the Respondents (but for their 2016 and 2017 depositions) has been either non-existent or exclusively through the now-fired Levenson and Bell.

The Wingate firm should not be allowed to take positions for the former Levenson/Bell clients contrary to those these Respondents are taking in other Courts. The twelve Respondents themselves should likewise be estopped to take such positions in support of a Complaint they have disavowed in other courts.²

² See the Briefs and record presented by Terry and former Levenson clients in Appellate Case No. 2015-002417 and 2016-001373.

The Wingate Firm Cannot Speak for The James Brown Legacy Trust

In 2016, the James Brown Legacy Trust ("Legacy Trust") obtained from Judge Early, a declaration that it does not exist.³

The Legacy Trust, having sought, obtained and benefitted from Judge Early's ruling that it does not exist, should be estopped to obtain any relief in this, or any other, court.

The Remaining Positions Taken in the Memorandum Are Without Merit

The remainder of Respondents' allegations and "facts" in the Memorandum are either incorrect, incomplete, or bear no relation to this case.⁴

As briefly set out below, for more than seven years, the source of false, inflammatory, career-threatening allegations against Buchanan and Appellant has been the Respondents in this Case, including two high public officials, and their agents.

The Motion and Filings of Appellant and Her Counsel Are Appropriate

The 2010 Complaint in this case began years of false, vitriolic attacks on Buchanan and Appellant by Respondents.⁵

³ The Order finding the Legacy Trust does not exist is the subject of Appellate Case No. 2016-001727.

⁴ For example, a lengthy excerpt from a partial summary judgment hearing in Aiken Case 2013-CP-02-1337 was presented without context. Appellant's statements were in response to a motion of Bauknight claiming Appellant was not entitled to any pay for her six years' work for the Estate and estate plan of James Brown. Judge Early granted partial summary judgment to Appellant for the approximately \$47,000 SA fee withheld since 2009, with interest. Other partial summary judgment claims by Appellant and Brown's Estate/2000 Trust were denied, and the case is now being tried in Aiken County. Appellant testified in September 2017. The trial will be resumed in December 2017.

⁵ The Complaint asserts *both* that Buchanan and Pope should have accepted a \$100 million offer for Brown's music empire and that they overstated its value to get a big commission.

Buchanan's and Pope's Answer and Counterclaim raised appropriate defenses and appropriately challenged both the legality of a private law firm's being sole counsel for the State/AG and Bauknight's claim to be acting "on behalf of" the AG.

In January 2011, Bell planted a false claim about the Grammy© . When Appellant learned of it years later, Appellant and counsel took appropriate action in this case to confirm that the false claim⁶ was another of Bell's dirty tricks in James Brown cases.

In May 2011 Respondents began repeating one of the false claims made in the Complaint in this case to the Supreme Court. Respondents asserted Buchanan and Appellant inflated the value of Brown's music empire by \$79 million to get a \$5 million commission. If true, this false claim could have caused them to lose their law licenses and be charged with a federal felony.⁷

On October 12, 2012 one of the Respondents not attending the mediation in this case published a post claiming Appellant had stolen from the family. She said the purpose of the mediation was to get rid of Appellant, "the last of the rats."

In March 2013 Appellant met personally with AG Alan Wilson to urge that quiet corrections be made to the \$4.7 million devaluation; false Termination Rights claims; and other actions which threatened to reduce Brown's "I Feel Good" Charity from about \$80 million to \$1 million; help private Respondents siphon off royalties to which they

⁶ See Affidavit of E. Alexander which recounts the telephone message of Robert Potter, Esq., showing Potter had no knowledge of incorrect post on his firm's website which credited Potter with "halting" the sale of the Grammy © at the July 17, 2008 Christie's sale. See, also, Levenson deposition of 11/1/17 in Aiken 2013-CP-02-1337.

⁷ See Deposition of Governor McMaster in Aiken 2013-CP-02-1337 agreeing to the seriousness of the claim.

were not entitled; and reduce annual "I Feel Good" Trust scholarships for needy students from more than \$3 million to less than \$50,000.⁸

On May 29, 2013, lawyers for twelve Respondents in this case announced in open court their intention to reinstate the 2008 settlement which gave them \$20 Million.

Four years later a Respondent filed the following claim in this case:

Ms. Pope's ill-considered appeal of the 2009 [sic.]⁹ settlement agreement cost the charitable trust tens of millions of dollars. In that agreement, as this Court is well-aware, Mrs. Brown and the Brown children contributed approximately 50% of all the termination rights proceeds to the charitable trust. Because Ms. Pope succeeded in destroying that settlement agreement, the charitable trust lost the right to these tens of millions of dollars of termination rights proceeds. Because Mrs. Brown has now agreed to contribute 65% of her share of the termination rights proceeds, the charitable trust will benefit immensely. It appears, however, that the Brown children's share of the termination rights proceeds will remain irretrievably lost to the charitable trust — thanks to Ms. Pope's appeal. [Mot.4/20/17, p.4, F.4.]

These "facts" are simply not correct. Appellant's seeking to lift a stay which will finally allowed her to defend herself against these false claims is not interference with James Brown's estate.¹⁰ It is an appropriate response to the continuing false claims asserted against Buchanan and Pope since 2010 in this case.¹¹

⁸ Appellant and her counsel had a second meeting with then-chief Deputy John McIntosh and Solicitor General Robert Cook to urge the AG to take steps to protect the "I Feel Good" Charity and its 900 copyrights from false claims made by Bauknight, Tomirae and the AG's own Sr. Assistant about the value of Brown's assets and Federal Copyright Act Termination Rights.

⁹ The McMaster settlement which dismembered James Brown's "I Feel Good" Charity and James Brown's estate plan was actually reached on August 10, 2008. A modified version was approved by Judge Early, on May 26, 2009.

¹⁰ Respondents James Brown Legacy Trust, James B. Tomirae and Tonya Brown are not beneficiaries under James Brown's estate plan, but the Legacy Trust, under the Complaint, seeks millions of dollars from Appellant, and appears to be the sole recipient of any recovery obtained by the Wingate Firm in the case.

¹¹ In addition to those depositions and documents cited above, see Final Briefs and Records on Appeal in S.C. Ct. Appeals Case No. 2015-002417, 2016-001373; and 2016-001727.]

The Motion to Lift Stay and Affidavit, like other filings of Appellant (and Buchanan until 2012), have been both measured and appropriate to the magnitude and ferocity of the false claims of all Respondents, including two AGs.¹²

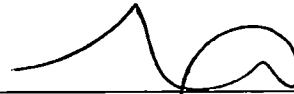
Conclusion

Respondents' Memorandum should be rejected. Sanctions should be summarily denied. As requested in Appellant's Motion, which is incorporated herein, the stay should be lifted. This case should proceed to trial before the eighth anniversary of its filing.

¹² Much of what Respondents refer to as false and scurrilous has actually been placed in the public record by Respondents. For example, the March 20, 2017 Privilege Log related to the deposition of Kenneth B. Wingate, Esq., filed by his counsel, contains both Mr. Wingate's deposition in Aiken 2013-CP-02-1337 and 17 exhibits, including: Ex. 6 – Schedule F of James Brown's Estate Tax Return; Ex. 7 – Tomirae's handwritten admissions of June 20, 1997, related to her Ahmed marriage; Ex. 8 – An email related to the 2007 \$100 million offer for Brown's assets; Ex. 10 – August 30, 2010 court statements of Mr. Wingate with NP attorney Freddie Kingsmore present. [Just before \$4.7 million PBW appraisal arrives in Sept. 2010.]; Ex. 12 – Wingate Firm contingency contract signed by Bauknight, Levenson, Bell & Medlin; Ex. 13 – Motion to Supp. Record on Appeal, *Wilson v. Dallas*, 5 /6/ 11; Ex. 14 – Motion to Dismiss Buchanan/Pope Writ seeking early review of legality of this suit, dtd. 2/28/11; Ex. 15 – Plaintiffs' Motion to Strike and filing on August 13, 2013 of Offers of Judgment of Appellant to 1. Lindsey Delores; 2. Janise B; 3. AG Wilson & Bauknight as agent; 4. Tonya; 5. Daryl; 6. Bauknight; 7. Terry; 8. Jason Brown-Lewis; 9. Tomirae; 10. Venisha; 11. Carrington; 12 Sydney; 13. Deanna; 14. Estate of James Brown; Ex. 16 – Proposed Appendix to ROA, changing value of Schedule F assets, from \$84 Million to \$4,597,736, a reduction of \$79,302,284. Ex. 17 – Levenson response to Bar grievances of Bell dtd. 6/20/2008.

Respectfully submitted,

W.H. Bundy, Jr.
H. Brent McDonald
SMITH, BUNDY, BYBEE & BARNETT, P.C.
1037 Chuck Dawley Blvd., Suite 100
Post Office Box 1542
Mount Pleasant, South Carolina 29465
Telephone: (843) 881-881-1623
Facsimile: (843) 881-4406
whbesq@s3blaw.com



Adam T. Silvernail
LAW OFFICE OF ADAM T. SILVERNAIL, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernaillawfirm.com

November 13, 2017

*Attorneys for Defendant/Counterclaim
Plaintiff Adele J. Pope*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served a copy of the foregoing document on counsel for Plaintiff/CC Defendants on November 13, 2017, by emailing and depositing a copy of the same into the United States Mail, First-class postage prepaid, addressed as follows:

Kenneth B. Wingate, Esquire
Joseph O. Thickens, Esquire
Mark V. Gende, Esquire
PO Box 12129
Columbia, SC 29211

J. Emory Smith, Jr., Esquire
PO Box 11549
Columbia, SC 29211

RICHLAND COUNTY
FILED
2017 NOV 13 PM 01:53
KAREN W. MCBRIDE
C.C.P. & G.S.



Adam T. Silvernail

EXHIBIT E

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

2017 DEC -8 PM 2:40
FILED
CLERK OF COURT
C.C.T. 865.

ORDER DENYING DEFENDANT'S
MOTION TO LIFT STAY WHILE ON
APPEAL



This matter is before the Court upon the Motion of the Defendant to lift the automatic stay provisions of Rule 241 of the South Carolina Rules of Appellate Procedure. For the reasons set forth herein, the Motion is DENIED.

On September 12, 2017, Defendant filed and served a Notice of Appeal in regards to five orders of this Court. These Orders are as follows:

1. Order of the Honorable Doyet A. Early, III Denying Defendant's Motion to Alter or Amend Order Dropping Attorney General as a Party, dated August 2, 2017 and received by Appellant on August 14, 2017.
2. Order of the Honorable Doyet A. Early, III Granting Attorney General's Motion to be Dropped as a Party, Dated May 31, 2017, and received by Appellant on July 10, 2017.
3. Order of the Honorable Doyet A. Early, III Granting Motion for Protective Order as to Deposition of Attorney General, dated September 21, 2016, filed October 3, 2016 and received by Appellant on September 30, 2016.
4. Order of the Honorable L. Casey Manning Concerning Defendant Adele Pope's Motion to Disqualify Sweeny, Wingate and Barrow, P.A. from Representing the Office of the Attorney General of South Carolina, Enjoining Russell Bauknight from Purporting to Speak for the Office of the Attorney General, and Other Relief, dated and filed July 5, 2015.
5. Order of the Honorable L. Casey Manning Granting Plaintiffs' Motion to Set Aside Entry of Default, dated and filed October 13, 2012.

The present Motion was filed on October 24, 2017 with a request for expedited hearing. Defendant subsequently filed an Affidavit of Adele Pope on or about November 8, 2017 and a Reply Memorandum on November 13, 2017. Plaintiffs filed a Memorandum in Opposition on November 10, 2017. A hearing was held on November 14, 2017 where attorneys for Plaintiffs and Defendant were present. Counsel for the Attorney General wrote the Court on November 13, 2017, that he did not believe that the Attorney General was required to respond to the Motion to Lift

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Stay and took no position regarding it because he had been dropped as a party by Order of this Court currently under appeal. The Attorney General was not represented by counsel at the hearing.

STATEMENT OF LAW

"As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, decree or decision." SCRAP 241(a). "After the service of the notice of appeal, any party may move for an order lifting the stay in cases which involve the general rule." SCRAP 241(c)(1). "In determining whether an order should issue pursuant to this Rule, the lower court . . . should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." SCRAP 241(c)(2). The circuit court has discretion whether to lift a stay of a matter pending before the court. *See Carolina Water Service, Inc. v. Lexington County Joint Mun. Water and Sewer Com'n*, 367 S.C. 141, 625 S.E.2d 227 (S.C.App. 2005) ("The primary issue in this case is whether the circuit court erred in lifting the stay as to the Challenge Actions.... Accordingly, the appropriate standard of review is abuse of discretion. An abuse of discretion arises where the [circuit] court was controlled by an error of law or where its order is based on factual conclusions that are without evidentiary support. *Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 398, 520 S.E.2d 142.") *See also Gaddy v. Douglass*, 597 S.E.2d 12 (S.C.App. 2004) (Court of Appeals immediately lifted automatic stay as provided in Rule 225, SCACR.)

A handwritten signature, possibly "MTC", with the number "23" written below it.

CONCLUSIONS OF LAW

In her Motion and all supporting documents, Defendant presents no facts and makes no argument based on Rule 241 of the South Carolina Rules of Civil Procedure. The Motion makes no reference to the effect of the particular orders from which the appeal is taken, to the scope of the relief she is seeking or the reasons why such relief is necessary.

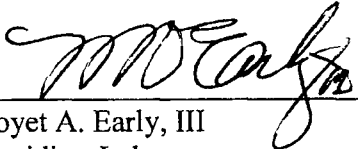
The provisions of Rule 241(a) SCRAP automatically impose a stay as to all matters decided in the orders on appeal. The orders on appeal here are wide-ranging, effecting both the inclusion/exclusion of parties to the suit and to the right of the attorneys to represent those parties. Defendant has not demonstrated that any of the exceptions of 241(b) apply and the Court finds there are none. Thus, this Court finds that the automatic stay applies to all matters being litigated in this case.

Rule 241(c)(2) sets forth considerations under which the automatic stay may be lifted: where it is necessary to preserve the jurisdiction of the appeal or to prevent a contested issue from becoming moot. Defendant has not presented any facts or issues that address these considerations and the Court is not independently aware of any such issues. Thus, this Court finds that there is no basis for lifting of the automatic stay.

Defendant's argument is based entirely on concerns about prejudice that could be caused by delay in proceeding with discovery during the pendency of the appeal. While the Court is mindful of the age of this case desires to see it continue to move forward, the Court can find no legal basis for lifting a stay on this basis. Moreover, the Court finds that there is no prejudice to the Defendant as a result of the stay as the parties have had adequate opportunity to engage in discovery during the pendency of the case.

IT IS THEREFORE ORDERED, DECREED AND ADJUDGED that Defendant's Motion to Lift the Automatic Stay during appeal should be DENIED.

IT IS SO ORDERED.



Doyet A. Early, III
Presiding Judge

Dec 6, 2017

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010CP4004900

Russell Bauknight

Adele J Pope

James Brown 200 Irrevocable Trust

Tommie Rae Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other 01:10
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case. Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

Circuit Court Judge _____

Judge Code _____

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 8 day of Dec, 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth B. Wingate
Mark V. Gende
Robert N. Rosen

Everett Augustus Kendall II
John Andrew Donsbach Sr.
Joseph Odell Thickers

Daryl L. Williams
Adam Tremaine Silvernail
Walter Henry Bundy Jr.
Michael Brent McDonald

J. Calhoun Watson
J. Emory Smith Jr.
Adele J Pope
Adele J Pope

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Gracie W. McBride

EXHIBIT F



SWEENEY WINGATE & BARROW P.A.

January 11, 2018

Reply to: Main Office

Everett A. Kendall
(803) 256-2233 x7130
eak@swblaw.com

VIA E-MAIL TRANSMISSION: dearlyj@sccourts.org

The Honorable Doyet A. Early, III
Post Office Box 90
Bamberg, SC 29003

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Judge Early:

Happy New Year. I hope that this letter finds you well.

As you will recall, this case is currently before the South Carolina Court of Appeals regarding a number of Orders. One Order that has not made its way to the Court of Appeals yet, is the Order granting Summary Judgment as to the Defendant's Counterclaims. You may recall that a hearing on a Rule 59(e) Motion was held on November 14, 2017 and Proposed Orders have been submitted. However, because there has not been a ruling on the 59(e) Motion, that matter cannot be taken up to the Court of Appeals. Since it appears we will be there for quite some time, it would be very beneficial if all of the relevant issues could be presented.

It is not clear to me whether that issue is stayed pursuant to SCARP Rule 241. However, if you would like to rule on the matter and believe that the Stay needs to be lifted, in order to do so, I will be glad to file a Motion to Lift Stay for that purpose.

Thank you for your attention to this matter and we look forward to seeing you soon.

I remain,

Very truly yours,

SWEENEY, WINGATE & BARROW, P.A.

Everett A. Kendall, II

EAK/dvy

cc: Adam T. Silvernail, Esquire
M. Brent McDonald, Esquire

EXHIBIT G

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40,4900

FILED
2010 JUL -8 PM 5:20
JANETTE M. HARRIS
CLERK & CO.

**ORDER GRANTING PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT
AS TO DEFENDANT'S
COUNTERCLAIMS**

WBC
#1

This matter came before the Court on Monday, August 29, 2016 on the Plaintiffs' Motion for Summary Judgment as to Defendant Pope's Counterclaims in the above-captioned action. Both parties submitted detailed memoranda on this Motion, and the Court heard oral arguments from Mark V. Gende on behalf of the Plaintiffs, and M. Brent McDonald on behalf of Mrs. Pope.

I. LEGAL STANDARD

Pursuant to Rule 56(c), SCRPC, a motion for summary judgment shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most favorable to the party opposing summary judgment. Brockbank v. Best Capital Corp., 341 S.C. 372, 534 S.E.2d 688 (2000).

II. FACTS/BACKGROUND

Plaintiffs brought this action against Defendant Adele Pope by way of a Complaint filed May 19, 2010. Mrs. Pope, a former Personal Representative of the James Brown Estate and Trustee of the James Brown 2000 Irrevocable Trust, had previously been removed from her role as a fiduciary of the Estate and Trust by Order of this Court dated May 26, 2009. Plaintiffs' Complaint alleges causes of action for breach of fiduciary duty, breach of trust, and negligence. On September 10, 2010, Defendant Pope answered and asserted five counterclaims: Abuse of Process, Civil Conspiracy, Intentional Interference with Contract, Violation of S.C. Code § 62-1-106, and Attorney's Fees pursuant to S.C. Code § 62-7-1004. Plaintiffs filed this Motion for Summary Judgment as to Pope's counterclaims on April 19, 2016 on the grounds that the counterclaims are barred by the doctrine of collateral estoppel based on the Supreme Court's

MBE
#2

opinion in Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013), which, *inter alia*, affirmed the May 26, 2009 order removing Pope from her role as a fiduciary of the Estate and Trust.

III. WILSON V. DALLAS

As part of its holding in Wilson v. Dallas, the South Carolina Supreme Court affirmed this Court's removal of Pope from her role as a fiduciary of the Estate and Trust. In particular, the Supreme Court found that "the circuit court did not violate the statutory provisions regarding the removal of personal representatives. *Notice and a hearing were provided, and the court had cause to remove [Pope] as it was in the best interests of the estate.*" Wilson v. Dallas, 403 S.C. at 448, 743 S.E.2d at 766 (emphasis added). In support of its determination, the Supreme Court cited the following specific examples as grounds for upholding Pope's removal:

We are also aware that Appellants have sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. In addition, [Defendant Pope] sought and obtained permission from the circuit court to sell iconic assets from Brown's estate in order to raise funds, and a large portion of the amount raised went first to pay Appellants' own attorneys' fees. [Defendant Pope] also unsuccessfully attempted to sell Brown's GRAMMY award at auction; the process was halted only because officials from the National Academy of Recording Arts and Sciences reclaimed the award after informing Appellants that it was a longstanding policy that the award could not be sold by recipients or anyone acting on their behalf. *These actions and the extreme discord between the parties convince us that Appellants' continued service as fiduciaries is not in the best interests of the estate.*

Id. at 448-49, 743 S.E.2d at 766-67 (emphasis added).

By virtue of this holding, Plaintiffs assert that Mrs. Pope is collaterally estopped from contesting the validity of her removal for cause, and that, as a result, her counterclaims fail as a matter of law. Therefore, the Court must first determine whether the elements of collateral estoppel are satisfied such that the issue of Mrs. Pope's removal for cause may not be relitigated in this action thereby mandating that the legal conclusions of the South Carolina Supreme Court

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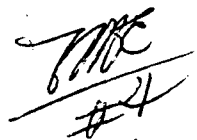
in Wilson v. Dallas be applied in this matter to determining the viability of Mrs. Pope's counterclaims.

IV. COLLATERAL ESTOPPEL

"Collateral estoppel, also known as issue preclusion, prevents a party from relitigating an issue that was decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same." Carolina Renewal, Inc. v. S. Carolina Dep't of Transp., 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct. App. 2009). "The party asserting collateral estoppel must demonstrate that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." Id. "While the traditional use of collateral estoppel required mutuality of parties to bar relitigation, modern courts recognize the mutuality requirement is not necessary for the application of collateral estoppel where the party against whom estoppel is asserted had a full and fair opportunity to previously litigate the issues." Id. (citing Snavelly v. AMISUB of S.C., Inc., 379 S.C. 386, 398, 665 S.E.2d 222, 228 (Ct.App.2008)).

In dispensing with the mutuality requirement, our courts have applied collateral estoppel only when the party against whom estoppel is asserted had a full and fair opportunity to previously litigate the issue. Carolina Renewal, 385 S.C. at 555, 684 S.E.2d at 782. Under the doctrine of issue preclusion, if an issue of fact or law was actually litigated and determined and necessary to a valid and final judgment, the determination is conclusive in a subsequent action on that claim or a different claim. Laughon v. O'Braitis, 360 S.C. 520, 526, 602 S.E.2d 108, 111 (Ct. App. 2004).

One of the issues on appeal in Wilson v. Dallas was whether the circuit court erred in removing Mrs. Pope from her fiduciary position. The Supreme Court's detailed discussion of the

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grounds for Mrs. Pope's removal demonstrates that the issue was (1) actually litigated in Wilson v. Dallas and (2) directly determined by the Court in that action. Moreover, adjudication of the validity of Mrs. Pope's removal was (3) necessary to support the judgment in Wilson v. Dallas, which affirmed her removal for cause and established a protocol for the future appointment of fiduciaries. Additionally, our Supreme Court expressly determined that statutory requirements were met in conjunction with Mrs. Pope's removal, and that Mrs. Pope had notice and a hearing on the issue, which demonstrated that Mrs. Pope was afforded a full and fair opportunity to litigate the question of her removal for cause.

Given the foregoing, this Court finds that issues regarding Mrs. Pope's removal for cause were actually litigated, finally determined, and were necessary to support the Court's adjudication of the Wilson v. Dallas appeal. The Court further finds that Mrs. Pope was afforded a full and fair opportunity to litigate the issue of her removal for cause. Accordingly, it is conclusively established in this action that Mrs. Pope was validly removed from her fiduciary roles for cause, and that she is precluded by the doctrine of collateral estoppel from relitigating that issue in the instant case. See Wilson v. Dallas, 403 S.C. at 448, 743 S.E.2d at 766.

This Court is not persuaded by Mrs. Pope's argument that the doctrine of judicial estoppel precludes Plaintiffs' collateral estoppel arguments. Mrs. Pope bases her judicial estoppel argument primarily on various statements made by the Plaintiffs in conjunction with various filings in this Court some of which was filed years before the Supreme Court's decision in Wilson v. Dallas. One of the essential elements of judicial estoppel is that the inconsistent statements are made as part of an intentional effort to mislead the court. See Cothran v. Brown, 357 S.C. 210, 592 S.E.2d 629 (2004). The Court finds that Plaintiff's assertions were not made in an intentional effort to mislead the Court, but rather are consistent with the positions taken by

the Plaintiffs in this extremely complex matter. Mrs. Pope's judicial estoppel argument confuses Plaintiffs' positions as to its *claims* and Plaintiffs' position as to her *counterclaims*. For example, Plaintiffs argued in conjunction with their April 8, 2011 Motion to Stay that the outcome of Wilson v. Dallas had no bearing on the Plaintiffs' intention to pursue their *claims*. In this Motion for summary judgment, Plaintiffs assert that Wilson v. Dallas is dispositive of Pope's *counterclaims*. Thus, there is no inconsistency in Plaintiffs' positions.

Having determined that the elements required for the application of collateral estoppel are met, the Court now examines the effect of Wilson v. Dallas on Mrs. Pope's counterclaims in this action.¹

V. COUNTERCLAIMS

A. Abuse of Process

Mrs. Pope's first counterclaim is for abuse of process. The essential elements of abuse of process are (1) an ulterior purpose and (2) a willful act in the use of the process not proper in the conduct of the proceeding. Argoe v. Three Rivers Behavioral Center and Psychiatric Solutions

¹ The Court is aware of an order granting summary judgment to Forlando Brown, a grandson of the entertainer, James Brown, in the federal matter styled Forlando J. Brown v. Adele J. Pope, Case No. 3:08cv00014-WOB (D.S.C. 2014). While Forlando Brown is not a litigant in this instant action, the federal court's Order granting summary judgment to Mr. Brown is instructive to this Court. See Court's Memorandum Opinion and Order, Id. As in the instant case, the Forlando Brown Order arises out of a claim for breach of fiduciary duty, *inter alia*, against Mrs. Pope regarding her activities while a personal representative and trustee of the Estate of James Brown. The Order also deals with the exact same counterclaims that Mrs. Pope has made in the instant case. The Order also discusses the ruling of the South Carolina state trial court removing Mrs. Pope as personal representative and trustee of the Estate of James Brown. The Order also discusses the South Carolina Supreme Court's holding in Wilson v. Dallas, affirming the state trial court's removal of Mrs. Pope. The Order ultimately grants summary judgment to Forlando Brown on all of Mrs. Pope's counterclaims. While the federal court's specific analysis of each cause of action necessarily differs from the instant action, in part because the plaintiffs are different, there are significant and relevant similarities. This Court finds the federal judge's statements of South Carolina law in the Order to be correct and his assessments of each cause of action to be persuasive.



388 S.C. 394, 403, 697 S.E.2d 551, 555–56 (2010). “An ulterior purpose exists if the process is used to gain an objective not legitimate in the use of the process. However, there is no liability when the process has been carried to its authorized conclusion, even though with bad intentions.” First Union Mortgage Corp. v. Thomas, 317 S.C. 63, 74–75, 451 S.E.2d 907, 914 (Ct. App. 1994). “The improper purpose usually takes the form of coercion to obtain a collateral advantage, not properly involved in the proceeding itself.” Id. “Some definite act or threat not authorized by the process or aimed at an object not legitimate in the use of the process is required.” Hainer v. Am. Med. Int’l, Inc., 328 S.C. 128, 136, 492 S.E.2d 103, 107 (1997).

Furthermore, “[a]n abuse of process action may lie if a party prosecutes an ‘*entire lawsuit*’ for collateral purposes.” Food Lion, Inc. v. United Food & Commercial Workers Int’l Union, 351 S.C. 65, 74, 567 S.E.2d 251, 255 (Ct. App. 2002) (emphasis added). Further, “liability exists not because a party merely seeks to gain a collateral advantage by using some legal process, but because the collateral objective was its *sole or paramount reason for acting*.” Id. at 75, 567 S.E.2d at 256 (emphasis added).

Pope’s Counterclaim alleges that she is “informed and believe[s] that Plaintiffs have maliciously commenced this legal action for an ulterior purpose of forcing Defendants to abandon or dismiss the appeal of the May 26, 2009 order of the Circuit Court of Aiken County approving a settlement desired by Plaintiffs.” Counterclaim ¶ 78. However, Wilson v. Dallas confirms that the Plaintiffs had legitimate grounds for bringing suit against Pope. Specifically, the Supreme Court held that “the court had cause to remove [Pope] as it was in the best interests of the estate.” Id. at 448, 743 S.E.2d at 766. The Supreme Court also cited multiple specific examples in support of Mrs. Pope’s removal which are quoted above, all of which demonstrate a legitimate legal basis for the Plaintiffs’ commencement of this action. Notably, the findings by

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the Supreme Court coincide with allegations in Plaintiffs' Complaint. See, e.g., Compl. ¶¶ 18.e., 18.h., 18.p.i-iii. Therefore, Wilson v. Dallas establishes as a matter of law that the Plaintiffs had ample legitimate grounds upon which to bring suit alleging breach of fiduciary duty against Mrs. Pope.

Critical to the "willful act" element of Pope's claim for abuse of process is a "malicious misuse or perversion of the process for an end not lawfully warranted". Huggins v. Winn-Dixie Greenville, Inc., 249 S.C. 206, 209, 153 S.E.2d 693, 695 (1967) (use of a warrant of arrest to extort money constitutes malicious use of process); see also Pallares v. Seinar, 407 S.C. 359, 373, 756 S.E.2d 128, 134 (2014) (filing a petition to seek the commitment of a neighbor to a mental institution without statutory authority constitutes malicious use of process). By contrast, "[t]he mere commencement of a civil action by the service of a summons, as required by the Code, cannot amount to the tort known as abuse of process." Russell v. Risher, 272 S.C. 182, 185, 249 S.E.2d 908, 909 (1978).

While Mrs. Pope claims that the Plaintiffs threatened this suit during negotiations prior to its filing in the hopes of obtaining Pope's abandonment of her appeal of the Court's May 26, 2009 Order, the South Carolina Supreme Court has found that it is not unusual for parties to demand more than they are entitled to receive during negotiations, or to try to resolve all outstanding claims at one time. See Russell v. Risher, 272 S.C. 182, 185, 249 S.E.2d 908, 909 (1978). Therefore, even if Mrs. Pope did prove Plaintiffs' sought through pre-suit negotiations to have her abandon her appeal, such a tactic, as matter of law, would not amount to the sort of willful act required to support an abuse of process claim. Moreover, as discussed above, the grounds enumerated by the Supreme Court for Mrs. Pope's removal for cause demonstrate that the Plaintiffs' pursuit of this action is not a willful act through which process has been

misapplied or abused, but a legitimate action based on allegations that have been, in part, determined in the holding of Wilson v. Dallas.

Moreover, since it is a legal requirement that the collateral objective or ulterior purpose must be the *sole, paramount* or *primary* reason for bringing the action, as a matter of law Mrs. Pope is not able, under any factual scenarios, to meet this burden. See Food Lion, Inc. v. United Food & Commercial Workers Int'l Union, 351 S.C. 65, 75, 567 S.E.2d 251, 256 (Ct. App. 2002). Wilson v. Dallas provides ample legal justification for Plaintiffs' claims. Therefore, even if Plaintiffs had the motive of seeking to dissuade her from the appeal, that alleged ulterior purpose would not be the *sole, paramount, or primary* reason for Plaintiffs' claims because the South Carolina Supreme Court has confirmed that Plaintiffs have various legitimate concerns as to Mrs. Pope's administration of the Estate and Trust. It is these legitimate concerns, *inter alia*, that form the basis of Plaintiffs' claims.

Accordingly, the Court finds that summary judgment is appropriate as to Mrs. Pope's counterclaim for abuse of process.

B. Civil Conspiracy

"A civil conspiracy is a combination of two or more persons joining for the purpose of injuring and causing special damage to the plaintiff." Gordon v. Busbee, 397 S.C. 119, 136, 723 S.E.2d 822, 831 (Ct. App. 2011). The elements of a civil conspiracy in South Carolina are (1) the combination of two or more people, (2) for the purpose of injuring the plaintiff, (3) which causes special damages. LaMotte v. Punch Line of Columbia, Inc., 296 S.C. 66, 370 S.E.2d 711 (1988); Cowburn v. Leventis, 366 S.C. 20, 49, 619 S.E.2d 437, 453 (Ct.App.2005). It is essential that the moving party prove all of these elements in order to recover. Lyon v. Sinclair Refining Co., 189 S.C. 136, 200 S.E. 78 (1938). The "essential consideration" in civil

conspiracy “is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the primary purpose or object of the combination is to injure the plaintiff.” Lee v. Chesterfield General Hosp., Inc., 289 S.C. 6, 13, 344 S.E.2d 379, 383 (Ct. App. 1986).

Initially, the Plaintiffs’ prosecution of this suit for breach of fiduciary duty is not an “unlawful enterprise.” In fact, as set forth above, Wilson v. Dallas establishes that the Plaintiffs have numerous good faith grounds for bringing this lawsuit.

Next, even if no unlawful enterprise exists, our Supreme Court has held that the tort of civil conspiracy can arise where one party to the alleged conspiracy has justifiable grounds for an action, but others join in the act who do not have the same justification. See Charles v. Texas Co., 199 S.C. 156, 18 S.E.2d 719, 724 (1942) (noting that “where an act done by an individual, though harmful to another, is not actionable because justified by his rights, yet the same act becomes actionable when committed in pursuance of a combination of persons actuated by malicious motives and not having the same justification as the individual”). This Court finds that all of the Plaintiffs have the same justification for participating in this suit because, at the time this action was commenced, all of the Plaintiffs were parties to the same settlement agreement. Each named plaintiff is either included in the Settlement Agreement that was the subject of this Court’s May 26, 2009 Order, or is an entity that was to be created by the agreement. Because the Plaintiffs were bound together by this agreement they necessarily had the same justification for bringing this suit against Defendant Pope. While Wilson v. Dallas ultimately abrogated the settlement agreement, that is irrelevant to this analysis because, at the time of the filing of this suit, all of the Plaintiffs had the same justification for suing Mrs. Pope, which was based on their participation in the agreement.

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While a lawful act can become a civil conspiracy when pursued primarily to injure a third party, Wilson v. Dallas confirms that there are were justifiable grounds for each of the Plaintiffs to seek damages for Pope's alleged breaches of fiduciary duty. See Lee v. Chesterfield General Hosp., Inc., 289 S.C. 6, 13, 344 S.E.2d 379, 383 (Ct. App. 1986) ("[T]he essential consideration is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the *primary purpose* or object of the combination is to injure the plaintiff.") (emphasis added). Thus, Wilson v. Dallas makes evident that the Plaintiffs' suit was not brought for the *primary purpose* of injuring or causing special damages to Mrs. Pope, but rather for the pursuit of the Plaintiffs' stated claims. Accordingly, summary judgment is appropriate as to Mrs. Pope's claim for civil conspiracy.

C. Intentional Interference with Contract

To establish a cause of action for tortious interference with contractual relations, a plaintiff must show: 1) the existence of a contract; 2) knowledge of the contract; 3) intentional procurement of its breach; 4) the absence of justification; and 5) resulting damages. Kinard v. Crosby, 315 S.C. 237, 240, 433 S.E.2d 835, 837 (1993). To establish a cause of action for intentional interference with prospective contractual relations, a plaintiff must show: 1) intentional interference with prospective contractual relations; 2) for an improper purpose or by improper methods; and 3) resulting in injury. Eldeco, Inc. v. Charleston Cty. Sch. Dist., 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007). Pope's claim fails because her appointment as Personal Representative and Trustee was made pursuant to statute, and thus does not sound in contract. See S.C. Code § 62-3-701; -613; § 62-7-701; 812). Similarly, the Court's January 8, 2009 Order awarding her fees was grounded in South Carolina law, specifically citing Donahue v. Donahue, 299 S.C. 353, 384 S.E.2d 741 (1989). Thus, both Pope's tenure as a fiduciary of the Estate and

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Trust and the Court's Order awarding her attorney's fees are unquestionably not contractual in nature, but are rather orders of the court grounded in the Court's authority pursuant to statute and case law.

Our Supreme Court, and other courts, has consistently held that "[c]ourts cannot create contracts for the parties". Trotter v. State Farm Mut. Auto. Ins. Co., 297 S.C. 465, 472, 377 S.E.2d 343, 347 (Ct. App. 1988); see also Terminix Int'l, Inc. v. Rice, 904 So. 2d 1051, 1057 (Miss. 2004) ("A scheduling order is not a contract between the parties, but rather an order of the court."); Boston Prop. Exch. Transfer Co. v. Iantosca, 720 F.3d 1, 12 (1st Cir. 2013) (holding that an order assigning one party's legal claims to another "was not a contract" where the compelled assignor "did not bargain for, offer, or accept the assignment order, which was imposed on it over its strong objection."); Lueck's Home Imp., Inc. v. Seal Tite Nat., Inc., 142 Wis. 2d 843, 848, 419 N.W.2d 340, 342 (Ct. App. 1987) ("[A] restitution consent order is not a contract"); Goldberg v. Trakas, 206 F. Supp. 867, 869 (E.D.S.C. 1962) ([A]n order of the Court issued by consent of the parties is not to be deemed a contract"); Ketab Corp. v. Mesriani Law Grp., No. CV1407241RSWLMRWX, 2016 WL 911816, at 2 (C.D. Cal. Mar. 7, 2016) (dismissal of contract claims including intentional interference with contractual relations was appropriate where the claims were based on a settlement order because a "Settlement Order is a court order, and not a contract.").

Further, Pope's appointment by the court did not create a "contract" based on an attorney-client relationship. Ordinarily, the relationship between the attorney and client is one of contract, either express or implied. However, courts have differentiated between a traditional contractual attorney-client relationship and one based upon court appointment. See e.g., American Mut. Liab. Ins. Co. v. Superior Court, 113 Cal.Rptr. 561, 570 (1974) ("Save where

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appointed by court, the relationship of attorney and client is created by contract.”) (emphasis added). In Moore v. McComsey, 459 A.2d 841, 844 (1983), the Superior Court of Pennsylvania held that an inmate could not bring a breach of contract claim against his court-appointed public defender because “there was no contract of employment between [inmate] and trial counsel, for counsel had been court appointed.” Similarly, in Grand Blanc Landfill, Inc. v. Swanson Environmental, Inc., 505 N.W.2d 46, 48–9 (1993), the court held that the court’s act of appointing an expert did not give rise to a contract because the required contractual elements were not met.

In the present case, Mrs. Pope cannot prevail on an intentional or tortious interference with contract claim because no contract was created between Mrs. Pope and the Estate and Trust. Analogous to the Moore case, Mrs. Pope was appointed by the court; therefore, the relationship between Mrs. Pope and the Estate and Trust was not a contractual one. See 459 A.2d 841. Additionally, like the expert in Grand Blanc Landfill, Mrs. Pope’s court-appointed status and the court order concerning fees do not adequately satisfy the elements required to form a valid contract. See 505 N.W.2d 46. As a result, Mrs. Pope did not have a contractual relationship with the Estate and Trust, and certainly not with the court, and, thus, her counterclaims for intentional and tortious interference with contract fail as a matter of law.

Given the foregoing, summary judgment is appropriate as to Mrs. Pope’s claim for Intentional Interference with Contract.

D. Violation of 62-1-106 (Fraud and Evasion)

Section 62–1–106 of the South Carolina Code (2009) provides:

Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this Code or if fraud is used to avoid or circumvent the provisions or purposes of this Code, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any

person (other than a bona fide purchaser) benefiting from the fraud, whether innocent or not, but only to the extent of any benefit received. Any proceeding must be commenced within two years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than five years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during his lifetime which affects the succession of his estate.

Mrs. Pope's counterclaim under § 62-1-106 alleges that "all Plaintiff's had knowledge that the heirs of James Brown should be properly determined" and that "an improper determination of heirs would damage the Estate/2000 Trust under the Federal Copyright Act." Counterclaim ¶ 99-100. Pope's counterclaim alleges that the Attorney General failed to address the heirs issues, "leaving to Defendants the protection of the Estate/2000 Trust under the Federal Copyright Act." Counterclaim ¶ 101. It is further alleged that "the Attorney General and some of the Plaintiffs stipulated to what is, upon information and belief, an incorrect determination of heirs." Counterclaim ¶ 102. The counterclaim concludes that "Plaintiffs intended for this known incorrect determination to be relied on and acted on by the Court and the Court and others have relied on such representations, *proximately causing injury to the Estate, 2000 Trust, and Defendants.*" Counterclaim ¶ 104. While the counterclaims make a cursory mention of injury to the Defendants, it appears to the Court from the preponderance of the contentions of Mrs. Pope's Counterclaims cited above that her claims under § 62-1-106 are actually claims for damages to the estate and not to her as an individual.

Mrs. Pope unquestionably lacks standing to assert claims on behalf of the Estate and Trust following the South Carolina Supreme Court's decision in Wilson v. Dallas since she ceased to be a fiduciary of the Estate and Trust on May 26, 2009. Accordingly, her counterclaim under § 62-1-106 fails as a matter of law.

Additionally, Pope claims the Attorney General failed to address certain issues regarding the correct heirs to the Estate in Aiken County case 2008-CP-02-0872. According to Pope, the Attorney General entered into an agreement on August 10, 2008 regarding the identity of heirs. Pope claims this stipulation of heirs was incorrect. However, Pope's Counterclaim was filed on September 10, 2010, and therefore this cause of action, even if she was able to assert it, fails due to the operation of the two-year statute of limitations set forth in § 62-1-106.

Accordingly, summary judgment is also appropriate as to Pope's § 62-1-106 claim.

E. Attorney's Fees pursuant to S.C. Code § 62-7-1004

The general rule is that attorney's fees are not recoverable unless authorized by contract or statute. Seabrook Island Prop. Owners' Ass'n v. Berger, 365 S.C. 234, 238, 616 S.E.2d 431, 434 (Ct. App. 2005). S.C. Code Ann. § 62-7-1004 provides that "[i]n a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy."

This Court is not persuaded that this breach of fiduciary duty action is "a judicial proceeding involving the administration of a trust". While the Plaintiffs will seek to prove their allegations of breach of fiduciary duty in the alleged actions or inactions of Mrs. Pope during her period of administration, the action has nothing to do with the actual administration of a trust. No decision in this action will effect, change, or guide the administration of the Brown Trust and Estate. Therefore, as a matter of law, Mrs. Pope's 62-7-1004 claim is barred.

However, even assuming that this case could be construed broadly as one "involving the administration of a trust," Pope cannot show that an award of attorney's fees would be required by "justice and equity." Pope was removed from her fiduciary role by the court for cause and

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such removal was upheld by the Supreme Court in Wilson v. Dallas. Therefore, justice and equity could not require Pope's attorney's fees to be paid in this matter pursuant to § 62-7-1004. Moreover, there are no considerations of justice or equity that outweigh the well-established American rule requiring Mrs. Pope to bear her own legal fees in her defense, just as the Plaintiffs must bear their own legal fees in the prosecution of their claims. See Smith v. Barr, 375 S.C. 157, 164, 650 S.E.2d 486, 490 (Ct. App. 2007)("It is well known that equity follows the law.").

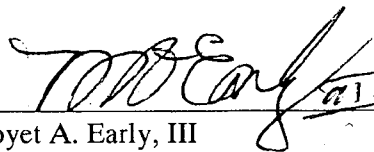
Moreover, Mrs. Pope has claims pending in Aiken Case 1337, which seek the same relief in whole or in part and she cannot maintain actions for the same relief in two separate courts. See Rule 12(b)(8), SCRPC.

VI. CONCLUSION

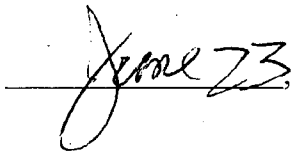
Based on the foregoing, Mrs. Pope's counterclaims are barred by collateral estoppel based on the Supreme Court's holding in Wilson v. Dallas.

Therefore, it is ORDERED that the Plaintiffs' Motion for Summary Judgment as to Defendant Pope's counterclaims is hereby GRANTED.

IT IS SO ORDERED.



Doyet A. Early, III
Presiding Judge

 June 23, 2017



State of South Carolina
The Circuit Court of the Second Judicial Circuit

DOYET A. EARLY, III
JUDGE

2959 MAIN HIGHWAY
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FAX: (803) 245-2983
E-MAIL: dearlyj@sccourts.org

June 23, 2017

The Honorable Jeannette McBride
Richland County Clerk's Office
PO Box 2766
Columbia, SC 29202

Re: Bauknight, et al. and Wilson, et al. v. Pope; 2010-CP-40-4900

Ms. McBride,

Please find the enclosed Order Granting Plaintiff's Motion for Summary Judgment as to Defendant's Counterclaims. Please file and send to all parties. If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "H.L. Scottie Hendrix II".

H.L. Scottie Hendrix II
Law Clerk for the Honorable D.A. Early III

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: **2010CP4004900**

Russell Bauknight

Adele J Pope

James Brown 200 Irrevocable Trust

Tommie Rae Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case. Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

Circuit Court Judge _____

Judge Code _____

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 10 day of July, 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth B. Wingate
Mark V. Gende
Robert N. Rosen

Everett Augustus Kendall II
John Andrew Donsbach Sr.
Joseph Odell Thickens

Daryl L. Williams
Adam Tremaine Silvernail
Walter Henry Bundy Jr.
Michael Brent McDonald

J. Calhoun Watson
J. Emory Smith Jr.
Adele J Pope
Adele J Pope

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

EXHIBIT H

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiffs

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants

**IN THE COURT OF COMMON PLEAS
FOR THE FIFTH CIRCUIT**

Civil Action No. 2010-CP-40-4900

**MOTION TO ENFORCE
SETTLEMENT AGREEMENT**

2012 MAY 18 PM 5:22
JAMES L. BAUKNIGHT
C.C.P. & G.S.

RICHLAND COUNTY
FILED

**TO: ROBIN A. BRAITHWAITE, ESQUIRE AND J. CALHOUN WATSON, ESQUIRE,
ATTORNEYS FOR DEFENDANT ROBERT L. BUCHANAN, JR., AND TO THE
DEFENDANT ABOVE-NAMED:**

The Plaintiffs in the above-referenced action intend to move before this Court, and do hereby so move, for an Order from this Court enforcing the terms of the Mediation Agreement entered between Plaintiffs and Defendant Robert L. Buchanan in this case, attached hereto as Exhibit A.

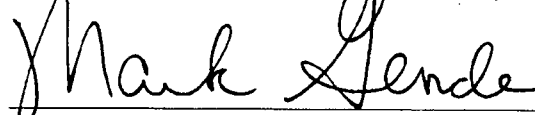
Plaintiffs and Defendant Buchanan held a mediation on Friday, May 4, 2012, at which the Mediation Agreement was reached. Upon information and belief, Defendant Buchanan now refuses to comply with the terms of this Agreement and seeks to avoid it altogether.

The proper venue in which to enforce this Agreement is in the pending Richland County action (Case No. 2010-CP-40-04900), as evidenced by Defendant Buchanan's caption on a draft of the proposed Final Settlement Agreement, attached hereto as Exhibit B.

Plaintiffs request that this Court order that Defendant Buchanan comply with the Mediation Agreement. This Motion may be further supplemented with a Memorandum of Law, and any other supporting materials that may be relevant to this Motion.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

Aaron J. Hayes

1515 Lady Street

Post Office Box 12129

Columbia, South Carolina 29211

(803) 256-2233

Columbia, South Carolina
May 18, 2012

ATTORNEYS FOR THE PLAINTIFFS

CERTIFICATE OF SERVICE

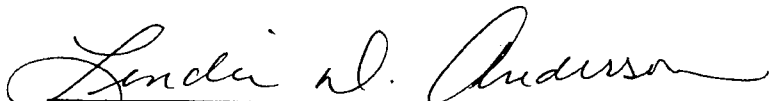
I, the undersigned secretary of the law offices of Sweeny, Wingate & Barrow, P.A., attorneys for Plaintiffs do hereby certify that I have served a copy of the foregoing Motion To Enforce Settlement Agreement in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

J. Calhoun Watson, Esquire
Sowell, Gray, Stepp & Laffitte, LLC
1310 Gadsden Street, Columbia, SC 29201-3002
P.O. Box 11449
Columbia, South Carolina 29211
Attorney for Defendant Robert L. Buchanan, Jr.

Daryl L. Williams, Esquire
Jeter & Williams. P.A.
1204 Main Street
Post Office Box 7425
Columbia, South Carolina 29202
Attorney for Defendant Adele J. Pope

Adam T. Silvernail, Esquire
1218 Taylor Street
P.O. Box 1898
Columbia, South Carolina 29202-1898
Attorney for Defendant Adele J. Pope

Robin A. Braithwaite, Esquire
759 Richland Avenue, West
Post Office Box 324
Aiken, South Carolina 29802-0324
Attorney for Defendant Robert L. Buchanan, Jr.



Linda D. Anderson

Columbia, South Carolina
May 18, 2012

**SETTLEMENT AGREEMENT TERM SHEET BETWEEN ALL PLAINTIFFS
(PLAINTIFFS) AND ROBERT L. BUCHANAN, JR. (BUCHANAN)**

1. Buchanan, his personal representatives, executors, trustees, heirs, and assigns agree to dismiss with prejudice his claims against Plaintiffs in all current litigation involving James Brown, any estate or trust related thereto, and any beneficiary and/or party (including the settling parties) involved in any of such litigation and agrees to bring no future suits involving the James Brown Estate, the 2000 James Brown Irrevocable Trust, other Trusts, beneficiaries, and/or fiduciaries.

2. *then pr's, executors, trustees, heirs & assigns.* Plaintiffs agree to dismiss with prejudice their claims against Buchanan in all current litigation involving James Brown, any estate or trust related thereto, and agree to bring no future suits against Buchanan involving the James Brown Estate, the 2000 James Brown Irrevocable Trust, other Trusts, beneficiaries, and/or fiduciaries. *PJBH*

3. Buchanan, his personal representatives, executors, trustees, heirs, and assigns, will never again serve or seek to or attempt to serve in any capacity, in any way, including but not limited to a fiduciary capacity and/or in a capacity as attorney and/or in a capacity as an advisor (for anyone other than the settling parties) in any matter whatsoever related to or involving James Brown, any estate or trust related thereto, and any beneficiary and/or party (including the settling parties) involved in any of such litigation.

4. Buchanan, his personal representatives, executors, trustees, heirs, and assigns, will not seek, directly, indirectly, or vicariously to attempt to or seek to intervene in any past, current, or future litigation involving James Brown, any estate or trust related thereto, and any beneficiary and/or party (including the settling parties) involved in any of such litigation.

5. Buchanan, his personal representatives, executors, trustees, heirs, and assigns shall fully release and dismiss all claims against Plaintiffs, their agents, and/or assigns.

6. Buchanan will cooperate with Plaintiffs in pursuing actions against former PR/Trustees Cannon, Dallas, and Bradley.

7. Buchanan will receive a payment of \$500,000.00 (five hundred thousand dollars) upon approval of this Agreement by Judge Early and subsequent to any applicable appeal period.

8. Parties will execute mutually acceptable final settlement agreement and global release within 10 days.

9. Plaintiffs' right to proceed against Adele Pope is expressly preserved and nothing in this Agreement prejudices that right. Nothing in this Agreement shall prejudice Adele Pope's right to proceed with her claims.

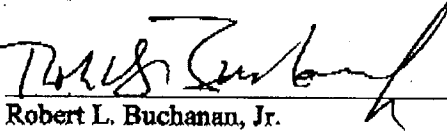
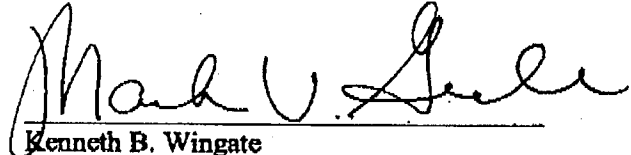
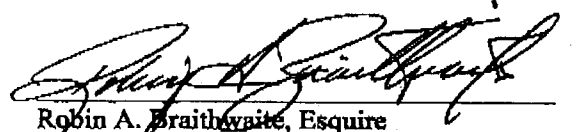
10. a. This Agreement is contingent on approval by certain plaintiffs and will be held in trust by the Mediator until 5:00 p.m. Monday, May 7, 2012 and if not approved by that time shall become void.



Settlement Agreement Term Sheet Between All Plaintiffs (Plaintiffs) and Robert L. Buchanan, Jr. (Buchanan)
Page 2 of 2

b. This Agreement is contingent on Buchanan determining by 5:00 p.m. Monday, May 7, 2012, that he can agree to the terms of Paragraph 11 hereinbelow. If he cannot by that time agree to the terms of Paragraph 11 hereinbelow, this agreement shall become void.

11. Buchanan may remain a party to the current appeal pending in the South Carolina Supreme Court only until the court issues its initial opinion in the current appeal, and shall not take any further action in the matter at any time, including but not limited to participating as a party in any motion and/or any petition and/or any motion for reconsideration and/or rehearing.


Robert L. Buchanan, Jr.
Kenneth B. Wingate
Mark V. Gende
Sweeny, Wingate and Barrow, P.A.
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
Attorneys for The Plaintiffs
Robin A. Braithwaite, Esquire
Braithwaite, Farmer, Boni and Timmerman
759 Richland Avenue, West
Post Office Box 324
Aiken, South Carolina 29802-0324
Attorney for Defendant Robert L. Buchanan,
Jr.

May 4, 2012

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf Alan Wilson, in his capacity as Attorney General of the State of South Carolina; **Tommie Rae Brown**, individually and on behalf of her minor child, **James Brown II**; **Daryl J. Brown**, individually and on behalf of his minor child **Janise Vanisha Brown**; **Lindsey Delores Brown**; **Deanna J. Brown Thomas**; **Jason Brown-Lewis**; **Yamma N. Brown**, individually and on behalf of her minor children **Sydney Lumar** and **Carrington Lumar**; **Tonya Brown**; **Venisha Brown Larry Brown**; and **Terry Brown**

and

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

Plaintiff

v.

**Adele J. Pope and Robert L. Buchanan,
Jr.,**

Defendants.

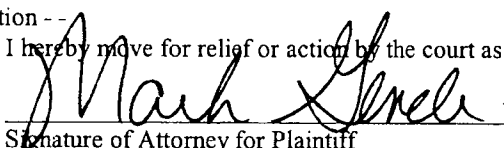
**THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT**

Civil Action No.: 2010-CP-40-04900

**SETTLEMENT AGREEMENT AND
RELEASE IN RE:**

1. Civil Action No. 2010-CP-40-4900
2. The Estate of James Brown
3. The James Brown 2000 Trus



STATE OF SOUTH CAROLINA COUNTY OF RICHLAND RUSSELL L. BAUKNIGHT, Plaintiff v. ADELE J. POPE AND ROBERT L. BUCHANAN, JR., Defendants	THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT Civil Action No.: 2010-CP-40-04900 MOTION COVER SHEET
<u>name, S.C. Bar no. & address of Plaintiff's attorney</u> Mark V. Gende, SC Bar #: 72835 1515 Lady Street Post Office Box 12129 Columbia, South Carolina 29211 Telephone (803) 256-2233; Fax (803) 256-9177 e-mail: mvg@swblaw.com	<u>name, S.C. Bar no. & address of Defendant's attorney</u> Robin A. Braithwaite, Esquire Braithwaite, Farmer, Boni and Timmerman 759 Richland Avenue, West Post Office Box 324 Aiken, SC 29802-0324 Telephone (803) 649-4144 (803) 649-4696 Email: rbwaite@bellsouth.net J. Calhoun Watson, Esquire Sowell, Gray, Stepp & Laffitte, LLC 1310 Gadsden Street (29201) Post Office Box 11449 Columbia, SC 29211 Telephone (803) 929-1400; Fax (803) 231-7889 Email: cwatson@sowellgray.com
2012 MAY 18 PM 5:22 JAMES L. MURKIN C.C.P. & G.S.	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I AND III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II AND III)	
SECTION I: Hearing Information Nature of Motion: Motion to Enforce Settlement Agreement Estimated Time Needed: 15 Minutes Court Reporter Needed: Yes	
SECTION II: Motion Type ☒ Written motion attached ☐ Form Motion -- I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for Plaintiff <u>5/18/12</u> Date Submitted	
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$25.00 ☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing form motion made in open court per judge's instruction Name of Court Report: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	Judge: _____ CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected By:

Amber

(Print Name)

DATE FILED: _____

☐ MOTION FEE COLLECTED:

25-

☐ CONTESTED - AMOUNT DUE: _____

SCCA/233 (1/2003)

EXHIBIT I

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS

)

) Case No. 2010-CP-40-4900

RUSSELL L. BAUKNIGHT, as Trustee of
the James Brown 2000 Irrevocable Trust and
the James Brown Legacy Trust, as Personal
Representative of the Estate of James Brown,
and on behalf of Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina; Tommie Rae Brown,
individually and on behalf of her minor child,
James Brown II; Daryl J. Brown, individually
and on behalf of his minor child Janise
Vanisha Brown; Lindsey Delores Brown;
Deanna J. Brown Thomas; Jason Brown-
Lewis; Yamma N. Brown, individually and
on behalf of her minor children, Sydney
Lumar, Carrington Lumar, and Tonya Brown;
Venisha Brown; Larry Brown; and Terry
Brown

and

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

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants.

RETURN AND OBJECTION
TO MOTION TO ENFORCE
PURPORTED SETTLEMENT
AGREEMENT

JEANETTE R. BROWN
C.C.P. & J.

2012 MAY 21

RICHLAND COUNTY
FILED

TO: THE PLAINTIFFS, DEFENDANT ROBERT L. BUCHANAN, JR. AND/OR THEIR
COUNSEL.

Defendant Adele J. Pope makes this return and objection to the Motion to Enforce Settlement dated May 18, 2012, purportedly made on behalf of the Plaintiffs, and asserts the following:

A. Buchanan should be paid an immediate \$500,000 hardship distribution, part of the award to him by Jg. Early in the January 8, 2008 Order.

1. An immediate hardship distribution should be made to Robert L. Buchanan, Jr. of Five Hundred Thousand (\$500,000) Dollars from the Estate of James Brown, to alleviate the personal damage he is experiencing because of the outrageous behavior of Russell Bauknight described herein.

2. The distribution, which is less than Buchanan was awarded by Order of the Honorable Doyet A. Early, III dated January 8, 2008 in Aiken County Case No. 2007-CP-02-0122 ("Case 122"), should be approved and directed by Judge Early at the hearing requested by the moving parties and already scheduled in Case 122 for 1:30 p.m. on May 22, 2012.

3. By May 19, 2010 Bauknight had wholly abandoned any pretense of service to the Estate/2000 Trust and was participating in and/or directly supporting the fraud of Terry, Forlando, Tommie Rae and felon David Cannon – including taking all possible action to destroy the reputations and careers of Buchanan and Pope.

4. Some of the unconscionable acts of Terry/Tommie Rae/Bauknight to destroy Buchanan, which also damaged the Estate/2000 Trust, are:

a. Direct refusal to pay any portion of the more-than \$500,000 Buchanan was owed under the January 8 Order for the purpose of destroying his ability to rebuild and practice his career.

b. Naming felon David Cannon as their witness against Buchanan, even though he had stolen \$17 Million from James Brown.

- c. On information and belief, engaging and agreeing to pay Forlando's attorneys, Powell Goldstein (now Bryan Cave).
- d. Falsely accusing Buchanan to the IRS of the crime of overstating the value of Brown's music empire by approximately \$79 Million.
- e. Falsely asserting to the IRS and S.C. Supreme Court that Brown's music empire was worth less than \$4.7 Million when he died, and that Buchanan overstated it at \$85 Million just to get a big commission.
- f. Hiding, in violation of the Probate Code, a purported appraisal.
- g. Asserting that certain persons were Brown's heirs, with actual knowledge that such assertion was false, material and damaged the Estate/2000 Trust.
- h. Concealing numerous documents – including Tommie Rae's diaries – which show that the \$4.7 Million purported value is outrageous and that their heirs statement is wrong.
- i. Supporting Terry's effort to buy the music empire at a fraudulently low value.
- j. Making other false statements about Buchanan and Pope to the Courts with the intention of destroying their careers and reputations.

5. By December 2011 the Estate was in a position to make substantial payments to Bob Buchanan and Pope, to alleviate the hardship caused them, and such payments – which would have stopped the running of 8 3/4% interest – would have been in the best interest of the Estate.

6. Instead, Bauknight – directed by Terry and Tommie Rae – refused.

7. From December 2011 until May 2012 Terry, Tommie Rae and Bauknight were successful in their efforts to prevent Judge Early from considering partial payments to Buchanan which are now 4 years overdue.

8. By late April 2012 Buchanan, unable to continue under the intense financial pressure, advised Pope he would be negotiating with certain people.

9. Pope, having been denied the opportunity to conduct virtually any discovery in this case for 2 years, was not in a position to consider any settlement negotiations related to this case. Nonetheless, understanding Buchanan's hardship, she did not interfere in his negotiations.

10. Pope was out of the United States from May 1 - May 10, 2012.

11. On the morning of May 21, 2012, Pope received the attached Motion to enforce Settlement.

12. Pope is informed and believes that Jg. Early should direct immediate payment to Buchanan – based on hardship – under the January 8 Order, and should reject the Settlement, which is both unconscionable and void.

13. On information and belief, in no event should the fraudulent acts of Terry, Tommie Rae, Forlando and/or Cannon be allowed to delay the payment which Buchanan badly needs.

14. Pope has observed firsthand the extraordinary hardship inflicted on Bob Buchanan by Terry, Forlando, Hynie and Bauknight solely because he and she have done the duty which Judge Early appointed them to do: to vigorously defend the Estate Plan of James Brown as required by his documents.

B. The Motion to Enforce Should be Denied Because the Purported Agreement is void and/or illegal and Movants have unclean hands.

15. The purported mediation agreement should be declared void, and the purported settlement not enforced because it is void and/or unconscionable and/or illegal

and/or the proponents have unclean hands and are not entitled to have it enforced.

16. The purported Settlement is void because it is not signed by the parties and does not even identify who the purported parties to the settlement are.

17. Kenneth Wingate, Esq. and Mark Gende, Esq. have no authority whatsoever to enter into an agreement and bind the State of South Carolina to pay \$500,000.

18. The Agreement is void because it is against public policy and outrageous for the Trustee of the James Brown 2000 Irrevocable Trust to ask anyone to commit to abandon the Trust.

19. The Agreement is void because it is a minor settlement which – on its face – requires minors to pay up to \$500,000 and no guardians *ad litem* have been appointed or other requirements met.

20. The Agreement is void because Buchanan received no consideration by the agreement to pay him what he was already owed.

21. The Agreement is void because the legal parties to Case 4900 did not sign or ratify it within the time required.

22. The Agreement is void because Buchanan could not have met the contingency of agreeing to the terms of Paragraph 11 and it was unconscionable to ask that he do so.

23. The Agreement is void because Buchanan was not asked to resign as PR/Trustee; did not resign as PR/Trustee; and therefore cannot abandon his vigorous defense of the Estate Plan of James Brown.

24. The Agreement is void for vagueness.

25. The Agreement should not be enforced by this Court, but declared VOID by Jg.

Early in the appropriate proceeding.

26. Plaintiffs are estopped to enforce any agreement related to Aiken County matters since they represented to this Court that all Aiken County matters are over.

27. Plaintiffs Tommie Rae, Terry and others have committed numerous fraudulent acts which appear in the record of this Case, and, because of their unclean hands, are not entitled to any equitable relief.

28. The mediation agreement should be declared void because it is unconscionable and was only achieved because Bauknight improperly withheld for three years the more-than \$500,000 to which Buchanan was entitled under an unappealed final order.

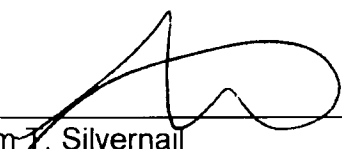
29. The Agreement is void and unenforceable for every other reason presented to this Court before the hearing on this motion.

This return is based on the affidavits of Adele J. Pope on file herein; the Counterclaim of Robert L. Buchanan, Jr. filed in the Forlando suit; and such other information as shall come before this Court before the hearing on this matter.

[SIGNATURE BLOCK APPEARS ON FOLLOWING PAGE]

Respectfully submitted,

Daryl L. Williams
Jeter & Williams, P.A.
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, South Carolina 29202
Telephone: (803) 765-0600
Facsimile: (803) 765-0619
dwilliams@jeterandwilliams.com



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1218 Taylor Street
Post Office Box 1898
Columbia, South Carolina 29202-1898
Telephone: (803) 779-1770
Facsimile: (803) 403-8092
adam@silvernaillawfirm.com

May 21, 2012

Attorneys for Defendant Adele J. Pope

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS

)

) Case No. 2010-CP-40-4900

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Defendants.

CERTIFICATE OF SERVICE

FILED
2012 MAY 21 PM 4:05
JEANETTE H. MORRIS
C.C.P. & G.S.

I certify that on the 21st day of May, 2012, I have served the Return and Objection to Motion to Enforce Settlement in the above-captioned matter on all parties by hand-

delivering (or e-mailing, where shown) a copy of same to their attorneys of record, by United States Mail, first-class postage prepaid, addressed as follows:

Kenneth B. Wingate, Esquire
Mark V. Gende, Esquire
Sweeney, Wingate & Barrow, P.A.
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211

J. Calhoun Watson, Esquire (By e-mail only)
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Aiken, South Carolina 29802



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1218 Taylor Street
Post Office Box 1898
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernaillawfirm.com

May 21, 2012

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COUNTY OF RICHLAND

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IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

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**TO: ROBIN A. BRAITHWAITE, ESQUIRE AND J. CALHOUN WATSON, ESQUIRE,
ATTORNEYS FOR DEFENDANT ROBERT L. BUCHANAN, JR., AND TO THE
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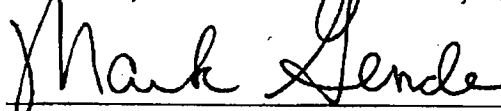
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Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



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Mark V. Gende

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1515 Lady Street

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Columbia, South Carolina 29211

(803) 256-2233

Columbia, South Carolina
May 18, 2012

ATTORNEYS FOR THE PLAINTIFFS

CERTIFICATE OF SERVICE

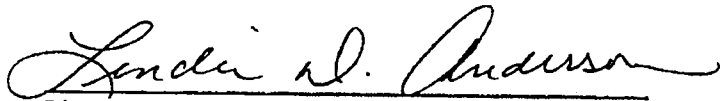
I, the undersigned secretary of the law offices of Sweeny, Wingate & Barrow, P.A., attorneys for Plaintiffs do hereby certify that I have served a copy of the foregoing Motion To Enforce Settlement Agreement in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

J. Calhoun Watson, Esquire
Sowell, Gray, Stepp & Laffitte, LLC
1310 Gadsden Street, Columbia, SC 29201-3002
P.O. Box 11449
Columbia, South Carolina 29211
Attorney for Defendant Robert L. Buchanan, Jr.

Daryl L. Williams, Esquire
Jeter & Williams, P.A.
1204 Main Street
Post Office Box 7425
Columbia, South Carolina 29202
Attorney for Defendant Adele J. Pope

Adam T. Silvermail, Esquire
1218 Taylor Street
P.O. Box 1898
Columbia, South Carolina 29202-1898
Attorney for Defendant Adele J. Pope

Robin A. Braithwaite, Esquire
759 Richland Avenue, West
Post Office Box 324
Aiken, South Carolina 29802-0324
Attorney for Defendant Robert L. Buchanan, Jr.


Linda D. Anderson

Columbia, South Carolina
May 18, 2012

**SETTLEMENT AGREEMENT TERM SHEET BETWEEN ALL PLAINTIFFS
(PLAINTIFFS) AND ROBERT L. BUCHANAN, JR. (BUCHANAN)**

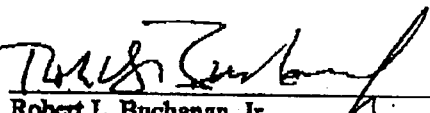
1. Buchanan, his personal representatives, executors, trustees, heirs, and assigns agree to dismiss with prejudice his claims against Plaintiffs in all current litigation involving James Brown, any estate or trust related thereto, and any beneficiary and/or party (including the settling parties) involved in any of such litigation and agrees to bring no future suits involving the James Brown Estate, the 2000 James Brown Irrevocable Trust, other Trusts, beneficiaries, and/or fiduciaries.
2. *Plaintiffs, executors, trustees, heirs & assigns.* Plaintiffs agree to dismiss with prejudice their claims against Buchanan in all current litigation involving James Brown, any estate or trust related thereto, and agree to bring no future suits against Buchanan involving the James Brown Estate, the 2000 James Brown Irrevocable Trust, other Trusts, beneficiaries, and/or fiduciaries. *JWBH*
3. Buchanan, his personal representatives, executors, trustees, heirs, and assigns, will never again serve or seek to or attempt to serve in any capacity, in any way, including but not limited to a fiduciary capacity and/or in a capacity as attorney and/or in a capacity as an advisor (for anyone other than the settling parties) in any matter whatsoever related to or involving James Brown, any estate or trust related thereto, and any beneficiary and/or party (including the settling parties) involved in any of such litigation.
4. Buchanan, his personal representatives, executors, trustees, heirs, and assigns, will not seek, directly, indirectly, or vicariously to attempt to or seek to intervene in any past, current, or future litigation involving James Brown, any estate or trust related thereto, and any beneficiary and/or party (including the settling parties) involved in any of such litigation.
5. Buchanan, his personal representatives, executors, trustees, heirs, and assigns shall fully release and dismiss all claims against Plaintiffs, their agents, and/or assigns.
6. Buchanan will cooperate with Plaintiffs in pursuing actions against former PR/Trustees Cannon, Dallas, and Bradley.
7. Buchanan will receive a payment of \$500,000.00 (five hundred thousand dollars) upon approval of this Agreement by Judge Early and subsequent to any applicable appeal period.
8. Parties will execute mutually acceptable final settlement agreement and global release within 10 days.
9. Plaintiffs' right to proceed against Adele Pope is expressly preserved and nothing in this Agreement prejudices that right. Nothing in this Agreement shall prejudice Adele Pope's right to proceed with her claims.
10. a. This Agreement is contingent on approval by certain plaintiffs and will be held in trust by the Mediator until 5:00 p.m. Monday, May 7, 2012 and if not approved by that time shall become void.

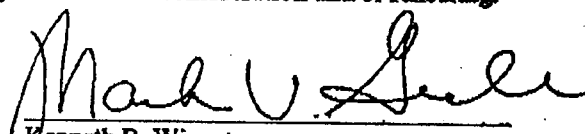


Settlement Agreement Term Sheet Between All Plaintiffs (Plaintiffs) and Robert L. Buchanan, Jr. (Buchanan)
Page 2 of 2

b. This Agreement is contingent on Buchanan determining by 5:00 p.m. Monday, May 7, 2012, that he can agree to the terms of Paragraph 11 hereinbelow. If he cannot by that time agree to the terms of Paragraph 11 hereinbelow, this agreement shall become void.

11. Buchanan may remain a party to the current appeal pending in the South Carolina Supreme Court only until the court issues its initial opinion in the current appeal, and shall not take any further action in the matter at any time, including but not limited to participating as a party in any motion and/or any petition and/or any motion for reconsideration and/or rehearing.


Robert L. Buchanan, Jr.


Kenneth B. Wingate
Mark V. Gende
Sweeny, Wingate and Barrow, P.A.
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
Attorneys for The Plaintiffs


Robin A. Braithwaite, Esquire
Braithwaite, Farmer, Boni and Timmerman
759 Richland Avenue, West
Post Office Box 324
Aiken, South Carolina 29802-0324
Attorney for Defendant Robert L. Buchanan, Jr.

May 4, 2012

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf Alan Wilson, in his capacity as Attorney General of the State of South Carolina; **Tommie Rae Brown**, individually and on behalf of her minor child, **James Brown II**; **Daryl J. Brown**, individually and on behalf of his minor child **Janise Vanisha Brown**; **Lindsey Delores Brown**; **Deanna J. Brown Thomas**; **Jason Brown-Lewis**; **Yamma N. Brown**, individually and on behalf of her minor children **Sydney Lumar** and **Carrington Lumar**; **Tonya Brown**; **Venisha Brown Larry Brown**; and **Terry Brown**

and

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

Plaintiff

v.

**Adele J. Pope and Robert L. Buchanan,
Jr.,**

Defendants.

**THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT**

Civil Action No.: 2010-CP-40-04900

**SETTLEMENT AGREEMENT AND
RELEASE IN RE:**

1. Civil Action No. 2010-CP-40-4900
2. The Estate of James Brown
3. The James Brown 2000 Trus



EXHIBIT J

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

**THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT**

Civil Action No. 2010-CP-40-04900

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf Alan Wilson, in his capacity as Attorney General of the State of South Carolina; **Tommie Rae Brown**, individually and on behalf of her minor child, **James Brown II**; **Daryl J. Brown**, individually and on behalf of his minor child **Janise Vanisha Brown**; **Lindsey Delores Brown**; **Deanna J. Brown Thomas**; **Jason Brown-Lewis**; **Yamma N. Brown**, individually and on behalf of her minor children **Sydney Lumar** and **Carrington Lumar**; **Tonya Brown**; **Venisha Brown Larry Brown**; and **Terry Brown**

and

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

Plaintiff

v.

**Adele J. Pope and Robert L. Buchanan,
Jr.,**

Defendants

ORDER TO CONDUCT MEDIATION

**RICHLAND COUNTY
FILED
2012 JUL 15 PM 3:12
JEANETTE K. McBRIDE
C.C.P.
G.S.**

Pursuant to this Court's request, the parties to the above-captioned matter attended a Status Conference in Chambers on July 5, 2012. Present at the conference were Kenneth B. Wingate, Esq., Mark V. Gende, Esq., and Aaron J. Hayes, Esq., as attorneys for Plaintiffs. Representing the Defendant Robert L. Buchanan were J. Calhoun Watson, Esq. and Robin A. Braithwaite, Esq. Representing the Defendant Adele J. Pope was Adam T. Silvernail, Esq. Finally, J. Emory Smith, Jr., Esq. was present on behalf of the Attorney General with respect to certain Freedom of Information Act cases that have been brought before this Court and are consolidated with (or related to) this action. The Court conducted this conference in order to ascertain the status of this action since the parties were last before the Court at the motion hearing of April 12, 2012.

Summary of Status Conference

Mr. Gende reported that the Plaintiffs have conducted mediation with Defendant Buchanan on all outstanding issues between Plaintiffs and Defendant Buchanan, and have achieved a mediation agreement resolving all such issues. Messrs. Watson and Braithwaite confirmed Mr. Gende's assertion that the Plaintiffs and Defendant Buchanan were in the process of finalizing the settlement documents that will end all litigation between Plaintiffs and Defendant Buchanan. Mr. Gende noted that Defendant Pope refused to participate in this mediation, and continues to refuse to participate in this mediation as set forth in greater detail, below. Mr. Gende requested that the Court order Plaintiffs and Defendant Pope to participate in mediation before the case progresses any further.

Mr. Silvernail steadfastly objected to Mr. Gende's request for court-ordered mediation, and set forth Defendant Pope's position that further discovery should be conducted in this case before Plaintiffs and Defendant Pope attend a mediation. Specifically, Mr. Silvernail stated that Defendant Pope would like to take the depositions of Plaintiffs Tommie Rae Hynie Brown and Terry Brown

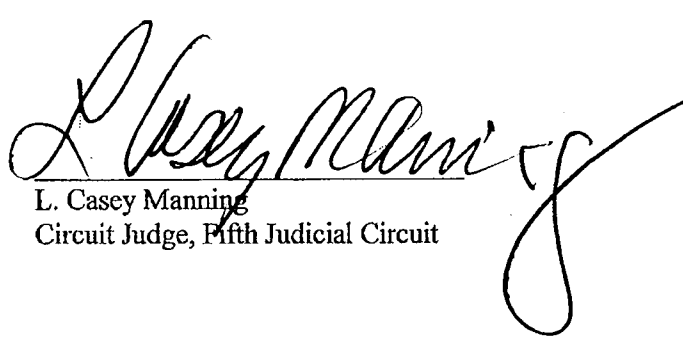
(among others) before mediation. Further, Defendant Pope would like additional discovery concerning the copious documentary evidence that exists in this case.

Findings and Order

The Court notes that this case is subject to mandatory mediation, since it is filed in Richland County. See Order of the South Carolina Supreme Court (Sept. 16, 2009). After carefully considering the arguments of Plaintiffs and Defendant Pope, the Court finds that it is appropriate that mediation occur in this matter as soon as possible. Therefore, it is hereby ORDERED that Plaintiffs and Defendant Pope attend mediation in this matter within ninety (90) days of the date of this Order. The Court will hold in abeyance all pending motions until after the parties apprise the Court of the outcome of the mediation.

AND IT IS SO ORDERED.

Date: July 19, 2012
Columbia, South Carolina


L. Casey Manning
Circuit Judge, Fifth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010CP4004900

Russell Bauknight

Adele J Pope

James Brown 200 Irrevocable Trust

Tommie Rae Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

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

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

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

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

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 25 July 2012 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth B. Wingate
Mark V. Gende

Everett Augustus Kendall II

Daryl L. Williams
Adam Tremaine Silvernail

J. Calhoun Watson
J. Emory Smith Jr.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeanette W. McBride

EXHIBIT K

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2010-CP-40-04900

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiff

v.

Adele J. Pope and Robert L. Buchanan,
Jr.,

Defendants

ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2012 JUL 13 AM 11:19
JEANETTE W. McBRIDE
C.C.P. & G.S.

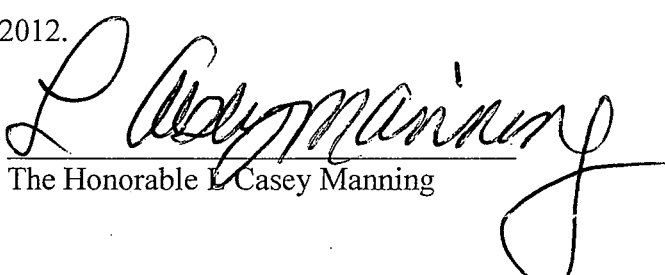
SCANNED

ORDER of DISMISSAL

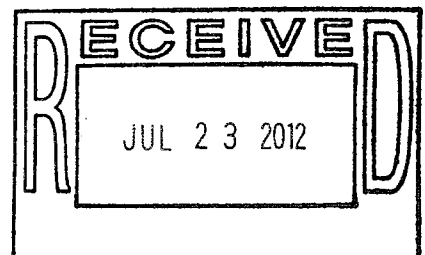
1. This Court is informed that Plaintiffs and Defendant Robert L. Buchanan, Jr., have reached a final settlement in this matter that resolves all claims between them;
2. The above-styled causes of action as well as any claim, cross claim, or counterclaim between the Plaintiffs and Defendant Buchanan are hereby dismissed with prejudice, waiving all rights of appeal;
3. Each party shall pay its own court costs and expenses associated with the above-referenced litigation.

NOW, THEREFORE, in consideration of the above and with the consent of Plaintiffs and Defendant Buchanan, this matter is dismissed with prejudice.

SO ORDERED, this, the 13 day of July, 2012.


The Honorable L. Casey Manning

Kenneth B. Wingate
PO Box 12129
Columbia, SC 29211



STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

CASE NUMBER: 2010CP4004900

Russell Bauknicht

Adele J Pope

James Brown 200 Irrevocable Trust

Tommie Rae Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

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☐ Rule 43(k), SCRPC (Sealed); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
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☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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

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Additional Information for the Clerk: _____

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Circuit Court Judge _____

Judge Code _____

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 18 July 2012 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth B. Wingate
Mark V. Gende

Everett Augustus Kendall II

Daryl L. Williams
Adam Tremaine Silvernail

J. Calhoun Watson
J. Emory Smith Jr.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeanette W. McBride