

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

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

SC Court of Appeals

The Honorable Doyet A. Early, III, Circuit Judge

Appellate Case No. 2016-001727

Adele J. Pope..... Appellant,

v.

Alan Wilson, in his capacity as Attorney General of South Carolina, and
James Brown Legacy Trust, by Russell Bauknight, its Trustee..... Respondents.

SUPPLEMENT TO RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Adele J. Pope,

Plaintiff,

v.

Alan Wilson, in his capacity as
Attorney General of South
Carolina and James Brown
Legacy Trust, by Russell L. Bauknight,
its Trustee

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2011-CP-36-00364

PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

TO: DEFENDANTS AND/OR THEIR COUNSEL.

YOU WILL PLEASE TAKE NOTICE that, ten (10) days after service hereof, or as soon thereafter as counsel may be heard, Plaintiff Adele J. Pope, through her undersigned counsel, will move at the Newberry County Courthouse, 1226 College Street, Newberry, South Carolina, for an order granting her summary judgment on all claims in the complaint herein.

The grounds for this motion are that, viewing the evidence in the light most favorable to Defendants, there is no genuine issue of material fact as to the following:

**The Office of the Attorney General and the Legacy Trust are
Public Bodies for the Purposes of the Freedom of Information Act**

1. It is undisputed that the Office of the South Carolina Attorney General is a public body under the South Carolina Freedom of Information Act ("FOIA").

2. The James Brown Legacy Trust (the "Legacy Trust") is a public body as defined in FOIA because it is supported by the State in the following ways:

- a. It was created by South Carolina Attorney General ("AG McMaster"), who in his Official Capacity as AG, was designated as both a Settlor and Beneficiary thereof.
- b. AG Alan Wilson, as successor in office to AG McMaster, has all of the privileges and obligations of his office with respect to the Legacy Trust.
- c. The State, through the Office of the AG, actively supports the Legacy Trust through the salaries of State employees and other resources of the State.
- d. The Legacy Trust's funding source is, on information and belief, public because it was accomplished solely by AG McMaster's assertion of his *parens patriae* authority by contracting on August 10, 2008 to place the private assets of the Estate of James Brown and the James Brown 2000 Irrevocable Trust in the Legacy Trust.¹
- e. AG Wilson controls the Legacy Trust by the unfettered right to remove and replace Russell Bauknight, selected by AG McMaster, and Bauknight's successors.
- f. All major actions of the Legacy Trust require a vote of the AG, and the method of voting – or losing the right to vote -on significant events requires constant vigilance on the part of AG Wilson's Office.
- g. AG Wilson has a further statutory duty to enforce the proper operation of The James Brown "I Feel Good" Private Foundation, transferred to the Legacy Trust by AG McMaster,
- h. The "I Feel Good" Foundation, after payment of 47 1/2 % of taxes and expenses of the Legacy Trust, and after further reduction of \$2 Million, will receive 47 1/2 % of the income of the Legacy Trust.
- i. AG Wilson controls the "I Feel Good" Foundation through Bauknight, its trustee, who was appointed by AG McMaster and may be removed or replaced at will by the AG.
- j. On information and belief, having taken control of both Brown's

¹ McMaster's agreement to fund the Legacy Trust was objected to by all of Brown's claimed and acting PR/Trustees, some of whom have appealed. No stay is in place, however, and the Legacy Trust is now in active operation.

private assets and his foundation for the Legacy Trust through the exercise of public authority and placed them in the Legacy Trust, the AG may not now shield them from public scrutiny.

- k. The AG has delegated to Bauknight, Trustee of the Legacy Trust, and his advisors certain essential public functions of the Office of the AG, including oversight of the "I Feel Good" private foundation and defense of the appeal described below.
- l. The AG has, since 2009, dedicated considerable State resources to defending the May 26, 2009 Aiken County Order which approved AG McMaster's takeover of James Brown's private property, and transfer of same to the Legacy Trust.
- m. The AG has allowed the current Trustee of the Legacy Trust to purport for more than 1 year to speak for the State in pending litigation.

The Attorney General has Approved the FOIA Request

3. On June 30, 2011, Plaintiff sent to AG Wilson and the Legacy Trust separate requests under FOIA for public records related to the Legacy Trust. Plaintiff requested copies of:

The Final and all drafts, signed and unsigned,
of the James Brown Legacy Trust

4. The request to AG Wilson, in addition, sought:

All correspondence, email and/or other communications between any member of the Office of the South Carolina Attorney General and Russell L. Bauknight between August 1, 2010 and May 4, 2011 related the value of the assets of the Estate of James Brown and/or the James Brown 2000 Irrevocable Trust.

5. The AG's office declined to provide the requested documents but did not allege that any such document was exempt from being disclosed under FOIA. As a result of the failure to produce requested documents, Plaintiff filed this action on August

3, 2011.

6. S.C. Code Ann. § 30-4-30(b) provides as follows:

If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the fifteen days allowed herein, the request must be considered approved.

7. The AG did not respond to Plaintiff's request within 15 days. Although a member of the AG's office asserted on August 5, 2011 that the AG had not received the June 30, 2011 request, that request was attached to the complaint herein, which was served on the AG on August 5, 2011. Plaintiff has not to date received any response to her June 30, 2011 FOIA request.

8. Far more than 15 days have now passed since Plaintiff made her June 30, 2011 FOIA request, and, pursuant to S.C. Code Ann. § 30-4-30(b), the request must now be considered approved.

The Requested Documents are Public

9. On September 14, 2011 *The State* newspaper ran an article entitled "Wilson, Loftis Spar Over Hiring Law Firms," a copy of which is attached hereto as Exhibit A which included the following language:

Wilson's office said it is transparent. Contingency agreements with outside law firms are available to members of the public who request them. The office [is] in the process of posting all such agreements on its Web site, said an agency spokesman.

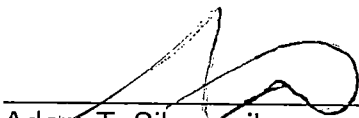
10. Additionally, an article in the September 21, 2011 edition of the *Newberry Observer* entitled "AG's Promise to Release Contracts May Resolve Newberry James

Brown FOIA Case" told that the article's author had received an email from a member of Defendant's staff agreeing to send the author a copy of the fee agreement requested herein. A copy of the article is attached hereto as Exhibit B.

11. It is clear from the Attorney General's statements to the press that his office is aware and believes that the requested documents are public.

For the reasons stated above, Plaintiff asks that the Court issue its order granting her summary judgment on all claims in the complaint herein. This motion is based on the South Carolina Rules of Civil Procedure, applicable case and statutory law, the affidavit of Adele J. Pope filed herewith, all earlier affidavits of Plaintiff on file herein, and such additional documentation as shall properly come before the Court prior to the hearing on this matter.

Respectfully submitted,



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September 29, 2011

Attorney for Plaintiff

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The State
South Carolina's Homepage™

EXHIBIT A

[Back](#)

Wednesday, Sep 14, 2011

Posted on Wed, Sep. 14, 2011

Wilson, Loftis spar over hiring law firms

Being 'proactive' or 'pay for play'?

By GINA SMITH

gsmith@thestate.com

State Attorney General Alan Wilson wants two law firms, accused of making pay-to-play political contributions in other states, to monitor transactions in South Carolina's multi-billion-dollar retirement system.

Wilson received \$12,000 in campaign contributions from one of the firm's partners in 2010 although he says that money played no role in his recommendation.

State Treasurer Curtis Loftis opposes Wilson's proposal, saying its unnecessary. Their disagreement also is a sign of friction between two rising stars in S.C. Republican politics.

At issue is an announcement last month by Wilson, elected the state's top lawyer in November, that he wants to hire the two firms, one in Charleston and one in New York, to monitor transactions in the state's retirement system for fraud.

That system has \$26 billion in assets.

Wilson said he has been in talks with Loftis to hire the firms to ensure the investments are watched closely. "In other states, we've seen problems with fraud," Wilson said. "I'm trying to be proactive here in South Carolina."

Loftis said monitoring by outside attorneys is not needed.

"As treasurer, I am the custodian of the state's funds," Loftis said in a statement. "It is important that these large-dollar contracts be without political involvement or interference. Campaign contributions have no place in the decision process of protecting our \$26 billion trust fund."

"We currently monitor for fraud, waste and abuse utilizing several entities and a variety of methods," he said. "Our custodial bank has extensive abilities to monitor our securities, as well as the Retirement System Investment Commission and the State Treasurer's office."

The state recently sued a New York bank, saying it sold the retirement fund improperly risky investments.

Wilson says the S.C. Retirement System Investment Commission has the final say on whether the firms are hired, not Loftis. He plans to pitch the idea to commissioners during a Thursday meeting.

Wilson said the campaign contributions did not affect his recommendation of the firms. Instead, he said it was based on the firms' experience in monitoring pension plans and rooting out fraud.

"All a contribution gets you is my gratitude," he said, adding, if the commission would rather work with other firms instead of the two he is recommending, he will engage them instead.

"I don't care who does the work," Wilson said. "What matters to me is they do it well."

"I'm looking at their ability to perform a free service to protect the system," he added.

Under Wilson's proposal, the attorneys of Labaton Sucharow of New York, whose partners have contributed to Wilson, and Motley Rice in Charleston, who did not contribute, would review pension fund transactions free of charge for signs of fraud. They would be paid legal fees only if subsequently hired by the state to recover money.

Both law firms have been accused of taking part in pay-to-play arrangements in other states, contributing to

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the election funds of public officials who award them contracts.

In 2010, partners of Labaton Sucharow contributed nearly \$43,000 to New York Comptroller Thomas DiNapoli, who is in charge of the state's pension fund, according to media reports. The contributions came after DiNapoli tapped Labaton Sucharow to represent his office in litigation against a mortgage lender.

And after Jack McConnell Jr. opened a Motley Rice branch in Providence, R.I., becoming one of that state's top political contributors for the 2000 elections, that state's attorney general hired Motley Rice to conduct Rhode Island's highly-publicized lawsuit against lead paint manufacturers.

Efforts to reach both firms for comment Tuesday were unsuccessful.

Wilson said accusations are not proof of anything.

However, the relationship between some politicians and some law firms is the subject of increasing scrutiny.

Lisa Rickard, president of the U.S. Chamber Institute for Legal Reform, a national campaign founded by the U.S. Chamber of Commerce to clamp down on litigation, said her organization is speaking out against state attorney generals taking contributions from law firms and awarding them contracts.

"The reality is that these plaintive firms are traveling around the country, visiting with the state attorney generals and selling them on ideas for lawsuits," Rickard said, adding attorney generals should not use outside counsel.

"It's an appearance of impropriety," she said. "If they (attorney generals) are taking contributions and then giving contracts out without going through some kind of process where they're looking at other firms who can also do the work, then there's a problem. It looks like a quid pro quo is going on. These are elected officials who should have a transparent process for bidding out this work."

Wilson's office said it is transparent. Contingency agreements with outside law firms are available to members of the public who request them. The office in the process of posting all such agreements on its Web site, said an agency spokesman.

Reach Smith at (803) 771-8658.

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EXHIBIT B

[print](#)

AG's promise to release contracts may resolve Newberry James Brown FOIA case

by Sue Summer
For The Observer
09.21.11 - 08:07 am

In Newberry on Sept. 12, Attorney General (AG) Alan Wilson filed a motion to dismiss a Freedom of Information Act (FOIA) lawsuit in which he was asked to release copies of public documents related to the James Brown music empire.

Among the requested documents was a contingency-fee agreement between former AG Henry McMaster and outside counsel, Columbia attorney Ken Wingate. Wingate represents the State and about 15 private plaintiffs in a Brown suit in Richland County.

Other Brown cases are pending in the Aiken County Circuit Court, the S.C. Court of Appeals, and the S.C. Supreme Court.

The FOIA lawsuit was filed by Newberry resident Adele Pope in August. She and Aiken attorney Robert Buchanan, former Brown trustees, have repeatedly attempted to obtain the fee agreement and other documents for 10 months.

Only two days after Wilson's motion to dismiss the Newberry FOIA suit, on Sept. 14, The State newspaper reported Wilson had announced, through an agency spokesperson, that contingency agreements with outside law firms are available to members of the public who request them and that the AG's office is in the process of posting all such agreements on its website.

"We hope this announcement means that the AG will release the public documents which Pope and Buchanan have been trying to obtain for almost a year, first from McMaster and now from Wilson," said Adam Silvernail, Pope's attorney.

The unreleased contingency-fee contract between McMaster and Wingate authorized Wingate to sue Buchanan and Pope on behalf of the state while simultaneously representing about 15 private plaintiffs.

In a hearing scheduled for Richland County Sept. 14, Pope and Buchanan sought to disqualify Wingate from representing both the state and the private individuals.

In a brief filed last week, Pope also asked that current Brown trustee, Columbia CPA Russell Bauknight, be enjoined from asserting that he acts for the state or the AG. Bauknight replaced Pope and Buchanan as trustee and serves at the AG's pleasure.

Bauknight and AG Wilson have both refused to produce the contingency-fee contract and other documents requested by Pope's two FOIA lawsuits, including documents related to the value of Brown's assets and a copy of McMaster's "Legacy" trust.

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In 2008 McMaster forged an agreement with some of Brown's claimed heirs, all of whom were disinherited from his worldwide music empire, and gave them more than half of Brown's assets.

In late 2008 or early 2009, McMaster set up the "Legacy" trust with Bauknight as trustee. To date, no signed complete copy of the Legacy trust has been produced, but at least two incomplete drafts are on file in Aiken County.

Before the McMaster agreement, Brown's estate plan gave his music empire to the "I Feel Good" trust to provide scholarships for needy and deserving students.

Brown's music empire—with royalties to about 850 songs, as well as publicity rights—was widely reported to have a value of \$100 million at his death, less a \$15 million debt. At about \$80 million, the "I Feel Good" trust would have been South Carolina's largest private foundation dedicated solely to scholarships for needy and deserving students.

In December 2010, however, Bauknight filed documents with the Internal Revenue Service placing a \$4.7 million value on Brown's worldwide music empire at his death in 2006.

According to J. David Black of the Columbia law firm Nexsen/Pruet, which represented Bauknight in the IRS filing, Bauknight's \$4.7 million value for Brown's music empire at death is based upon an independent professional appraisal, authorized by Bauknight. When reached by email, Black failed to disclose the name of the New York appraiser.

In Black's email, he claimed Brown's music empire was worth \$4.7 million "because of outstanding debt and bond issues as well as Mr. Brown's prior advisors' mismanagement of his assets." He said further that all of Brown's assets, including the music, had a value of only \$5.7 million.

In 2007 David Cannon, one of three original trustees appointed by Brown, resigned after Pope and Buchanan discovered he had taken \$900,000 from Brown's Trust the previous year. Cannon was indicted in 2010 for felony breach of trust with respect to Brown's assets between 1999 and 2006. He was also indicted for a 2008 forgery related to Brown.

Cannon has not yet been tried, but in November 2010 he was placed, along with former trustee Albert "Buddy" Dallas, on Wingate's witness list in the Richland County case.

Pope and Buchanan, who valued Brown's music assets at about \$85 million, have challenged McMaster's agreement and Bauknight's valuation.

When asked by email when the Wingate contract would be available on the AG's website, spokesperson Mark Plowden responded Tuesday morning, "I am on medical leave, but will have someone send it to you."

Judge Casey L. Manning continued the Richland County hearing to consult with Chief Administrative Judge Alison Renee Lee.

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Pope vs. Wilson, et al, Case No. 2012-CP-40-0350; Pope v. Wilson 10-CP-40-4900

Mon, Oct 13, 2014 at 5:40 PM

<adam@silvernaillawfirm.com>

<mvg@swblaw.com>

Respectfully,

Emory Smith

803-734-3642 Direct

Subject: Pope vs. Wilson, et al, Case No. 2012-CP-40-0350; Pope v. Wilson 10-CP-40-4900

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[Quoted text hidden]

2 attachments



Judge Manning 3.7.13 (00264259xD2C78).pdf

62K



Pope II Judge 11.27.13 (00263968xD2C78).pdf

84K

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EXHIBIT F

In Support of Rule 12(b)(8) Motion to Dismiss
and proposed Amended Motion to Dismiss

Pope v. Wilson 2012-CP-40-350

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) IN THE COURT OF COMMON PLEAS

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

Plaintiffs.

y.

Defendants.

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YOU WILL PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as counsel may be heard, Defendant Adele J. Pope, through her undersigned counsel, will move for an order compelling the above-named Plaintiffs to produce the following documents before this Court hears Defendant Pope's pending Motion for injunctions against Plaintiff Russell L. Bauknight and Kenneth B. Wingate and Sweeny Wingate & Barrow, P.A. (collectively, "Wingate") from attempting to act for the Attorney General ("AG") and/or the State of South Carolina (collectively, the "State") while serving all private plaintiffs ("Private Plaintiffs"):

1. The James Brown Legacy Trust under which Bauknight asserts status in the complaint;
2. Any authorization under which Bauknight is authorized to act for the current or former AG;
3. Wingate's contingency-fee contract with Private Plaintiffs and/or the AG/State.

The Grounds of this motion are as follows:

1. That Defendants have sought these and other relevant documents since October 12, 2010.
2. Wingate, Bauknight and Private Plaintiffs have refused to produce these and other documents and 8 Private Plaintiffs have refused to appear at depositions, obstructing Defendant's efforts to obtain these critical documents.
3. Plaintiffs' refusal to produce these critical documents is wholly inconsistent with the policy of the AG as stated in Public Official's Guide to the Freedom of Information Act (FOIA) in which he states that the AG's Office uses and recommends the following FOIA guidelines:

When in doubt, disclose requested information
...When in doubt, release the document

4. Issues of the use of the name and power of the State in violation of Defendant Pope's constitutional rights are at issue in this case, and Plaintiffs should not be allowed to conceal the authority under which Bauknight and Wingate purport to act for the State

4. On or about May 18, 2011, Defendant Pope moved to enjoin Russell L. Bauknight from attempting to act as agent for the State of South Carolina and to enjoin Wingate from representing the State jointly with the dozen-or-more Private Plaintiffs. Defendant Pope does not challenge, and has never challenged, Wingate's representation of Private Plaintiffs in this action.

5. On or about June 30, 2011, Defendant Pope made a FOIA request for these documents from Bauknight as Trustee of the James Brown Legacy Trust and also of the AG. Counsel for Defendant Pope sent a courtesy copy of the requests to Wingate. The time for the AG to respond has not elapsed, but on or about July 15, 2011, Pope received the response attached as Exhibit A from David Black, who represents Bauknight in other matters.

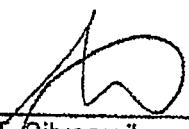
6. On July 13, 2011 a status conference was held before the Honorable Alison Renee Lee, wherein Judge Lee indicated that she would seek to schedule the motion for injunctions against Wingate and Bauknight for hearing as soon as possible and, in any event, before other pending motions in this action.

This motion is based on the United States Constitution; the Affidavit of Nathan Crystal on behalf of the Plaintiff in the case of *AsiraZeneca vs. Wilson, as Attorney General*, Spartanburg County Case No. 2011-CP-42-1213, and the entire file in that action, of which the Court is asked to take judicial notice; the entire record herein; and

such additional documentation as shall come before the Court prior to the hearing on this matter.

Respectfully submitted,

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July 26, 2011

Attorneys for Defendant Adele J. Pope

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State of South Carolina	)	In the Court of Common Pleas
County of Newberry	)	Civil Action No. 2011-CP-36-364
	)	
Adele J. Pope,	)	Affidavit of Sue Summer
Plaintiff	)	Opposing Striking or Disregarding
v.	)	Affidavits
	)	
Alan Wilson, in his capacity as	)	
Attorney General of South Carolina	)	
And James Brown Legacy Trust, by	)	
Russell Bauknight, its Trustee	)	
Defendants	)	
	)	

Personally appeared before me, Sue Summer, who being duly sworn, deposes and says:

1. This affidavit is based on my personal knowledge and belief.
2. I am informed and believe that the Court should not strike or refuse to consider my earlier affidavit or those of Vic MacDonald, Deborah Spence, W. Jeffrey Smith, Rep. Tom Young and Tom Pope, because all demonstrate the importance of the public's right to public documents "at a minimum cost or delay," as well as the public's interest in matters related to music legend James Brown.
3. I am informed and believe that the transparency in government which is encouraged by the FOIA is essential to our free society.
4. I am informed and believe that the McMaster-created Legacy Trust, now controlled by AG Alan Wilson through Mr. Russell Bauknight, is a public body under the FOIA and should comply with all FOIA requests, including mine. Former AG McMaster, after all, created the Trust while serving as a representative of—and being paid by—the people of South Carolina.
5. AG Wilson's office has repeatedly refused to answer important questions related to James Brown. (See exchange of emails, Exhibit A.)
6. After several weeks of my making requests for documents and information, AG Wilson's office refused to release to me the McMaster/Wingate contingency fee contract—again, a public document created by McMaster while being paid by the taxpayers of South Carolina—and stopped responding to my emails altogether. Now, AG Wilson's office has failed to comply with my formal request under the FOIA, made December 6, 2011. (Exhibit B.)
7. Mr. Bauknight, through attorney David Black, has refused to provide me with a copy of the at-death appraisal of Mr. Brown's music empire, nor would he release the name of the appraiser so that I might independently verify what he said to me in a telephone interview.
8. I believe the public has a right to see documents that will shed some light on the magnitude of the gift Brown made to poor children for the purpose of education.

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9. I believe the public has a right to see documents that might explain why AGs McMaster and Wilson have not recovered one dime of the \$12+ million David Cannon took from Brown and the students who would benefit from the "I Feel Good" Foundation.
10. I am informed and believe I should not be required to bring a FOIA lawsuit to obtain a public document, certainly not when that document is in the custody of the public body responsible for enforcing compliance with FOIA.
11. I do not believe I should be required to bring a separate FOIA lawsuit to get a public document when Mrs. Pope is already seeking that document in her FOIA lawsuit.
12. The Newberry Observer is a non-daily newspaper that serves a small town, not a major media market. Still, it has a proud history of promoting "sunshine" laws and a strong record of defending the FOIA. One of its former editors, Vic MacDonald, won a S.C. Press Association award for his vigorous defense of the FOIA, and other reporters on staff have pursued the release of public documents at the local and state level.
13. The weakened condition of newspapers over the past 10-15 years has placed the FOIA in great peril, in my opinion. Many no longer have the staff to pursue compliance, nor do they have the resources for legal action. Yet, the FOIA is critical to maintaining our democracy: if government officials make it impossible for the people to know what they are doing, we will find it impossible to hold those officials accountable for bad decision-making.
14. While public relations director at Newberry College, I advised the student newspaper and attended student conferences of the S.C. Press Association. I worked closely with students to lobby for the passage and the strengthening of the "sunshine law" in South Carolina, and I want to do whatever I can to make sure their efforts were not in vain.
15. Scholarships for needy children are a public concern in a state where we rank near the bottom in education, and \$12+ million would be most helpful in that regard. I believe the public has a right to see documents that may explain why AGs McMaster and Wilson have never recovered one dime of the \$12 million David Cannon took from Brown and the needy and deserving students who are beneficiaries of the "I Feel Good" foundation.
16. With a Supreme Court hearing related to the Cannon case next week, the public interest (and mine) will be heightened regarding Cannon's relationship with the AG's office, Bauknight and Legacy Trust beneficiary Terry Brown.
17. I became interested in Terry Brown's attempts to lower the price at which he might buy Brown's music empire—a right given to Terry by AG McMaster—when I read the April 2011 draft of W. Jeffrey Smith's article, "Private Foundations, Copyright Heirs, and Musical Millionaires: Why the James Brown 'I Feel Good' Trust Doesn't...."
18. According to filed documents, Terry Brown, Bauknight and AG Wilson told the courts that Brown's music empire—which Terry's group had tried to buy for \$100 million in 2008—was worth less than \$4.7 million at James Brown's death, even though it was bringing in between \$4-5 million in royalties annually.
19. In the summer of 2011 I learned that the counsel for the Legacy Trust, David Black, had threatened to seek sanctions against Mrs. Pope for exercising her FOIA rights. This threat chilled me, as it should have every journalist in the state. When one is denied FOIA rights, it sets a precedent for all to be denied.

20. In the fall of 2011, Mr. Black told me that Mr. Bauknight's \$4.7 million at-death value was correct, but that the supporting appraisal could not be released to me as it was under lock and key.
21. On Nov. 1, 2011, I heard another of Mr. Bauknight's attorneys tell the Supreme Court that Brown's Estate/Trust had "no corpus" to speak of. Again, this was related to intellectual property that had been bringing in \$4-5 million annually, and I knew the Observer's readers—especially those interested in education—would want to know how that could be.
22. Also on Nov. 1, 2011, I heard AG Sonny Jones tell the Supreme Court that in 2008, when McMaster agreed to give more than half of Brown's assets to disinherited heirs, he knew nothing about termination rights under the Federal Copyright Act.
23. According to Smith's article, this ignorance of the AG's office related to termination provisions of the Copyright Act—and the AG's agreement to call certain non-heirs Brown's "heirs"—was the first step in the destruction of the "I Feel Good" Trust.
24. The next step, according to Smith, was for the newly-created "heirs"—who are not Brown's true heirs under the Copyright Act—to acquire Brown's assets at a reduced price, thereby completely dismantling the "I Feel Good" Foundation.
25. In a recent telephone interview, Mr. Buddy Dallas informed me that in 2007, he provided Judge Early with a copy of the \$100 million offer to buy Brown's assets, and that the \$4.7 million value was incorrect.
26. Mr. Dallas also provided me with a recording in James Brown's own voice, in his own words, during which he speaks in 1999 with his estate planning attorney and others about how important it was to give back what God had given him by leaving his music empire to the "I Feel Good" foundation for needy and deserving students.
27. It confirmed for me how important it was for the public to see the McMaster/Wingate contract that I am seeking under the FOIA when, in the winter of 2011, Mr. Wingate's firm, representing Terry Brown and others, asked the Court to sanction Mrs. Pope for seeking the same document in her FOIA lawsuit.
28. After Mr. Wingate, representing Terry Brown, sought to sanction Mrs. Pope, Forlando Brown told me his father Terry did not know Mr. Wingate was seeking sanctions against Mrs. Pope, and he further said:

After my father (Terry Brown) refused to join the fight (to contest the Will and Trust) they called us to South Carolina to the Attorney General's office. They said they could settle without us, and they'd make sure we got nothing. We were given an ultimatum.

29. I have recently learned that the lawyers who helped Mr. Cannon and Mr. Dallas enforce the "I Feel Good" Trust and protect Brown's estate plan in 2007 are now helping Mr. Bauknight to keep public documents from being released under the FOIA. Why?
30. I believe the public has a right to know if political contributions influence policy decisions, and in the James Brown matter, there appear to be questions about certain contributions to McMaster's gubernatorial campaign from the battalion of high-powered lawyers involved.

31. I believe the public has a right to know what is going on with the valuation of Brown's music empire, which he wanted to use for education. How can the AG's office acknowledge a \$100 million offer to buy Brown's assets in 2007, and then say in 2011 that the music empire is worth only \$4.7 million?
32. I believe the public has a right to know why James Brown's wishes, as he recorded them, were ignored by the AG's office. Also, the public has a right to know if AG McMaster read the diaries of Mr. Brown's companion, which confirm she knew she was not married to Mr. Brown when he died, according to Mr. Dallas.
33. I believe the public has a right to know why AG Wilson is going along with giving away over half of Brown's music empire to those he specifically disinherited—and with the reduced value of that music empire—when neither decision is serving the interest of needy and deserving students in South Carolina.
34. I believe the public has a right to know why neither the AG nor Bauknight recommended a sentence for David Cannon or spoke on behalf of the "I Feel Good" student victims during his sentencing hearing in October of 2011.
35. The AG is charged with the enforcement of the FOIA, but he has gone to great lengths to resist his own office's compliance. Perhaps if I were writing for a large daily newspaper, the AG would have been more cooperative and more helpful in providing documents and information, but I submit that small town newspapers have FOIA rights, too, as do individuals in the public. My most recent list of questions for the AG's office is attached. (Exhibit C.)
36. The consolidation of a FOIA lawsuit with a civil tort action is a dangerous course, in my opinion. The governmental body can hide behind the private plaintiffs' right to privacy, and public documents may very well never see the light of day. It is difficult to hold public bodies accountable, as it is. Allowing FOIA suits to be consolidated with private actions may very well render the Act useless by giving public bodies an escape route by which documents that may prove embarrassing can be hidden.

FURTHER DEPONENT SAYETH NOT.

Sue Summer

Sue Summer

SWORN TO before me this
5th day January, 2012.

Laurel A. Law

(L.S.)

Notary Public for South Carolina

My Commission expires: 10-27-13

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April 21, 2015

The Honorable L. Casey Manning
Post Office Box 192
1701 Main Street, Room 214
Columbia, South Carolina 29202-0192

Re: *Pope vs. Wilson, et al*
Richland County Case No. 2012-CP-40-0350
Pope vs. Wilson
Richland County Case No. 2010-CP-40-4900

Dear Judge Manning:

I represent Plaintiff Adele J. Pope in the above referenced actions, both of which are brought under the South Carolina Freedom of Information Act.

I have previously written your Honor on the following dates to request that these matters be set for a hearing on the pending motions and the merits as soon as possible:

1. February 8, 2013;
2. March 15, 2013;
3. November 22, 2013;
4. April 17, 2014;
5. April 29, 2014;
6. May 7, 2014;
7. May 28, 2014;
8. October 8, 2014;
9. November 13, 2014;
10. December 2, 2014;
11. February 25, 2014 and
12. March 20, 2015

I renew that request today, and I respectfully remind the Court that no hearing has been held in these matters since 2012.

For the Court's information, I note that the Newberry County FOIA matter captioned *Summer v. Wilson* has now reached a final result, after the Supreme Court dismissed the Wingate firm's appeal of Judge Griffith's denial of Russell Bauknight's attempt to intervene on behalf of the Estate of James Brown and the James Brown 2000 Irrevocable Trust.

As your Honor may recall, Mr. Bauknight and others have moved to intervene in the

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above-referenced FOIA matters. We believe that the conclusion of the *Summer* case shows that intervention to be inappropriate.

Again, I ask that your Honor schedule a hearing on these matters at the Court's earliest convenience, so that these nearly four-year-old FOIA matters can move toward a conclusion.

Thank you for your consideration.

Very truly yours,



Adam T. Silvernail

cc: J. Emory Smith, Esquire
Keith M. Babcock, Esquire
A. Camden Lewis, Esquire
Ariail E. King, Esquire
Adele J. Pope, Esquire
Mark V. Gende, Esquire

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January 29, 2016

By e-mail and U.S. Mail:

The Honorable Alison Renee Lee
Chief Administrative Judge for the Fifth Circuit (CP)
Post Office Box 192
1701 Main Street, Room 324
Columbia, South Carolina 29202-0192

Re: *Pope vs. Wilson, et al*
Richland County Case No. 2012-CP-40-0350

Dear Judge Lee:

I represent Plaintiff Adele J. Pope in the above-referenced matter, brought pursuant to the South Carolina Freedom of Information Act, in which your Honor held a telephone status conference on July 22nd. I write to follow up on my November 20, 2015 and December 17, 2015 letters to your Honor requesting that the pending motions in this matter be set for a hearing at the Court's earliest convenience.

It has now been four (4) years since this matter was transferred to Richland County, and it has not progressed toward resolution. I respectfully renew my request that a hearing be set in this matter at the Court's earliest convenience. If needed, I remain available to assist in coordinating dates for that hearing.

As always, thank you for your consideration.

Very truly yours,



Adam T. Silvernail

cc: Adele J. Pope, Esquire
J. Emory Smith, Esquire
Keith M. Babcock, Esquire
Ariail E. King, Esquire
A. Camden Lewis, Esquire
Mark V. Gende, Esquire

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