

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge

The Honorable L. Casey Manning, Circuit Court Judge

SEP 17 2018

SC Court of Appeals

Appellate Case No.: 2017-001899

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.; 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 Appellant.

RECORD ON APPEAL

VOLUME II OF V

W. H. Bundy, Jr.
M. Brent McDonald
Bundy McDonald, LLC
1516 Old Trolley Road, 2nd Floor
Summerville, South Carolina 29485
888-552-1559

walter@bundymcdonald.com
brent@bundymcdonald.com
and

Adam T. Silvernail
Law Office of Adam Silvernail, LLC
Post Office Box 7995
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernaillawfirm.com
ATTORNEYS FOR APPELLANT
ADELE J. POPE

Kenneth B. Wingate, Esquire
Mark V. Gende, Esquire
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
Columbia, SC 29201
ATTORNEYS FOR RESPONDENTS

J. Emory Smith, Jr.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
ATTORNEY FOR RESPONDENT
ATTORNEY GENERAL
(SPECIAL APPEARANCE)

INDEX **VOLUME I**

I. ORDERS

Order of the Hon. Doyet A. Early, III, dtd. 8/2/17.....	1
Order of the Hon. Doyet A. Early, III, dtd. 6/23/17.....	3
Order of the Hon. Doyet A. Early, III, dtd. 6/23/17.....	3
Order of the Hon. Doyet A. Early, III, dtd. 5/31/17.....	19
Order of the Hon. Doyet A. Early, III, dtd. 3/9/17.....	25
Order of the Hon. Doyet A. Early, III, dtd. 3/9/17.....	27
Order the Hon. L. Casey Manning, dtd. 3/7/17.....	29
Order of the Hon. Doyet A. Early, III, dtd. 2/6/17.....	31
Order of the Hon. Doyet A. Early, III, dtd. 9/21/16 (Attorney General).....	33
Order of the Hon. Doyet A. Early, III, 9/21/16 (Daryl & Tonya).....	39
Order of Jg. Early dtd. 7/25/16.....	42
Order of Jg. Early dtd. 4/8/16.....	44
Order of the Hon. Donald W. Beatty, dtd. 3/24/16.....	46
Order of the Hon. L. Casey Manning, dtd. 3/02/16.....	47
Order of the Hon. L. Casey Manning, dtd. 10/13/15.....	49
Order of the Hon. L. Casey Manning, dtd. 10/13/15.....	51
Order of the Hon. L. Casey Manning, dtd. & filed 7/19/12.....	54
Order of the Hon. L. Casey Manning, filed 7/13/12.....	57
Order of the Hon. L. Casey Manning, dtd. 7/5/12.....	59
Order of the Hon. Frank R. Addy, Jr., dtd. 11/22/11.....	61
Order of S.C. Court of Appeals, filed 6/2/11.....	70
Order of the Hon. G. Thomas Cooper, dtd. 5/12/11.....	68
Order of the Hon. G. Thomas Cooper, dtd. 4/27/11.....	72
Order of the Hon. Jasper M. Cureton, filed 3/16/11.....	74
Order of the Hon. L. Casey Manning, dtd. 1/7/11.....	77
Order of the Hon. L. Casey Manning, dtd. 11/8/10.....	79
Order of the Hon. L. Casey Manning, dtd. 11/8/10.....	87
Form 4 Order of the Hon. L. Casey Manning, dtd. 8/30/10.....	93
Order the Hon. Amy W. McCulloch, dtd. 7/19/10.....	94
Order of the Hon. Roger L. Couch, dtd. 9/22/09.....	96
Order of the Hon. Doyet A. Early, III, dtd. 5/26/09.....	134

II. PLEADINGS AND MOTIONS

Complaint filed May 19, 2010, with Summons.....	176
w/ Affidavits of Service.....	189
Motion to Remove dtd. 6/11/10.....	191
Motion to Dismiss dtd. 6/22/10, w/ Attachments.....	193
Index of Attachments to Motion to Dismiss.....	204

Attachment 1: <i>Wilson v. Dallas Ret. & Motion</i>	205
Factual Addendum.....	221
Exhibit A: Agreement dtd/ 8/10/08.....	231
Attachment 2: of the Hon. Doyet A. Early, III, dtd. 1/8/08.....	235
Attachment 3: of the Hon. Doyet A. Early, III dtd. 1/9/08.....	239
Attachment 4: of the Hon. Doyet A. Early, III, dtd. 3/7/08.....	242
Attachment 5: of the Hon. Doyet A. Early, III dtd. 4/8/08.....	262
Attachment 6: Order of the Hon. Jasper W. Cureton, dtd. 7/14/08.....	312
Attachment 7: of the Hon. Doyet A. Early, III dtd. 7/25/08.....	315
Attachment 8: Corresp. Ct. Appeals 11/6/09.....	322
Attachment 9: of the Hon. Doyet A. Early, III dtd. 11/13/08.....	324
Attachment 10: of the Hon. Doyet A. Early, III, dtd. 3/15/10.....	327
Attachment 11: Order of the Hon. Doyet A. Early, III, dtd. 4/5/10.....	329
Motion to Transfer Venue dtd. 8/2/10.....	332
Motion to Strike Motion for Transfer of Venue dtd. 8/10/10.....	335
Answer and Counterclaim dtd. 9/30/10 w/cos.....	337
Motion to Strike Defendants' Affidavit in Support of Dismissal, dtd. 10/1/10....	371
Motion to Set Aside Entry of Default, dtd. 11/16/10.....	373
Exhibit 1: Affidavit of Wingate.....	376
Exhibit A: Kendall email dtd. 11/12/10.....	379
Answer to Counterclaim, dtd. 11/16/10 w/cos.....	380
Motion to Alter or Amend Order Filed 11/19/10.....	383
Exhibit A: Initial Brief of Appellants, dtd. 10/22/10.....	391
Addendum.....	444
Exhibit B: Affidavit of Williams.....	449
Complaint, <i>Cincinnati v. Buchanan</i>	452
Complaint, <i>Cincinnati v. Pope</i>	469
Motion to Strike dtd. 12/7/10.....	471
Notice of Appeal filed 2/16/11.....	474

INDEX VOLUME II

II. PLEADINGS AND MOTIONS (Cont'd)

Motion to Disqualify and/or Enjoin and for related relief, dtd. 5/18/11.....	477
Return to Motion to Designate Complex, dtd. 5/18/11.....	481
Motion to Compel Discovery (Tommie Rae), dtd. 5/27/11.....	485
Motion for Protective Order (Tommie Rae) dtd. 5/31/11.....	493
Motion to Compel, dtd. 7/1/11.....	495
Exhibit A: Interrogatories & Requests for Production.....	498
Exhibit B: Answers to Interrogatories & Requests for Production.....	517
Motion to Compel (Fee Agreement) , dtd. 7/26/11.....	552
Exhibit A: Ltr. of Black dtd. 7/15/11.....	556

Motion for Protective Order (Fee Agreement), dtd. 8/9/11.....	558
Motion to Partially Amend Order dtd. 11/22/11, dtd. 11/29,11.....	568
Motion for Sanctions, dtd.12/9/11.....	568
Return in Response to Motion to Consolidate, dtd.2/9/12.....	575
Return and Memorandum Opposing Relief from Default, dtd. 4/10/12.....	577
Motion to Enforce Settlement Agreement, dtd. May 18, 2012.....	580
Exhibit A: Settlement Agreement, dtd. 5/4/12.....	582
Exhibit B: Settlement Agrmt. & Release.....	584
Return and Objection to Motion to Enforce, dtd. 5/21/12.....	592
Motion for Emergency Telephone Hearing, dtd. 7/18/12.....	596
Exhibit A: Motion for Protective Order (Dallas), dtd. 7/10/12	599
Corrected Offer of Judgment (Lindsey & Janise), dtd. 7/18/12.....	602
Motion to Strike Affidavit (Requesting Depositions), dtd. 7/18/12.....	606
Exhibit A: Affidavit of Pope, dtd. 7/1/12.....	608
Ltr. of Silvermail to the Hon. L. Casey Manning, dtd. 7/11/12.....	613
Motion to Vacate, Alter, Amend, etc. Order dtd. 7/5/12, dtd. 7/27/12.....	618
Exhibit A: Order of the Hon. L. Casey Manning dtd. 7/5/12.....	630
Offer of Judgment to Daryl Brown, dtd. 7/26/12.....	632
Offer of Judgment to Tonya Brown, dtd. 7/26/12.....	636
Offer of Judgment to Terry Brown, dtd. 7/30/12.....	639
Offer of Judgment to Jason Brown Lewis, dtd. 7/30/12.....	649
Offer of Judgment to the Estate of James Brown, dtd. 8/2/12.....	657
Offer of Judgment to Deanna Brown Thomas, dtd. 8/2/12.....	664
Offer of Judgment to Venisha Brown, dtd. 8/3/12.....	671
Offer of Judgment to Tommie Rae Hynie Brown dtd. 8/3/12.....	677
Offer of Judgment of Pope to Carrington L., a minor, dtd. 8/6/12.....	681
Offer of Judgment to Sydney L., a minor, dtd. 8/7/12.....	683
Motion to Strike Offers of Judgment, dtd. 8/13/12.....	687
Exhibit A: Offer of Judgment to Lindsey & Janise B., a Minor.....	690
Exhibit F: Offer of Judgment (Bauknight. T/ee, Legacy Trust)	696
Motion for Direction (Pretrial Publicity), dtd. 8/23/12.....	704
Exhibit. A: Media Binder Index of Attached Articles, etc.....	706
Exhibit 5: <i>SC Supreme Court Hears Brown Estate Feud 11/1/11</i>	712
Exhibit 11: <i>AG asked to Turn Over James Brown Docs.: 8/11/11</i>	714
Exhibit 12: <i>Wilson and trustee Double Efforts....: 1/16/12</i>	716
Exhibit 13: <i>AG Attempts to Exclude Affid.</i>	718
Exhibit 17: <i>Dead or Alive-James Brown...5/22/12</i>	721
Exhibit 18: <i>Father's Day, Pappa Gets a Brand New Son: 6/17/12</i>	726
Exhibit 20: <i>Brown Charitable Fate Marinating in Confusion:3/11/12</i>	728
Exhibit 21 <i>James Brown's Son Regrets Contesting Will: 7/1/12</i>	730
Exhibit. 27: Images of a Group of Affidavits (Partial).....	732
Affidavit of Mary Holmes dtd. 5/18/2008.....	732
Affidavit of J.B. Ross.....	734
Affidavit of Emma Austin dtd. 8/14/08.....	736
Affidavit of Andre Moses White dtd. 6/2/08.....	739

Exhibit 32: Images of <i>Motion for Sanctions</i> and Ltrs.	741
Exhibit 58: <i>Future of Private Philanthropy. at Stake in Case</i> : 11/10/11.....	742
Exhibit 75: <i>Attorneys Subpoena Inf. Ab. "Explosive" Diaries</i> : 5/14/12.....	744
Exhibit 81: <i>AG Wilson and Companion Stop Deposition</i> : 7/26/12.....	746
Exhibit 82: <i>Brown Son Pleads "Protect the Needy Children"</i> : 8/1/12	750
Exhibit 87: <i>Years After Death, Battle for J. Brown Estate Rages</i> : 8/4/11....	752
Exhibit 93: <i>James Brown Said it Loud</i> : 3/10-11/12.....	754
Exhibit 94: <i>Legal Battles over James Brown's Estate Continue</i> : 7/26/11....	756
Exhibit 96: <i>South Carolina and the FOIA</i> : 4/24/12	758
Exhibit 98: <i>The Continued Dispute Over James Brown's Estate</i> :	760
Return to Motion (Pretrial Publicity), dtd. 8/28/12.....	762
Proof of ADR, Karl A. Folkens, Mediator, dtd. 10/19/12.....	768
Supp. Memo on Motion to Set Aside Entry of Default dtd. 12/17/12.....	769
Exhibit A: Sworn Statement of Albert H. Dallas, 7/20/12.....	771
Return and Opposition to Motion (Judgment on Pleadings), dtd. 1/11/13.....	775
Motion to Compel (Document Review), dtd. 2/25/13.....	780
Motion for Protective Order (Deanna Deposition), dtd. 3/4/13.....	783
Exhibit A: Am. Notice of Deposition, dtd. 2/25/13.....	785
Motion for Summary Judgment (as to Estate/2000 Trust & AG), dtd. 3/11/13..	787
Motion to be Dropped as a Party, dtd 3/25/13.....	790
Exhibit A: Ltr. of McMaster to Bauknight, dtd. 5/18/10.....	793
Return and Opposition to Stay and Request for Expedited Hearing dtd. 3/29/13.....	794
Exhibit A: Ltr. of Gende to Jg. Manning, dtd. 3/27/13.....	800
Status Report, dtd. 3/25/13.....	802
Exhibit A: Proposed Scheduling Order.....	806
Motion to be Relieved as Counsel (as to The AG Only), dtd. 5/10/13.....	810
Motion to Stay, dtd. 4/22/14.....	821
Motion for Summary Judgment & Offset (as to Tonya, Daryl, Venisha), dtd. 5/28/15.....	814
Motion for Exception to Physical Presence at Mediation, dtd. 8/4/15.....	824
Return and Opposition to Motion (Stay & Expedited Hearing), dtd. 4/29/14....	827
Motion to Alter, Amend and /or Vacate Order (Relief from Default), dtd. 10/20/15.....	829
Proof of ADR, dtd. 10/30/15.....	834
Motion for Protective Order (Depositions), dtd. 2/18/16.....	836
Motion to Strike, dtd. 2/26/16.....	839
Motion to Alter and/or Amend Order dtd. 3/3/16.....	841
Motion to Consolidate Cases 4900 & 1337 for Purposes of Discovery, dtd. 4/11/16.....	848
Motion to Postpone Deposition (Tommie Rae), dtd. 4/25/16.....	848
Return and Opposition to Motion to Consolidate, dtd. 6/6/16	851
Notice Withdrawing Motion to be Relieved as Counsel, dtd. 6/7/16.....	854
Motion for Protective Order (Attorney General) dtd. 7/18/16.....	856
Notice of Special Appearance, dtd. 8/11/16	861

Exhibit A: Order of the Hon. Doyet A. Early, III, dtd. 10/4/07	884
Exhibit B: Order of the Hon. Doyet A. Early, III, dtd. 10/30/13.....	888
Exhibit C: Motion to be Dropped as Party, dtd 3/25/13	887
Exhibit A: Ltr. of AG McMaster dtd. 5/18/10.....	873
Exhibit B: Petition for Rehearing, dtd. 3/14/13.....	874
Exhibit A: Transcript 9/28/08.....	908
Transcript 11/25/08	909
Transcript 1/30/09.....	912
Transcript 4/6/09.....	920
Complaint, Case No. 2008-CP-02-322, filed 2/5/08.....	926
Exhibit G: Calculation of Proceeds, Proposed Transaction.....	927
Interim Acctg. #1A, 11/20/07 – 5/20/09.....	928
Ltr. AG McMaster to Bauknight, dtd. 5/18/10.....	942
Motion for Protective Order (McMaster) dtd. 8/25/16.....	943
Motion to Dismiss all Claims Under Rule 41(B) (Venisha), dtd. 9/14/16.....	946
Motion to Compel Discovery, dtd. 1/11/17.....	949
Return of (1337 Pl.) to Jt. Motion to Consolidate Expert Discovery, dtd. 1/17/17.....	953
Notice of Motion and Motion Pursuant to Rule 59(E) & Rule 60(B)(2), dtd. 3/24/17.....	956
Supplemental Return to Motion to be Dropped, dtd. 4/6/17.....	961
Reply to Supplemental Return, dtd. 4/7/17	964

INDEX VOLUME III

Return to Motion Pursuant to Rule 59(e) and Rule 60(b)(2), dtd. 4/20/17.....	969
Exhibit A: Order of the Hon. Doyet A. Early, III, dtd. 5/9/17.....	973
Exhibit B: Settlement Agreement, dtd. 3/8/17.....	976
Motion to Alter, Amend, etc. Order dtd. 6/23/17, dtd. 7/13/17.....	983
Motion to Alter, Amend, Vacate &/or Reconsider Order dtd. 5/31/17 dtd. 7/19/17	1054

III. TRANSCRIPTS

Transcript of Hearing held August 30, 2010.....	1108
Transcript of Hearing held January 11, 2012.....	1140
Transcript of Hearing held December 17, 2012.....	1144
Transcript of Hearing held May 17, 2016.....	1162
Transcript of Hearing held August 29, 2016.....	1177

IV. EXHIBITS AND OTHER MATERIALS AND DOCUMENTS

Agreement for Legal Services, dtd. 5/18/10.....	1235
Exhibit A: Litigation Retention Agreement (AG/Special Counsel).....	1238

Ltr. AG McMaster to Bauknight dtd. 5/18/10.....	1250
Confirmation, Approval and Acknowledgment.....	1251
Affidavit of Service (Pope) dtd. 5/24/10	1254
Certificate of Transmittal as to Removal to Circuit Court dtd. 7/26/10.....	1255
Memorandum in Support of Dismissal of Complaint, dtd. 8/10/10.....	1256
Portion Richland County Public Index.....	1265
Supplemental Memorandum Supporting Dismissal of Complaint, dtd.8/25/10.....	1267
Exhibit A: Memorandum In Support of Dismissal, dtd. 8/10/10, see.....	1256
Exhibit B: Motion for Extension of Time, dtd. 8/13/1 w/cos.....	1300
Memorandum in Opposition to Motion to Dismiss, dtd. 8/27/10.....	1306
Acknowledgment (Principal Place of Business, 2000 Trust), dtd. 8/27/10.....	1322
Memorandum in Opposition to Motion to Change Venue, dtd. 8/27/10.....	1326
Exhibit A: Order of the Hon. Doyet A. Early, III, dtd. 5/26/09, p.1.see p.134.....	1333
Exhibit B: Order of the Hon. Roger L. Couch, dtd. 9/22/09, p.1, see p.96...	1334
Second Supp. Memorandum (Support of Dismissal of Complaint), dtd. 8/27/10.....	1335
List of Attachments to Memorandum.....	1339
Exhibit A: Return, Motion for Extension.....	1340
Exhibit B: Portion, Brief, Dallas appeal.....	1347
Exhibit C: Portion, Transcripts Jan. 2009, March 2009.....	1350
Exhibit D: Portion, Inventory & Appraisement, dtd. 11/15/07.....	1362
Exhibit E: Portion, Graham Windsor Presentation.....	1366
Ltr. TJBL to Buchanan & Pope (TPP), dtd. 3/27/08.....	1370
Ltr., TJBL to Buchanan & Pope, dtd. 3/27/08.....	1373
Affidavit of Buchanan & Pope in Support of Dismissal, dtd 9/21/10.....	1377
Index to Exhibits.....	1390
Exhibit 1: Excerpts, Memorandum Opp. Mot. Dismiss, dtd. 8/27/10....	1393
Exhibit 2: Excerpts, Memorandum in Opposition, dtd. 8/27/10.....	1394
Exhibit 3: Certificate of Agreement of Trust.....	1395
Exhibit 4: Excerpt, James Brown POA.....	1397
Exhibit 5: Latham email to Levenson & others.....	1398
Exhibit 6: Minutes of Trustees' Meeting 12/27/06.....	1399
Exhibit 7: Minutes of Trustees' Meeting 1/3/07.....	1400
Exhibit 8: Memorandum & Representation Agreement (Levenson).....	1401
Exhibit 9: Excerpts: Motion to Require Disclosure of Settlement.....	1403
Exhibit 10: Excerpts: Deposition of Forlando Brown.....	1405
Exhibit 11: Executive Summary, Lumar, Cox, others.....	1416
Exhibit 12: Prenuptial Agreement.....	1418
Exhibit 14: Email, Hammond to Pope and Babcock.....	1425
Exhibit 15: Powell Goldstein docs to transfer 2000 Trust to Georgia, etc.....	1428
Exhibit 16: Ltr. James Brown Legacy to Dallas & Bradley, dtd. 10/12/07.....	1436

Exhibit 17: Email Yount to Counsel, dtd. 11/10/07.....	1439
Exhibit 18: Statement, James Brown LLC Royalties.....	1440
Exhibit 19: Excerpt Ret. & Recommendations of SAs dtd. 11/14/07....	1141
Exhibit 20: Excerpts, I & A, dtd. 11/15/07.....	1444
Exhibit 21 Excerpts, Transcript Hearing held 12/21/07.....	1447
Exhibit 22 Excerpts, Affidavit of Pope, dtd. 1/6/08 & 3/7/08 hearing....	1459
Exhibit 23: Excerpts, Amendment to Forlando Brown Federal	
Complaint	1463
Affidavit of Beth Bauknight, dtd. 10/1/10.....	1464

INDEX VOLUME IV

Affidavit of Beth Bauknight, dtd. 10/1/10 (Continued)	
Exhibit A: Interim Accounting #1A, dtd. 5/20/2009.....	1465
Status of Creditors' Claims.....	1499
Valid Claim/Priority Expenses, etc.....	1500
Pending, Unresolved Claims (Partial).....	1502
Exhibit B: Final Accounting, dtd. 6/24/09.....	1504
Exhibit 1 – Summary of Accountings.....	1509
Ltr. Wingate to Jg. Manning dtd. 10/1/10 (Venue)	1510
Ltr. Watson to Jg. Manning, dtd. 10/1/10.....	1511
Ltr. Scalamera to McBride, dtd. 11/10/10.....	1512
Affidavit of Default, w/cos dtd. and filed 11/10/10	1513
Exhibit A: Summons (& Complaint), filed 5/19/10, see p.176.....	1516
Exhibit B: Ans. & Counterclaim w/cos, dtd. 9/30/10, p.1, see p.337.....	1519
COS, Affidavit of Default.....	1522
Answers to First Interrogatories (McMaster),dtd. 11/12/10.....	1523
Witness List.....	1532
Affidavit of Wingate dtd. 11/16/10.....	1535
Exhibit A: Email Kendall to Counsel.....	1538
Answers to First Interrogatories (Pope) dtd. 11/16/10.....	1539
Memorandum in Support of Motion to Stay, dtd.5/12/11.....	1579
Affidavit in Support of Disqualification, dtd. 5/18/11.....	1581
Exhibit A: <i>Private Foundation, Copyright Heirs & Musical Millionaires..</i>	1589
Compilation, Copyrights.....	1601
Exhibit B: Chart 5 – Sale to Terry Brown at \$12 million.....	1602
Exhibit C: Pinnacle Media & Entertainment, LLC, Exec. Summary.....	1603
Affidavit (Silvermail), dtd. 5/27/11.....	1605
Affidavit in Support of Motion to Compel (Tommie Rae), 6/2/11.....	1610
Affidavit in Support of Legacy Trust Production, dtd.8/1/11.....	1617
Exhibit A: Pinnacle Media Summary.....	1628
Exhibit B: Witness List.....	1630
Exhibit C: Ltr. of Black to Pope dtd. 7/15/11.....	1632
Brief in Support of Injunction, dtd. 9/14/2011.....	1634

Memorandum in Support of Motion to Set Aside Default, dtd.4/11/12.....	1666
Memorandum in Opposition to Disqualification, dtd.4/11/12	1673
Exhibit A: Order of Judge Couch, p.1, see p. 96.....	1688
Affidavit (Supporting Injunction; Opposing Relief from Default), filed 4/12/12..	1689
Exhibit A: Ltr. of Pope to AG Wilson dtd. 3/5/12	1692
Order of the Hon. Doyet A. Early, III, dtd. 2/20/08.....	1696
Order (Diaries) of the Hon. Doyet A. Early, III, dtd.3/10/08...	1697
Second Order (Diaries) of the Hon. Doyet A. Early, III,.....	1698
Exhibit B: Ltr. of Pope to AG Wilson, dtd.4/1/12.....	1699
Ltr. of Pope to Cannon, Bauknight, 3/30/12.....	1703
<i>Private Foundations, Copyright Heirs & Musical Millionaires</i>	1708
Exhibit C: Status Report, dtd. 3/7/12, (Forlando Federal Suit).....	1722
Exhibit D: Memorandum in Support of Mot. (Forlando Suit), dtd.4/3/12.	1728
Exhibit E: Memorandum in Support of Motion (Forlando), dtd,3/22/12..	1737
Exhibit F: Affidavit dtd. 3/21/12 (Forlando Suit)	1742
Affidavit Requesting Deposition Prior to Injunction Hearing, dtd. 7/1/12.....	1744
Affidavit Supporting Dismissal (Daryl Brown) dtd 7/1/12.....	1749
Exhibit A: <i>Son Regrets Contesting Will</i>	1751
Affidavit of Related to Publicity Motion, dtd. 8/28/12.....	1755
Memorandum in Opposition to Motion to Alter, etc., dtd. 11/20/12.....	1765
Order. of the Hon. Marc H. Westbrook, dtd.10/25/02	1771
Exhibit A: Memorandum in Opposition to Motion to Disqualify.....	1773
Exhibit B: Motions for Sanctions.....	1775
Return to Motion to Intervene, 11/7/11.....	1781
Exhibit B: Affidavit Opp.Motion to Intervene (FOIA), dtd. 11/7/11 ...	1785
Exhibit C: Order of Jg. Addy.....	1788
Exhibit D: Motion to Partially Reconsider (FOIA), dtd.11/29/11.....	1790
Ltr. of Gende to Judge Manning, dtd. 3/27/13.....	1798
Status Report dtd. 3/25/13.....	1800
Exhibit A: Proposed Scheduling Order.....	1804
Affidavit Opp.Stay of FOIA case and Supporting Summ. Jmt., dtd. 4/29/14....	1808
Exhibit A: Ltr. of Pope to AG Wilson, Sojourner, Bauknight, 4/3.14.....	1814
Motion to Dismiss or Stay Appeal, filed Ct. App. 9/13/12.....	1818
Exhibit B: Cephalon v. State of South Carolina Slides.....	1828
Exhibit C: Memorandum (Forlando Case)	1838
Supplemental Memorandum Opposing Motion to Set Aside Default, dtd.	
02/06/15.....	1842
Exhibit A: Proposed Order.....	1844
Affidavit in Support of Damages, Offset, etc., dtd.5/28/15.....	1852
Exhibit A: Deposition, Daryl J. Brown.....	1856
Exhibit B: <i>Brown's Son Comments on Case</i>	1866
Exhibit C: Notice of Appearance (Bell for Tonya), dtd. 3/26/14.....	1869
Exhibit D: Deposition of LaTonya Brown Fegan.....	1871
Affidavit Supporting Compliance w/Mediation, dtd. 8/13/15.....	1883
Memorandum Opposing Motion to Alter, Amend, etc., dtd. 11/24/15.....	1892

INDEX **VOLUME V**

Affidavit Supporting Motion to Alter or Amend Order of 3/3/16, dtd 3/7/16.....	1897
Exhibit A: Deposition of Russell L. Bauknight (Forlando Suit), dtd. 8/20/13.	1901
Memorandum in support of Motion to Amend Answer, etc., dtd. 5/2/16.....	1911
Affidavit of Pope in Supp. of Mot. to Strike (Consolidation Motion), dtd. 5/21/16.....	1924
Memorandum in Supp. of Motion to Consolidate Cases 4900 & 1337, dtd. 6/7/16.....	1931
Affidavit of Pope Supporting Deposition (Lindsey), dtd. 8/22/16.....	1939
Schedule of Documents.....	1946
Exhibit A: Email Musgrove to Levenson, others, dtd. 3/26/07.....	1947
Exhibit B: Ltr. McGaughey to Dallas dtd. 7/10/07.....	1949
Exhibit C: Email of Forlando to Cannon, 10/2/07.....	1950
Exhibit D: Email Forlando to Dallas, 12/14/07.....	1951
Exhibit E: Email Jones to Various, dtd. 11/21/07.....	1952
Exhibit F: Ltr. Pope to Jones, dtd. 11/21/07.....	1953
Exhibit G: Ret. And Rec. of SAs.....	1955
Exhibit H: Email Jowers to Various, 2/13/08.....	1959
Exhibit I: Order Re: Publication, dtd. 3/8/08.....	1960
Exhibit J: Various Emails.....	1964
Exhibit K: Email Forlando to Various, dtd. 4/3/08.....	1969
Exhibit L: Christie's Sale Summary.....	1971
Exhibit M: Ltr. Pope/Buchanan to AG McMaster, dtd. 6/13/08.....	1972
Exhibit N: Portion James Brown Estate Tax Return (706).....	1975
Exhibit O: Ltr. Buchanan/Pope to AG McMaster, dtd. 3/16/09.....	1977
Exhibit P: Ltr. to Klett from Buchanan/Pope dtd. 6/24/09.....	1979
Exhibit Q: Email Medlin to Jowers, others dtd. 8/30/09.....	1983
Exhibit R: <i>James Brown's Son Regrets</i>	1984
Exhibit S: Email Pope to Levenson, others, dtd. 11/5/12.....	1987
Exhibit T: Email, Forlando to Kenily, dtd. 9/27/13.....	1995
Memorandum in Support of Deposition of AG, dtd. 8/29/16.....	1996
Motion to Add William/Forlando Brown as Party, dtd. 2013.....	2039
Exhibit A: Confirmation and Amendment (Legacy Trust), dtd, 1/4/11....	2041
Assignment from Terry Brown to Forlando, dtd. 1/3/11.....	2047
Ltr. of Gende to Jg. Manning, dtd. 5/10/13.....	2048
Order concerning Motion for Continuance dtd. 7/5/12.....	2051
Plaintiff AG Responses to Interrogatories dtd. 10/10/16.....	2054
Memorandum in Support of Motion For Protective Order Filed 8/26/16.....	2059
RESERVED.....	2072
Supp. Memo in Opp. to Mot. SJ & in Supp. of Other Motions, dtd. 9/23/16.....	2076
Exhibit A: Ltr. of Bundy to Jg. Early dtd. 9/23/16.....	2079

Notarized Doc. of Daryl J. Brown, Janise & Lindsey Brown, dtd 10/26/12.....	2084
Exhibit B: Post of Tomirae Brown w/ comments dtd. 9/18.....	2086
Supp. Memorandum in Support of Motion to be Dropped, dtd. 4/3/17.....	2088
Ltr. of Smith to Judge Early, dtd. 5/23/17.....	2093
Affidavit of Harley D. Ruff, dtd. 6/23/17.....	2094
Ltr. of Smith to Jg. Early, dtd. 7/26/17.....	2097
Ltr. of S.C. Court Administrations to Silvermail, dtd. 7/26/17.....	2099
Opinion/Affidavit of Wm. Jeffrey Smith, dtd. 7/14/17.....	2100
Memorandum in Opposition to Motion to Alter June 23, 2017 Order, dtd.8/7/17.....	2211
Ltr. of Watson to Manning, dtd. 10/1/10.....	2213
Ltr. of Wingate to Jg. Manning, dtd. 10/1/10(Mot. Dismiss.....	2214
Ltr. of Wingate to Jg. Manning, dtd. 10/1/10 (Venue)	2215
Motion to Strike Portions of Defendants' Motion to Stay, dtd. 12/7/10.....	2216
Memorandum in Support of Motion to Set Aside Default dtd. 4/11/12.....	2219
Affidavit of Pope dated January 17, 2017 – Filed Under Seal.....	2227

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 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; 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
L., Carrington L., 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; 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
L., CARRINGTON L., and
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

Case No.: 2010-CP-40-4900

FILED
2011 MAY 19 PM 1:07
CLERK OF COURT
C.C.P. & G.S.

**DEFENDANT ADELE J. POPE'S
MOTION TO DISQUALIFY
AND/OR ENJOIN SWEENEY,
WINGATE & BARROW FROM
REPRESENTING STATE OF
SOUTH CAROLINA OR
ATTORNEY GENERAL; TO
ENJOIN RUSSELL
BAUKNIGHT; TO AMEND
ANSWER FOLLOWING
DEPOSITIONS AND TO SET
DEPOSITIONS IF REQUIRED**

TO: ALL PARTIES AND THEIR ATTORNEYS:

You will please take notice that ten days after the service hereof, or as soon thereafter as counsel may be heard, and based on filings in Aiken County and the Supreme Court of South Carolina on or about May 4, 2011, an Inventory and Appraisal valuing (for the first time in the four years and four months since his death) James Brown's worldwide musical empire at \$4,697,736 – less than 1/12 of its \$84 Million fair market value – and prior filings herein, Defendant/Counterclaimant Adele J. Pope will move before the presiding judge at the Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina 29201 for an Order and injunction as follows:

- a. Disqualifying Sweeney, Wingate & Barrow (the "Sweeney Firm") as counsel for the Attorney General of the State of South Carolina (and the State of South Carolina) herein, and/or enjoining the Sweeney Firm from purporting to represent or representing the Attorney General or the State of South Carolina in this case;
- b. Enjoining Bauknight purporting to as agent for the Attorney General or the State of South Carolina;
- c. Dismissing the Attorney General and/or the State of South Carolina as a party plaintiff to this action;
- d. Setting a day certain for the depositions of former Attorney General McMaster and Attorney General Wilson should they not appear for their depositions; and
- e. Following the depositions of former Attorney General McMaster and Attorney General Wilson, granting Defendant leave to amend her answer and counterclaims and/or crossclaims, including the addition of other parties, consistent with such deposition testimony and/or the additional damages caused by Terry Brown, Bauknight, AG Jones and others in connection with the sworn devaluation of the James Brown assets to less than 1/12 of their actual value and the false allegations associated therewith.

The grounds of this motion are:

1. The contingency-fee contract entered into by former AG McMaster and the Sweeney firm, in which McMaster seeks money damages against Defendants for himself and private individuals, is illegal and void, and violates the Due Process and First Amendment rights of Defendants, rendering

the Sweeney Firm unable to represent or speak for the State of South Carolina.

2. The Sweeney Firm has an irreconcilable conflict of interest in representing the State of South Carolina and its AG, whose duty it is to protect private foundations while simultaneously representing Terry Brown in his attempt to purchase James Brown's worldwide music empire for less than \$5 Million, reducing the "I Feel Good" Trust from the \$80 Million James Brown gave to it to less than \$1 Million, as follows:

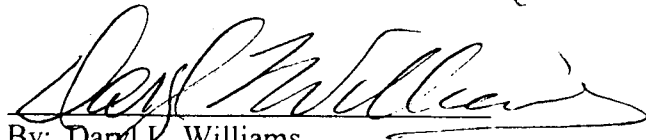
- a. To Brown's disinherited companion (18.96%) \$1,128,775
- b. To children and claimed children Brown specifically \$2,000,390
excluded from his music empire (4.79% x 7)
- c. To the Family Education Trust, rewritten by McMaster \$2,000,000
- d. **To The James Brown "I Feel Good" private foundation (47.5% LESS \$2 Million) \$ 827,292**

3. Russell Bauknight, who carried out the massive devaluation of Brown's assets for the Benefit of Terry Brown should be enjoined from purporting to speak as agent for the State of South Carolina or its Attorney General.

8. To the extent the contingency fee contract with AG McMaster gives the Sweeney Firm authority to act as an agent of the State of South Carolina, on information and belief, McMaster and the Sweeney Firm have an impermissible financial stake and interest in this case, and further, a constitutionally impermissible motivation to use the power of the State to seek money damages for their private co-plaintiffs.

This motion is based on the Affidavit of Adele J. Pope dated May 18, 2011 filed herewith, with Exhibits, including "Private Foundations, Copyright Heirs and Musical Millionaires:..." (April 2011 draft) and Chart C attached hereto; all prior motions and filing of Defendants in this case; and such additional information as shall be presented to the Court prior to the hearing on this matter.

JETER & WILLIAMS, P.A.



By: Daryl L. Williams.
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, South Carolina 29202
Telephone: (803) 765-0600
Facsimile: (803) 765-0619

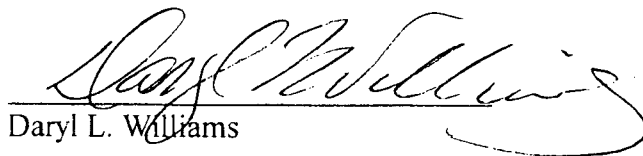
**LAW OFFICE OF ADAM T. SILVERNAIL,
LLC**



By: Adam T. Silvernail
1218 Taylor St.
Columbia, South Carolina 29201
Telephone: (803) 779-1770
Facsimile: (803) 403-8092
Attorneys for Defendant Adele J. Pope

May 18, 2011

The undersigned hereby certifies pursuant to SCRPC 11 that conferring with opposing counsel would serve no useful purpose.



Daryl L. Williams

Barrow (the "Sweeney Firm") to declare this case complex and issue a scheduling order, the proposed form of which was submitted to this Court, as follows:

1. For the reasons stated in Defendants' Motion to Dismiss and accompanying filings and affidavits, filings in the S. C. Court of Appeals and the Motion filed today to Disqualify and Enjoin the Sweeney Firm from purporting to speak for the State of South Carolina, this Motion is premature.
2. Plaintiffs are in default as to the counterclaims. Only after the depositions of former AG McMaster and AG Wilson, which Defendant Pope is attempting to schedule for July, and after a full hearing and decision on Plaintiffs/Counterclaim Defendants' motion for relief from Default will it be known whether this case is complex, or whether only a damage hearing is necessary as to the counterclaim.
3. For each and every reason stated in the Motion to Disqualify and for other Relief and attached Affidavit of Adele J. Pope dated of even date herewith, which are incorporated herein by reference.
4. Even if the parties were properly joined and the requested injunction against Sweeney Firm's attempts to represent the State and Bauknight's attempts to speak as agent for the Attorney General of South Carolina are not granted, the timeline in the scheduling order submitted in this case is wholly inconsistent with proper management of the case.
5. Within the last two weeks Defendant learned that Plaintiffs' purported expert, whose name was disclosed months ago, has rendered no opinions; prepared nothing in writing; and possibly has not even been paid the \$10,000 fee he proposed to be engaged. This failure – a full year after the suit was filed – highlights how inadequate the timeline proposed in the motion is.
6. This Defendant has noticed the depositions of Terry Brown and Tommie Rae Hynie

Brown for June 2011 and requested a date for the depositions of Plaintiff McMaster and AG Alan Wilson for July 2011.

7. Only after these four depositions are completed will it be possible to evaluate whether the case is complex and, if so, the content of an appropriate scheduling order.

8. On information and belief, the request that the case be designated complex should be temporarily denied in an order containing the following or similar language:

Defendant/Counterclaim Plaintiff Pope asserts that because substantial dispositive issues are outstanding; the parties are not yet joined; and the proposed schedule in the motion should be denied, but that Plaintiff/Counterclaim Defendants, many of whom are nonresidents of South Carolina should be deposed on days certain in an orderly manner and in the order requested by defendants.

I find that because of the sheer number of Plaintiffs, without regard to whether the case itself is complex, judicial economy and the interests of justice will be served by scheduling day-certain depositions of Plaintiff/Counterclaim defendants, with the right of any party to move for complex designation upon the conclusion of these depositions and resolution of the various dispositive motions now pending...

IT IS, THEREFORE, ORDERED...

Plaintiffs/Counterclaim Defendants shall be deposed on the following days-certain, **and in the order set out below**, in Columbia, South Carolina, at the office of Sowell, Gray, unless otherwise designated:

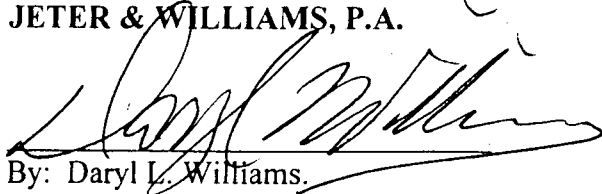
Tommie Rae Hynie	June , 2011	(California)
Terry Brown	June , 2011	
Henry D. McMaster	July , 2011	
Atty. General Alan Wilson	July , 2011	
Venisha Brown	August , 2011	
Janice Brown	August , 2011	
Jason Lewis	September , 2011	
Daryl Brown	September , 2011	
Larry Brown	October , 2011	
Russell Bauknight	November , 2011	
Deanna Thomas	December , 2011	
Yamma Lumar	December , 2011	

Each Plaintiff/Counterclaim defendant is ordered to appear at the

scheduled time and place, absent an emergency, and shall be excused from appearance only upon such emergency and upon order of this Court.

At the conclusion of above depositions and the rendering of a final decision with respect to the request for Disqualification of Counsel, Injunction and Relief from default, any party may request, if appropriate, that the Case be designated complex.

JETER & WILLIAMS, P.A.



By: Daryl L. Williams.

1204 Main Street, Suite 200

Post Office Box 7425

Columbia, South Carolina 29202

Telephone: (803) 765-0600

Facsimile: (803) 765-0619

LAW OFFICES OF ADAM T. SILVERNAIL, LLC

1218 Taylor St.

Columbia, South Carolina 29201

Telephone: (803) 779-1770

Facsimile: (803) 403-8092

Attorneys for Defendant Adele J. Pope

May 18, 2011

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; 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
Lester, Carrington Lester, 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; 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
LESTER, CARRINGTON LESTER, and
TONYA BROWN; VENISHA BROWN;
LARRY BROWN; and TERRY BROWN,

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

Plaintiffs.

)

)

v.

)

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

)

Defendants.

)

)

2011 JUN - 1 PM 12: 15
RECEIVED
COURT CLERK
CLERK OF COURT

MOTION TO COMPEL
DISCOVERY

(Deposition of Tommie Rae Brown)

TO: THE PLAINTIFF TOMMIE RAE BROWN AND HER COUNSEL.

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, pursuant to Rule 37, SCRPC, and all applicable South Carolina Rules of Civil Procedure, for an order compelling Plaintiff Tommie Rae Brown to appear at the deposition currently noticed for 9:00 a.m. on June 22, 2011 at the offices of Sousa Court Reporters, 736 4th Street, Hermosa Beach, California (or at such other date and time as the Court shall Order); awarding this Defendant Pope costs, including attorneys' fees, of this motion, and such other sanctions as the Court shall deem proper.

The grounds for this motion are as follows:

1. Plaintiffs, including Tommie Rae Brown, filed this action on May 19, 2010. Defendants have answered and counterclaimed, and Plaintiffs are currently in default as to the counterclaims.¹

2. On April 29, 2011 counsel for Defendant Pope noticed the deposition of Plaintiff Tommie Rae Brown for June 22, 2011 in Los Angeles, California. Counsel for Defendant Pope enclosed with the notice of deposition a letter offering to extend courtesies to Plaintiffs and their counsel in selecting an alternate date, if necessary.

3. On May 5, 2011 counsel for Plaintiffs responded, indicating that he was "conferring with co-counsel" regarding the scheduling of the deposition.

4. On May 17, 2011 counsel for Defendant Pope inquired via email whether Plaintiffs' counsel had come to a consensus on scheduling the depositions.

5. On May 19, 2011 counsel for Plaintiffs advised that he was "[s]till working on it."

¹ Plaintiffs have moved for relief from the entry of default, and that motion has yet to be heard.

6. On May 26, 2011 counsel for Defendant Pope again asked Plaintiffs' counsel whether the scheduled dates were workable and requested that Plaintiffs' counsel immediately provide alternative dates if June 22, 2011 did not work.

7. Also on May 26, Plaintiffs' counsel responded, stating that Tommie Rae Brown would not appear on the noticed date and providing no alternative dates for her deposition.

8. Nearly a month has elapsed since Defendant Pope noticed the deposition of Tommie Rae Brown and offered to accommodate Plaintiffs' counsel with scheduling on an alternate date, if necessary. To date, Plaintiffs have not proposed a single alternate date, but have unequivocally stated that Ms. Brown will not appear at the noticed deposition.

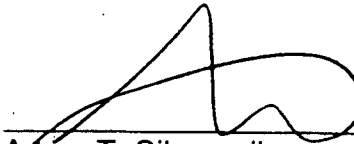
9. This case has been pending for more than a year, and no depositions have been taken. It is necessary that discovery proceed, so that dispositive motions may be heard.

10. Defendant Adele J. Pope is informed and believes that she is entitled to an Order compelling the above-named Plaintiffs to comply with Rule 30, as well as all costs associated with this motion, including attorneys' fees, as provided for in Rule 37(a)(4).

The above motion is based on the South Carolina Rules of Civil Procedure, especially Rules 30 and 37, applicable case and statutory law, the Affidavit of Adam T. Silvernail, filed herewith, the Affidavit of Adele J. Pope to be filed in support of this motion, and such additional documentation as shall come before the Court prior to the hearing on this matter.

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 27, 2011

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

)

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; 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
Lester, Carrington Lester, 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; 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
LESTER, CARRINGTON LESTER, and
TONYA BROWN; VENISHA BROWN;
LARRY BROWN; and TERRY BROWN,

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

Plaintiffs.

)

)

v.

)

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

)

)

)

)

2011 JUN - 1 PM 12:15
RECEIVED
CLERK OF COURT

MOTION TO COMPEL
DISCOVERY

(Deposition of Tommie Rae Brown)

TO: THE PLAINTIFF TOMMIE RAE BROWN AND HER COUNSEL.

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, pursuant to Rule 37, SCRCP, and all applicable South Carolina Rules of Civil Procedure, for an order compelling Plaintiff Tommie Rae Brown to appear at the deposition currently noticed for 9:00 a.m. on June 22, 2011 at the offices of Sousa Court Reporters, 736 4th Street, Hermosa Beach, California (or at such other date and time as the Court shall Order); awarding this Defendant Pope costs, including attorneys' fees, of this motion, and such other sanctions as the Court shall deem proper.

The grounds for this motion are as follows:

1. Plaintiffs, including Tommie Rae Brown, filed this action on May 19, 2010. Defendants have answered and counterclaimed, and Plaintiffs are currently in default as to the counterclaims.¹
2. On April 29, 2011 counsel for Defendant Pope noticed the deposition of Plaintiff Tommie Rae Brown for June 22, 2011 in Los Angeles, California. Counsel for Defendant Pope enclosed with the notice of deposition a letter offering to extend courtesies to Plaintiffs and their counsel in selecting an alternate date, if necessary.
3. On May 5, 2011 counsel for Plaintiffs responded, indicating that he was "conferring with co-counsel" regarding the scheduling of the deposition.
4. On May 17, 2011 counsel for Defendant Pope inquired via email whether Plaintiffs' counsel had come to a consensus on scheduling the depositions.
5. On May 19, 2011 counsel for Plaintiffs advised that he was "[s]till working on it."

¹ Plaintiffs have moved for relief from the entry of default, and that motion has yet to be heard.

6. On May 26, 2011 counsel for Defendant Pope again asked Plaintiffs' counsel whether the scheduled dates were workable and requested that Plaintiffs' counsel immediately provide alternative dates if June 22, 2011 did not work.

7. Also on May 26, Plaintiffs' counsel responded, stating that Tommie Rae Brown would not appear on the noticed date and providing no alternative dates for her deposition.

8. Nearly a month has elapsed since Defendant Pope noticed the deposition of Tommie Rae Brown and offered to accommodate Plaintiffs' counsel with scheduling on an alternate date, if necessary. To date, Plaintiffs have not proposed a single alternate date, but have unequivocally stated that Ms. Brown will not appear at the noticed deposition.

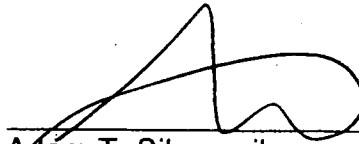
9. This case has been pending for more than a year, and no depositions have been taken. It is necessary that discovery proceed, so that dispositive motions may be heard.

10. Defendant Adele J. Pope is informed and believes that she is entitled to an Order compelling the above-named Plaintiffs to comply with Rule 30, as well as all costs associated with this motion, including attorneys' fees, as provided for in Rule 37(a)(4).

The above motion is based on the South Carolina Rules of Civil Procedure, especially Rules 30 and 37, applicable case and statutory law, the Affidavit of Adam T. Silvernail, filed herewith, the Affidavit of Adele J. Pope to be filed in support of this motion, and such additional documentation as shall come before the Court prior to the hearing on this matter.

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 27, 2011

Attorneys for Defendant Adele J. Pope

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 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 B[REDACTED]; 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 L[REDACTED] and Carrington L[REDACTED]; 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 B[REDACTED]; 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 L[REDACTED] and CARRINGTON L[REDACTED]; 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

PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER AND/OR
MOTION TO QUASH THE
DEPOSITION NOTICE OF
TOMMIE RAE BROWN

2011 JUN -1 AM 10:57
C.C.F. E. 1000

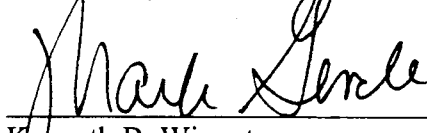
TO: DEFENDANTS AND THEIR ATTORNEYS:

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs above-named, by their undersigned attorneys, will move before the Presiding Judge of the Richland County Court of Common Pleas at the Richland County Judicial Center at 9:00 a.m. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for a Protective Order and/or to Quash the Deposition Notice of Tommie Rae Brown.

The grounds for this Motion are that defense counsel noticed the depositions without consulting with Plaintiffs' counsel and attempts to agree on a date and location for the deposition are not concluded. Second, since noticing the deposition, defense counsel has moved this Court for an Order disqualifying Plaintiffs' counsel from appearing in this matter. This Motion may be supported by a Memorandum of Law, Affidavits, or other information.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
Mark V. Gende
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

May 31, 2011

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS

) FIFTH JUDICIAL CIRCUIT

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 B. ~~Q~~; 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

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 B. ~~Q~~;
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,

Plaintiffs,

vs.

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

Defendants.

) Civil Action No.: 2010-CP-40-4900

DEFENDANT ROBERT L.
BUCHANAN, JR.'S MOTION TO
COMPEL

2011 JUL - 1 PM 3:15
JEANE C.C.P. & G. DE

TO: ATTORNEYS FOR THE ABOVE-NAMED PLAINTIFFS:

YOU WILL PLEASE TAKE NOTICE that Defendant Robert L. Buchanan, Jr., by and through undersigned counsel, will move before the presiding Judge of the Richland County Court of Common Pleas on the tenth (10th) day after service hereof or as soon thereafter as counsel may be heard for an Order compelling complete and full responses to Buchanan's First Set of Interrogatories to Plaintiffs and Buchanan's Second Request for Production to Plaintiffs pursuant to Rule 37(a) of the South Carolina Rules of Civil Procedure, upon the following grounds:

1. This action was commenced with the filing of the Summons and Complaint in the Court of Common Pleas, Richland County, State of South Carolina, on May 19, 2010.
2. Buchanan's First Set of Interrogatories to Plaintiffs was served upon Plaintiffs, through its counsel, via Hand Delivery, on December 9, 2010 (**Exhibit A**).
3. Buchanan's Second Requests for Production to Plaintiffs was served upon Plaintiffs, through its counsel, via Hand Delivery, on December 9, 2010 (**Exhibit B**).
4. On January 11, 2011, Plaintiffs served partial and incomplete responses to Buchanan's First Set of Interrogatories and Second Requests for Production and asserted unfounded objections relating to matters directly at issue in this case.
5. On numerous occasions, including by letter dated March 25, 2011, undersigned counsel communicated with Plaintiffs' counsel seeking to resolve Plaintiffs' failure to provide full and complete responses. To date, however, Plaintiffs has failed to respond fully to these requests for production and interrogatories which simply seek basic information about claims alleged in Plaintiff's Complaint filed over one year ago.

Defendant Buchanan, therefore, requests that the this Court issue an Order compelling plaintiff to respond completely to Buchanan's First Set of Interrogatories and Second Requests

for Production of Documents and that Plaintiffs be required to pay reasonable expenses incurred in obtaining this Order, including reasonable attorney's fees. This Motion is supported by the documents attached as Exhibits A and B and other materials previously filed with this Court. This Motion is also supported by South Carolina law as well as a Memorandum of Law, affidavits and other documentation which Defendant Robert L. Buchanan, Jr., may submit to the Court

I affirm that prior to the filing of this motion, I have communicated with counsel for Plaintiffs and have attempted in good faith to resolve this matter.

SOWELL GRAY STEPP & LAFFITTE, L.L.C.

By: _____

J. Calhoun Watson
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Defendant Robert L. Buchanan, Jr.

Columbia, South Carolina
July 1, 2011

EXHIBIT A

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
)
) FIFTH JUDICIAL CIRCUIT

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 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

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 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,

Plaintiffs,

vs.

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

Defendants.

Civil Action No.: 2010-CP-40-4900

DEFENDANT ROBERT L.
BUCHANAN, JR.'S FIRST SET OF
INTERROGATORIES TO
PLAINTIFFS

TO: EVERETT A. KENDALL, II, ESQUIRE, AND KENNETH B. WINGATE, ESQUIRE, OF THE LAW FIRM OF SWEENEY, WINGATE & BARROW, P.A., ATTORNEYS FOR THE PLAINTIFFS:

The Defendant Robert L. Buchanan, Jr., herewith serves upon and requests that the plaintiffs respond to the following First Set of Interrogatories under oath, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, and that responses be served upon the undersigned attorneys for this defendant within thirty (30) days from the date of service of these Interrogatories upon the plaintiff. After responding to the following Interrogatories, should further information called for therein come to the plaintiff's knowledge, or the knowledge of plaintiff's counsel, plaintiff is required to properly transmit such other information, by supplemental responses to the Interrogatories, to these undersigned attorneys in accordance with Rule 26(e) of the South Carolina Rules of Civil Procedure.

DEFINITIONS

The following definitions apply to these Interrogatories:

- A. The terms "you" and "your" when used herein refer to the plaintiffs above named;
- B. The term "identify" when used herein in connection with natural persons means to state their full name, title and job description, if applicable, and their present business and resident addresses (this term applies to all individuals);
- C. The term "identify" when used in connection with business entities means to state the business name and present address of each said entity;
- D. When the Interrogatory asks for a description or identification of a document, the response shall be given in sufficient detail to enable a party or person to whom a subpoena or request to produce documents is directed to identify fully the document sought to be produced

and to enable counsel for the defendant to determine that such documents, when produced, are in fact the documents so described; and

E. The term "document" when used herein, means all original writings of any nature or kind whatsoever and all identical copies thereof, in your possession, custody or control regardless of where located, and all other documents of which you have knowledge and includes, but is not limited to, correspondence, diagrams, or other written communications, data processing storage units, tapes, contracts, agreements, notes, schedules, summaries, compilations, analysis, memoranda, indices, work papers, studies, surveys, internal and external reports, diaries, calendars, films, photographs, minutes of meetings, invoices, receipts, bills, orders, confirmations, bills of lading, delivery receipts, and other documents as identified in Rule 34 of the South Carolina Rules of Civil Procedure. In all cases where original and/or nonidentical copies are available, "documents" also means copies thereof.

STANDARD INTERROGATORIES AS TO ALL PLAINTIFFS

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses, and indicate who has possession of such statements.

2. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claim or defense in the case.

3. In cases involving personal injury set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with said injuries and also set forth a statement of all medical costs involved.

4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim, and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

5. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

6. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case and outline in detail the following:

- a. His or her qualifications to testify;
- b. A description of the subject matter on which each expert is expected to testify;
- c. A description of the facts on which each expert is expected to rely in testifying; and
- d. Set forth the opinions and conclusions to which each expert is expected to testify.

7. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

GENERAL INTERROGATORIES AS TO ALL PLAINTIFFS

1. Describe all computers and/or computer systems on which each Plaintiff has performed or created any documents or electronic communications in connection with litigation involving the Estate of James Brown, the administration thereof, the Last Will and Testament of James Brown, and the Irrevocable Trust, and this litigation.

2. Please describe any electronic or written documents responsive to the requests for production and/or that contain information responsive to these interrogatories that you claim have been deleted or destroyed and describe the manner in which these documents were destroyed and the reasons why you contend these documents were destroyed.

3. For each instance of Defendants' alleged failure, misconduct, action, or inaction alleged in Paragraph 18 of the Complaint, specify each fact which you contend evidences or substantiates the allegations contained in each subparagraph.

4. For each instance of Defendants' alleged failure, misconduct, action, or inaction alleged in Paragraph 18 of the Complaint, identify each witness, including name, address, and telephone number, whose testimony you contend evidences or substantiates the allegations contained in each subparagraph.

5. For each instance of Defendants' alleged failure, misconduct, action, or inaction alleged in Paragraph 18 of the Complaint, identify sufficiently to be designated in a Request for Production of Documents, all written or electronic documents, correspondence, files, bills, or other papers, writings, or things which evidence or substantiate the allegations contained in each subparagraph.

6. Specify each requirement of the South Carolina Uniform Prudent Investor Act with which Plaintiffs allege that Defendants failed to comply as alleged in Paragraph 18 of the Complaint.

7. Identify each component, by amount and nature of loss, of all damages that Plaintiffs allegedly incurred as a result of the actions or inactions of Defendant Robert L. Buchanan, Jr.

8. Identify sufficiently to be designated in a Request for Production of Documents, all written or electronic documents, correspondence, files, invoices, or other papers, writings, or things which substantiates each component, by amount and nature of loss, of all damages Plaintiff claims to have incurred as a result of the actions or inactions of Defendant Robert L. Buchanan, Jr.

GENERAL INTERROGATORIES AS TO THE ATTORNEY GENERAL

9. Specify each step or action taken by Plaintiff Attorney General, or any of his agents, to conduct due diligence or other investigation regarding claims made by Plaintiff Tommie Rae Brown, including but not limited to claims of elective share or omitted spouse.

10. Specify each step or action taken by Plaintiff Attorney General, or any of his agents, to conduct due diligence or other investigation regarding Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

11. Specify each document reviewed by Plaintiff Attorney General, or any of his agents, in connection with the due diligence or investigation conducted by the Attorney General regarding claims made by Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

12. Specify each document received, but not reviewed, by Plaintiff Attorney General, or any of his agents, in connection with the due diligence or investigation conducted by the Attorney General on the issues of claims made by Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

13. Specify each document relied upon by Plaintiff Attorney General, or any of his agents, for any determinations reached by the Attorney General regarding claims made by

Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

14. Specify each witness or person interviewed by Plaintiff Attorney General, or any of his agents, on the issues of claims made by Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

15. For each person identified above, specify the date of the interview and any written or electronic documents which indicate or reflect the substance of the interview.

16. In conducting due diligence or investigation of Tommie Rae Brown's claims, or for any other purpose, did the Attorney General or any of his agents review Tommie Rae Brown's diary or any portion thereof?

GENERAL INTERROGATORIES AS TO TOMMIE RAE HYNIE BROWN

9. Identify sufficiently to be designated in a Request for Production of Documents each document requested by Plaintiff Attorney General or his agents regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to claims of elective share and omitted spouse, and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

10. Identify sufficiently to be designated in a Request for Production of Documents each document provided to Plaintiff Attorney General or his agents regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to claims of elective share and omitted spouse, and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

11. To the extent a document was requested by Plaintiff Attorney General or his agents but not provided to the Attorney General, specify each reason the document was not provided.

GENERAL INTERROGATORIES AS TO RUSSELL L. BAUKNIGHT

9. Specify all actions taken to date by Russell Bauknight to enhance the value of James Brown's image and persona.

10. Specify all actions taken to date by Russell Bauknight to enhance the royalty revenue related to James Brown.

11. Specify all actions taken to date by Russell Bauknight to value the assets of James Brown (whether now owned by his Estate or the 2000 Irrevocable Trust) as of the date of his death.

12. To the extent any designated beneficiary of the Grandchildren's Education Trust (a sub-trust of the 2000 Irrevocable Trust) has made a request for tuition payments and other educational expenses, please specify the date of the request, the amount of the request, the purpose of the request, and the person making the request.

**GENERAL INTERROGATORIES AS TO EACH PLAINTIFF OTHER THAN
ATTORNEY GENERAL, TOMMIE RAE BROWN, AND BAUKNIGHT**

9. Identify sufficiently to be designated in a Request for Production of Documents each document requested from you by Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

10. Identify sufficiently to be designated in a Request for Production of Documents each document provided by you to Plaintiff Attorney General regarding any and all claims made

by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

11. Identify sufficiently to be designated in a Request for Production of Documents each document requested from you by Plaintiff Attorney General regarding any and all claims of Plaintiffs concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

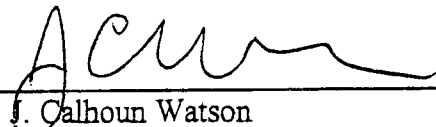
12. Identify sufficiently to be designated in a Request for Production of Documents each document provided by you to Plaintiff Attorney General regarding any and all claims of Plaintiffs concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

13. To the extent a document was requested from you by Plaintiff Attorney General but you did not provide to the Attorney General, specify each reason the document was not provided.

These Interrogatories shall be deemed continuing so as to require supplemental responses prior to trial.

SOWELL GRAY STEPP & LAFFITTE, L.L.C.

By: _____


J. Calhoun Watson
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Defendant Robert L. Buchanan, Jr.

Columbia, South Carolina
December 9, 2010

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant, of the law offices of Sowell Gray Stepp & Laffitte, L.L.C., attorneys for *defendant Robert L. Buchanan, Jr.*, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by HAND DELIVERING a copy of the same to the following address(es):

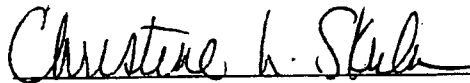
Pleadings:

**DEFENDANT ROBERT L. BUCHANAN, JR.'S FIRST SET
OF INTERROGATORIES TO PLAINTIFFS**

Counsel Served:

VIA HAND DELIVERY

Everett A. Kendall, II, Esquire
Kenneth B. Wingate, Esquire
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
Columbia, SC 29201
(803) 256-2233
Attorneys for Plaintiffs



Christine L. Skalamera

December 9, 2010

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS

) FIFTH JUDICIAL CIRCUIT

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 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

) Civil Action No.: 2010-CP-40-4900

) **DEFENDANT ROBERT L.**
) **BUCHANAN, JR.'S SECOND**
) **REQUEST FOR PRODUCTION TO**
) **PLAINTIFFS**

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 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,

Plaintiffs,

vs.

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

Defendants.

TO: EVERETT A. KENDALL, II, ESQUIRE, AND KENNETH B. WINGATE, ESQUIRE, OF THE LAW FIRM OF SWEENEY, WINGATE & BARROW, P.A., ATTORNEYS FOR THE PLAINTIFFS:

The Defendant Robert L. Buchanan, Jr., herewith serves upon and requests that the plaintiffs respond to the following Second Request for Production under oath, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, and that responses be served upon the undersigned attorneys for this defendant within thirty (30) days from the date of service of these Requests upon the plaintiff. After responding to the following Requests, should further information called for therein come to the plaintiff's knowledge, or the knowledge of plaintiff's counsel, plaintiff is required to properly transmit such other information, by supplemental responses to the Requests to these undersigned attorneys in accordance with Rule 26 of the South Carolina Rules of Civil Procedure.

DEFINITIONS

The following definitions apply to these Requests:

A. The terms "you" and "your" when used herein refer to the plaintiffs above named;

B. The term "identify" when used herein in connection with natural persons means to state their full name, title and job description, if applicable, and their present business and resident addresses (this term applies to all individuals);

C. The term "identify" when used in connection with business entities means to state the business name and present address of each said entity;

D. When the Request asks for a description or identification of a document, the response shall be given in sufficient detail to enable a party or person to whom a subpoena or request to produce documents is directed to identify fully the document

sought to be produced and to enable counsel for the defendant to determine that such documents, when produced, are in fact the documents so described; and

E. The term "document" when used herein, means all original writings of any nature or kind whatsoever and all identical copies thereof, in your possession, custody or control regardless of where located, and all other documents of which you have knowledge and includes, but is not limited to, correspondence, diagrams, or other written communications, data processing storage units, tapes, contracts, agreements, notes, schedules, summaries, compilations, analysis, memoranda, indices, work papers, studies, surveys, internal and external reports, diaries, calendars, films, photographs, minutes of meetings, invoices, receipts, bills, orders, confirmations, bills of lading, delivery receipts, and other documents as identified in Rule 34 of the South Carolina Rules of Civil Procedure. In all cases where original and/or nonidentical copies are available, "documents" also means copies thereof.

REQUESTS FOR PRODUCTION AS TO ATTORNEY GENERAL

1. Copies of all written or electronic Joint Representation Agreements (or other similar agreements) between or among Plaintiff Attorney General and any other Plaintiff(s) relating to this action.

2. Copies of all written or electronic Joint Representation Agreements (or other similar agreements) between or among Plaintiff Attorney General and any party relating to any action or proceeding arising from, or related to, the Last Will and Testament of James Brown and/or the 2000 Irrevocable Trust of James Brown.

3. All written or electronic documents which reflect or indicate the due diligence or other investigation conducted by Plaintiff Attorney General or any of his

agents regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

4. All written or electronic documents which reflect or indicate the due diligence or other investigation conducted by Plaintiff McMaster or any of his agents regarding any allegations made by any party or by any Plaintiff in this action concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

5. All manuals, checklists, questionnaires, or other instructional materials used by Plaintiff McMaster or any of his agents in conducting due diligence or otherwise investigating legal or factual matters.

6. All written or electronic documents requested and received from any source by Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

7. All written or electronic documents requested and received from any source by Plaintiff Attorney General or any of his agents regarding any and all claims concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

8. All documents referenced or identified in Plaintiff's Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

REQUESTS FOR PRODUCTION AS TO TOMMIE RAE HYNIE BROWN

9. Any and all diaries or journals prepared by or for Plaintiff Tommie Rae Hynie Brown between August 1, 2000, and December 25, 2006.

10. Any and all written or electronic documents indicating, summarizing, or listing the documents requested by Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

11. Any and all written or electronic documents provided to Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

12. All documents referenced or identified in Plaintiff's Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

REQUESTS FOR PRODUCTION AS TO RUSSELL L. BAUKNIGHT

13. All written or electronic documents which indicate requests for tuition payments or other educational expenses made to you by Forlando Brown from Grandchildren's Education Trust (a sub-trust of the 2000 Irrevocable Trust).

14. All written or electronic documents which reflect or indicate requests for tuition payments or other educational expenses made to you from Grandchildren's Education Trust (a sub-trust of the 2000 Irrevocable Trust).

15. All written or electronic documents which you contend indicate actions taken by you to enhance the value of James Brown's image and persona.

16. All written or electronic documents which you contend indicate actions taken by you to enhance the royalty revenue related to James Brown.

17. All documents referenced or identified in Plaintiff's Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

REQUESTS FOR PRODUCTION AS EACH OF THE PLAINTIFFS OTHER THAN MCMASTER, TOMMIE RAE HYNIE BROWN, AND BAUKNIGHT

18. Any and all written or electronic documents indicating, summarizing, or listing the documents requested by Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

19. Any and all written or electronic documents provided by you to Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

20. Any and all written or electronic documents indicating, summarizing, or listing the documents requested by Plaintiff Attorney General regarding any and all claims concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

21. Any and all written or electronic documents provided by you to Plaintiff Attorney General regarding any and all claims concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

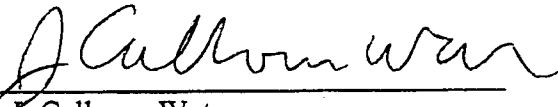
22. All documents referenced or identified in Plaintiff's Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

If you contend any item need not be produced, identify such item and set forth the basis for your failure to produce same.

It is requested that this production be made within thirty (30) days after the date of service of this Request at the office of Sowell Gray Stepp & Laffitte, L.L.C., 1310 Gadsden Street, Columbia, South Carolina 29201. Visual inspection and copies may be made of any and all documents.

SOWELL GRAY STEPP & LAFFITTE, L.L.C.

By: _____


J. Calhoun Watson
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

**Attorneys for Defendant Robert L. Buchanan,
Jr.**

Columbia, South Carolina
December 9, 2010

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant, of the law offices of Sowell Gray Stepp & Laffitte, L.L.C., attorneys for *defendant Robert L. Buchanan, Jr.*, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by HAND DELIVERING a copy of the same by United States Mail, postage prepaid, to the following address(es):

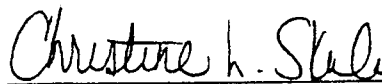
Pleadings:

**DEFENDANT ROBERT L. BUCHANAN, JR.'S
SECOND REQUESTS FOR PRODUCTION TO
PLAINTIFFS**

Counsel Served:

VIA HAND DELIVERY

Everett A. Kendall, II, Esquire
Kenneth B. Wingate, Esquire
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
Columbia, SC 29201
(803) 256-2233
Attorneys for Plaintiffs



Christine L. Skalamera

December 9, 2010

EXHIBIT B

**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 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; 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 L. and Carrington L.; 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; 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 L. and CARRINGTON L.; 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 JUDICIAL CIRCUIT**

Civil Action No. 2010-CP-40-4900

**PLAINTIFFS' ANSWERS
TO ROBERT L. BUCHANAN, JR.'S
FIRST SET OF INTERROGATORIES**

TO: DEFENDANTS AND THEIR ATTORNEYS:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the following constitute

Plaintiffs' Answers to First Set of Interrogatories to Plaintiffs propounded by Defendant Robert L.

Buchanan, Jr.

STANDARD INTERROGATORIES AS TO ALL PLAINTIFFS

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses, and indicate who has possession of such statements.

ANSWER:

See "Witness List" attached hereto. Additional information will be provided by supplemental response when it becomes available.

2. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER:

Responding Plaintiff does not have information responsive to this Interrogatory.

3. In cases involving personal injury set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with said injuries and also set forth a statement of all medical costs involved.

ANSWER:

This is not a personal injury case.

4. Set forth the names and addresses of all insurance companies which have insurance coverage relating to the claim, and set forth the number or numbers of the involved and the amount or amounts of liability coverage provided in each policy.

ANSWER:

The Plaintiffs have no information concerning Defendants' liability insurance other than what has been provided by the Defendants themselves.

5. Set forth an itemized statement of all damages, exclusive of pain have been sustained by the party.

ANSWER:

Plaintiffs do not yet have sufficient information to calculate the damages they suffered as a result of Defendants' acts and omissions.

6. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case and outline in detail the following:

- a. His or her qualifications to testify;
- b. A description of the subject matter on which each expert is expected to testify;
- c. A description of the facts on which each expert is expected to rely in testifying; and
- d. Set forth the opinions and conclusions to which each expert is expected to testify.

ANSWER:

- (a) **Tiffany Provence**
Provence Messervy LLC
117 W 7th North Street
Summerville, SC 29483-6618

Ms. Provence has been retained to review the documents, testimony and other relevant information related to the allegations set forth in the Complaint. She is expected to offer opinion testimony concerning the

standard of care applicable to a Personal Representative and to a Trustee, the ethical considerations involved in serving as a fiduciary under the facts of this case, and whether the Defendants have met the standard of care or ethical obligations in this case. Ms. Provence has not yet formulated her opinion.

(b) **Mark T. Hobbs, CPA**
The Hobbs Group, P.A.
1704 Laurel Street
Columbia, SC 29201

Mr. Hobbs has been retained to review the documents, testimony and other relevant information related to the allegations set forth in the Complaint. He is expected to offer opinion testimony concerning damages sustained by the Plaintiffs as a result of the acts or omissions of the defendants. Mr. Hobbs has not yet formulated his opinion.

7. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER:

See Answer to Interrogatory No. 1, above.

GENERAL INTERROGATORIES AS TO ALL PLAINTIFFS

1. Describe all computers and/or computer systems on which each Plaintiff has performed or created any documents or electronic communications in connection with litigation involving the Estate of James Brown, the administration thereof, the Last Will and Testament of James Brown, and the Irrevocable Trust, and this litigation.

OBJECTION: Plaintiffs object to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of

admissible evidence. Moreover, this interrogatory is overly broad in scope and will impose an undue burden on the Plaintiffs in responding.

2. Please describe any electronic or written documents responsive to the requests for production and/or that contain information responsive to these interrogatories that you claim have been deleted or destroyed and describe the manner in which these documents were destroyed and the reasons why you contend these documents were destroyed.

ANSWER: Plaintiffs are not aware that any such documents have been destroyed.

3. For each instance of Defendants' alleged failure, misconduct, action, or inaction alleged in Paragraph 18 of the Complaint, specify each fact which you contend evidences or substantiates the allegations contained in each subparagraph.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Moreover, the Interrogatory is a contention interrogatory that is prematurely posed. Plaintiffs have neither finished their investigation nor engaged in sufficient discovery to provide a full list of all responsive facts.

ANSWER: See facts alleged in the Complaint.

4. For each instance of Defendants' alleged failure, misconduct, action, or inaction alleged in Paragraph 18 of the Complaint, identify each witness, including name, address, and telephone number; whose testimony you contend evidences or substantiates the allegations contained in each subparagraph.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks

information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Moreover, the Interrogatory is a contention interrogatory that is prematurely posed. Plaintiffs have neither finished their investigation nor engaged in sufficient discovery to provide a full list of all responsive witnesses.

ANSWER: See "Witness List" attached hereto.

5. For each instance of Defendants' alleged failure, misconduct, action, or inaction alleged in Paragraph 18 of the Complaint identify sufficiently to be designated in a Request for Production of Documents, all written or electronic documents, correspondence, files, bills, or other papers, writings, or things which evidence or substantiate the allegations contained in each subparagraph.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Moreover, the Interrogatory is a contention interrogatory that is prematurely posed. Plaintiffs have neither finished their investigation nor engaged in sufficient discovery to provide a full list of all responsive documents.

ANSWER: Documents which may be responsive to this Interrogatory will be made available for inspection and/or copying at a time and place mutually convenient to the parties' counsel. Additional documents may be in the possession of the Defendants.

6. Specify each requirement of the South Carolina Uniform Prudent Investor Act with which Plaintiffs allege that Defendants failed to comply as alleged in Paragraph 18 of the Complaint.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks

information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Moreover, the Interrogatory is a contention interrogatory that is prematurely posed. Plaintiffs have neither finished their investigation nor engaged in sufficient discovery to provide a full list of all responsive facts.

ANSWER: See facts alleged in the Complaint.

7. Identify each component, by amount and nature of loss, of all damages that Plaintiffs allegedly incurred as a result of the actions or inactions of Defendant Robert L. Buchanan, Jr.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Moreover, the Interrogatory is a contention interrogatory that is prematurely posed. Plaintiffs have neither finished their investigation nor engaged in sufficient discovery to provide a full list of all responsive facts.

ANSWER: See facts alleged in the Complaint. Plaintiffs do not have sufficient information to calculate fully the damage incurred.

8. Identify sufficiently to be designated in a Request for Production of Documents, all written or electronic documents, correspondence, files, invoices, or other papers, writings, or things which substantiates each component, by amount and nature of loss, of all damages Plaintiff claims to have incurred as a result of the actions or inactions of Defendant Robert L. Buchanan, Jr.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product

Doctrine. Moreover, the Interrogatory is a contention interrogatory that is prematurely posed. Plaintiffs have neither finished their investigation nor engaged in sufficient discovery to provide a full list of all responsive documents.

ANSWER: See facts alleged in the Complaint. Plaintiffs do not have sufficient information to calculate fully the damage incurred.

GENERAL INTERROGATORIES AS TO THE ATTORNEY GENERAL

9. Specify each step or action taken by Plaintiff Attorney General, or any of his agents, to conduct due diligence or other investigation regarding claims made by Plaintiff Tommie Rae Brown, including but not limited to claims of elective share or omitted spouse.

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

10. Specify each step or action taken by Plaintiff Attorney General, or any of his agents, to conduct due diligence or other investigation regarding Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

11. Specify each document reviewed by Plaintiff Attorney General, or any of his agents, in connection with the due diligence or investigation conducted by the Attorney General regarding claims made by Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

12. Specify each document received, but not reviewed, by Plaintiff Attorney General, or any of his agents, in connection with the due diligence or investigation conducted by the Attorney General on the issues of claims made by Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

13. Specify each document relied upon by Plaintiff Attorney General, or any of his agents, for any determinations reached by the Attorney General regarding claims made by Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of

capacity of James Brown on or about August 1, 2000.

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

14. Specify each witness or person interviewed by Plaintiff Attorney General, or any of his agents, on the issues of claims made by Tommie Rae Brown and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

15. For each person identified above, specify the date of the interview and any written or electronic documents which indicate or reflect the substance of the interview.

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

16. In conducting due diligence or investigation of Tommie Rae Brown's claims, or for any other purpose, did the Attorney General or any of his agents review Tommie Rae Brown's diary or any portion thereof?

OBJECTION: The Attorney General objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. The Attorney General objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

GENERAL INTERROGATORIES AS TO TOMMIE RAE HYNIE BROWN

9. Identify sufficiently to be designated in a Request for Production of Documents each document requested by Plaintiff Attorney General or his agents regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to claims of elective share and omitted spouse, and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: Ms. Brown objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Ms. Brown objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

10. Identify sufficiently to be designated in a Request for Production of Documents each document provided to Plaintiff Attorney General or his agents regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to claims of elective

share and omitted spouse, and/or Plaintiffs' allegations concerning undue influence and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: Ms. Brown objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Ms. Brown objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

11. To the extent a document was requested by Plaintiff Attorney General or his agents but not provided to the Attorney General, specify each reason the document was not provided.

OBJECTION: Ms. Brown objects to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Ms. Brown objects to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

GENERAL INTERROGATORIES AS TO RUSSELL L. BAUKNIGHT

9. Specify all actions taken to date by Russell Bauknight to enhance the value of James Brown's image and persona.

OBJECTION: Plaintiff objects to this Interrogatory on the grounds that it seeks information not relevant to any issue in this litigation, is not narrowly tailored to lead to the discovery of admissible evidence, and of a highly confidential nature.

10. Specify all actions taken to date by Russell Bauknight to enhance the royalty revenue related to James Brown.

OBJECTION: Plaintiff objects to this Interrogatory on the grounds that it seeks information not relevant to any issue in this litigation, is not narrowly tailored to lead to the discovery of admissible evidence, and of a highly confidential nature.

11. Specify all actions taken to date by Russell Bauknight to value the assets of James Brown (whether now owned by his Estate or the 2000 Irrevocable Trust) as of the date of his death.

OBJECTION: Plaintiff objects to this Interrogatory on the grounds that it seeks information not relevant to any issue in this litigation, is not narrowly tailored to lead to the discovery of admissible evidence, and of a highly confidential nature.

12. To the extent any designated beneficiary of the Grandchildren's Education Trust (a sub-trust of the 2000 Irrevocable Trust) has made a request for tuition payments and other educational expenses, please specify the date of the request, the amount of the request, the purpose of the request, and the person making the request.

OBJECTION: Plaintiff objects to this Interrogatory on the grounds that it seeks information not relevant to any issue in this litigation, is not narrowly tailored to lead to the discovery of admissible evidence, and of a highly confidential nature.

**GENERAL INTERROGATORIES AS TO EACH PLAINTIFF OTHER THAN
ATTORNEY GENERAL, TOMMIE RAE BROWN, AND BAUKNIGHT**

9. Identify sufficiently to be designated in a Request for Production of Documents

each document requested from you by Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Plaintiffs object to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

10. Identify sufficiently to be designated in a Request for Production of Documents each document provided by you to Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Plaintiffs object to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

11. Identify sufficiently to be designated in a Request for Production of Documents each document requested *from* you by Plaintiff Attorney General regarding any and all claims of Plaintiffs concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks

information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Plaintiffs object to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

12. Identify sufficiently to be designated in a Request for Production of Documents each document provided by you to Plaintiff Attorney General regarding any and all claims of Plaintiffs concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

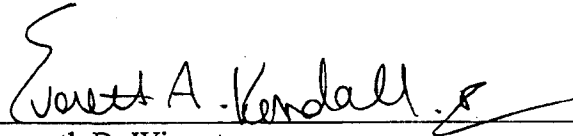
OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Plaintiffs object to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

13. To the extent a document was requested from you by Plaintiff Attorney General but you did not provide to the Attorney General, specify each reason the document was not provided.

OBJECTION: Plaintiffs object to this Interrogatory on the grounds that it seeks information protected by the Attorney-Client privilege and/or the Attorney Work-Product Doctrine. Plaintiffs object to this Interrogatory that it seeks information not relevant to any issue in this litigation and is not narrowly tailored to lead to the discovery of admissible evidence.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in cursive script, reading "Everett A. Kendall, II", written over a horizontal line.

Kenneth B. Wingate
Everett A. Kendall, II
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
January 11, 2011

Witness List

11/12/2010

Full Name	Addresses
Jeff Allen	145 West 57 Street 15th Floor New York NY 10019
Russell L. Bauknight	1517 Gervais St. P.O. Box 1330 Columbia, SC 29202
Jim Blackwell	3455 Peachtree Road NE, Suite 1700 Atlanta, GA 30326
Charles Bobbitt	3280 Golf-Linx Drive Snellville, GA 30039
Daryl J. Brown	1120 Court Drive, Apt. R Duluth, GA 30096
Forlando J. Brown	156 Liberty Hill Road Eastanollee, GA 30538
Larry Brown	110 Dresden Drive Martinez, GA 30907
Terry Brown	156 Liberty Hill Road Eastanollee, GA 30538
Tonya Brown	2417 Castlewood Dr. Augusta, GA 30904
Vanisha Brown	P.O. Box 652 Clearwater, SC 29822
Yamma N. Brown	305 Legran Bend Atlanta, GA 30328
Deanna J. Brown-Thomas	P.O. Box 652 Clearwater, SC 29822
Robert L. Buchanan	212 Newberry St., NW P.O. Box 463 Aiken, SC 29802-0463
David G. Cannon	9459 Marlboro Ave Barnwell, SC 29812-1962
Frank Copsidas	601 West 26th Street Suite 1080 New York, NY 10001
Albert H. Dallas	304 Black Street Thomson, GA 30824-2919
William F. Hammond	P.O. Box 1564 Augusta, GA 30903-1564
Tommie Ray Hynie-Brown	Los Angeles, CA
Joel A. Katz	3290 Northside Parkway, Ste 400 Atlanta, GA 30326
Adele J. Pope	1228 Walnut ST Newberry, SC 29180
Al Sharpton	106 West 145th Street New York, NY 10039
William H. Tucker	111 Park Ave, SW Aiken, SC 29801
Alvin Waters	Atlanta, GA
Calvin Waters	Atlanta, GA
Andre White	5122 Hunters Luck Stone Mountain, GA 30088

Witness List

11/12/2010

Full Name	Addresses
Andre White	75 Piedmont Ave NE Atlanta, GA 30303

CERTIFICATE OF SERVICE

I, the undersigned 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 **PLAINTIFFS' ANSWERS TO ROBERT L. BUCHANAN, JR.'S FIRST SET OF INTERROGATORIES** in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Daryl L. Williams, Esq.
Jeter & Williams, P.A.
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, SC 29202
Attorneys for Defendant Adele J. Pope

J. Calhoun Watson, Esq.
Sowell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211
Attorneys for Defendant Robert L. Buchanan, Jr.

Robin A. Braithwaite, Esquire
Braithwaite, Farmer, Boni and Timmerman
759 Richland Avenue, West
Post Office Box 324
Aiken, SC 29802-0324
Attorneys for Defendants Adele J. Pope & Robert L. Buchanan, Jr.



Susie M. Dock

Columbia, South Carolina
January 11, 2011

**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 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; 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 Lester and Carrington Lester; 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; 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 LESTER and CARRINGTON LESTER; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

v.

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

**IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT**

Civil Action No. 2010-CP-40-4900

**PLAINTIFFS' ANSWERS
TO ROBERT L. BUCHANAN, JR.'S
SECOND SET OF
REQUESTS FOR PRODUCTION**

TO: DEFENDANTS AND THEIR ATTORNEYS:

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the following

constitute Plaintiffs' Answers to Second Set of Requests for Production to Plaintiffs propounded by Defendant Robert L. Buchanan, Jr.

REQUESTS FOR PRODUCTION AS TO ATTORNEY GENERAL

1. Copies of all written or electronic Joint Representation Agreements (or other similar agreements) between or among Plaintiff Attorney General and any other Plaintiff(s) relating to this action.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

2. Copies of all written or electronic Joint Representation Agreements (or other similar agreements) between or among Plaintiff Attorney General and any party relating to any action or proceeding arising from, or related to, the Last Will and Testament of James Brown and/or the 2000 Irrevocable Trust of James Brown.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

3. All written or electronic documents which reflect or indicate the due diligence or other investigation conducted by Plaintiff Attorney General or any of his agents regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

4. All written or electronic documents which reflect or indicate the due diligence or other investigation conducted by Plaintiff McMaster or any of his agents regarding any allegations made by any party or by any Plaintiff in this action concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

5. All manuals, checklists, questionnaires, or other instructional materials used by Plaintiff McMaster or any of his agents in conducting due diligence or otherwise investigating

legal or factual matters.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

6. All written or electronic documents requested and received from any source by Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

7. All written or electronic documents requested and received from any source by Plaintiff Attorney General or any of his agents regarding any and all claims concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

8. All documents referenced or identified in Plaintiffs Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

REQUESTS FOR PRODUCTION AS TO TOMMIE RAE HYNIE BROWN

9. Any and all diaries or journals prepared by or for Plaintiff Tommie Rae Hynie Brown between August 1, 2000, and December 25, 2006.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

10. Any and all written or electronic documents indicating, summarizing, or listing the documents requested by Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

11. Any and all written or electronic documents provided to Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

12. All documents referenced or identified in Plaintiffs Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to

this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

REQUESTS FOR PRODUCTION AS TO RUSSELL L. BAUKNIGHT

13. All written or electronic documents which indicate requests for tuition payments or other educational expenses made to you by Forlando Brown from Grandchildren's Education Trust (a sub-trust of the 2000 Irrevocable Trust).

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

14. All written or electronic documents which reflect or indicate requests for tuition payments or other educational expenses made to you from Grandchildren's Education Trust (a sub-trust of the 2000 Irrevocable Trust).

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth

in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

15. All written or electronic documents which you contend indicate actions taken by you to enhance the value of James Brown's image and persona.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

16. All written or electronic documents which you contend indicate actions taken by you to enhance the royalty revenue related to James Brown.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth

in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

17. All documents referenced or identified in Plaintiffs Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

REQUESTS FOR PRODUCTION AS EACH OF THE PLAINTIFFS OTHER THAN MCMASTER, TOMMIE RAE HYNIE BROWN, AND BAUKNIGHT

18. Any and all written or electronic documents indicating, summarizing, or listing the documents requested by Plaintiff Attorney General regarding any and all claims made by

Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

19. Any and all written or electronic documents provided by you to Plaintiff Attorney General regarding any and all claims made by Plaintiff Tommie Rae Hynie Brown, including but not limited to elective share and omitted spouse.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time

mutually agreeable to counsel for the parties.

20. Any and all written or electronic documents indicating, summarizing, or listing the documents requested by Plaintiff Attorney General regarding any and all claims concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

21. Any and all written or electronic documents provided by you to Plaintiff Attorney General regarding any and all claims concerning undue influence upon and/or lack of capacity of James Brown on or about August 1, 2000.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

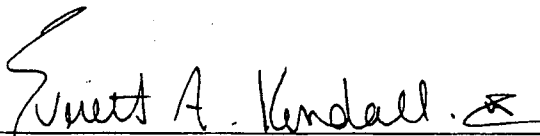
22. All documents referenced or identified in Plaintiffs Responses to Defendant's First Set of Interrogatories, specifying each particular interrogatory to which the document relates.

OBJECTION: Plaintiffs object to this Request as it seeks information that is protected from disclosure by the Attorney-Client Privilege and/or Work-Product Doctrine. Furthermore, this Request seeks information that is outside the scope of discovery set forth in Rule 26 of the South Carolina Rules of Civil Procedure in that it is not relevant to any issue in the case and is not narrowly tailored to lead to the discovery of admissible evidence.

RESPONSE: Subject to the foregoing objection, documents responsive to this Request will be made available for inspection and/or reproduction at a date and time mutually agreeable to counsel for the parties.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in dark ink, appearing to read "Kenneth B. Wingate", is written over a horizontal line.

Kenneth B. Wingate
Everett A. Kendall, II
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
January 11, 2011

CERTIFICATE OF SERVICE

I, the undersigned 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 **PLAINTIFFS' ANSWERS TO ROBERT L. BUCHANAN, JR.'S SECOND SET OF REQUESTS FOR PRODUCTION** in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Daryl L. Williams, Esq.
Jeter & Williams, P.A.
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, SC 29202
Attorneys for Defendant Adele J. Pope

J. Calhoun Watson, Esq.
Sowell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211
Attorneys for Defendant Robert L. Buchanan, Jr.

Robin A. Braithwaite, Esq.
Braithwaite, Farmer, Boni and Timmerman
759 Richland Avenue, West
Post Office Box 324
Aiken, SC 29802-0324
Attorneys for Defendants Adele J. Pope & Robert L. Buchanan, Jr.



Susie M. Dock

Columbia, South Carolina
January 11, 2011

) IN THE COURT OF COMMON PLEAS

Case No. 2010-CP-40-4900

MOTION TO COMPEL

Plaintiffs.

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

552

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 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.

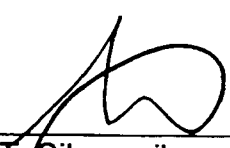
6. On July 13, 2011 a status conference was held before the Honorable Alison Renee Lee, wherein Judge Lee indicated that she would seek to schedule the motion for injunctions against Wingate and Bauknight for hearing as soon as possible and, in any event, before other pending motions in this action.

This motion is based on the United States Constitution; the Affidavit of Nathan Crystal on behalf of the Plaintiff in the case of *AstraZeneca 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,

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

July 26, 2011

Attorneys for Defendant Adele J. Pope

NEXSEN|PRUET

J. David Black
Member
Admitted in SC

July 15, 2011

VIA US MAIL

Adele J. Pope, Esquire
1228 Walnut Street
Newberry, South Carolina 29108

**Re: Request for Documents under the South Carolina Freedom of
Information Act**

Dear Ms. Pope,

I am writing you in reference to your June 30, 2011 South Carolina Freedom of Information Act (FOIA) request for "The final and all drafts, signed and unsigned, of the James Brown Legacy Trust" (James Brown Trust).

As you are aware, for FOIA purposes, the James Brown Trust is not a public body as defined in the South Carolina FOIA Statute. See S.C. Code Ann. § 33-40-20(a). Accordingly, your request for public records is improper.

Furthermore, even in the event that such request were proper, the documents that you have requested are exempt from FOIA pursuant to S.C. Code Ann. § 30-4-40(a)(7) as the FOIA request calls for the production of Attorney Work Product and Attorney Client Privileged Materials related to ongoing litigation.

Please be advised that FOIA is not intended as a substitute for discovery and was not intended to provide procedures for obtaining information during litigation or to benefit private litigants. *Lominack v. Myers*, 2002-CP32-1890 (Order of Judge Westbrook, 11th Jud. Cir., 2002) (citing *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 144 n.10 (1975); *U.S. v. Murdock*, 548 F.2d 599, 602 (5th Cir. 1977); *Fruehauf Corp. v. Thornton*, 507 F.2d 1253, 1255 (6th Cir. 1974)).

In the event that you continue to file unnecessary discovery and/or FOIA requests, please be advised that the Trust and Estate will have no other choice than to file an action against you for abuse of process and sanctions.

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2072
F 803.727.1409
E DBlack@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

Adele J. Pope, Esquire
July 15, 2011
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. David Black', with a long horizontal flourish extending to the right.

J. David Black

JDB/JGH

cc: James B. Richardson, Jr., Esquire
Russell L. Bauknight

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 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; 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 L. Brown and Carrington L. Brown; 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; 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 L. BROWN and CARRINGTON L. BROWN; 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-4900

JEANETTE W. McBRIDE
Clerk of Court
C.O.P. & G.S.

2011 AUG 11 AM 11:44

RICHLAND COUNTY
FILED

**PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER CONCERNING
FEE AGREEMENT
AND/OR MOTION TO STRIKE
DEFENDANT POPE'S MOTION TO
COMPEL PLAINTIFFS' FEE
AGREEMENT**

TO: DEFENDANTS AND THEIR ATTORNEYS:

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs above-named, by their undersigned attorneys, will move before the Presiding Judge of the Richland County Court of Common Pleas at the Richland County Judicial Center at 9:00 a.m. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for a Protective Order prohibiting the production of Plaintiffs' Fee Agreement in the above-referenced action.

On July 26, 2011, Defendant Adele Pope through counsel filed a Motion to Compel production of Plaintiffs' Fee Agreement. Fee Agreements are the epitome of privileged communication. Plaintiffs therefore request that this court issue a Protective Order prohibiting the efforts of Defendant Pope from discovering the Fee Agreement.

Also, or in the alternative, Plaintiffs move the court to strike Defendant Pope's Motion to Compel Plaintiffs' Fee Agreement because the motions seeks to contravene a prior decision of the court concerning the order for hearing motions filed in this complex case.

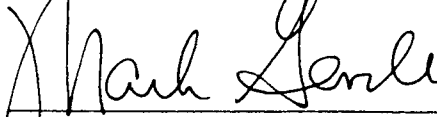
This Motion relies on all applicable statutory and case law and may be supplemented with a memorandum of law, exhibits, affidavits, or other documents.

The Plaintiffs also request costs and fees for the expense in bringing this Motion.

(Signature page to follow)

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in black ink, appearing to read "Mark V. Gende", is written over a horizontal line.

Kenneth B. Wingate

Mark V. Gende

1515 Lady Street

Post Office Box 12129

Columbia, South Carolina 29211

(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

August 9, 2011

JACKIE S. BOWERS
CLERK OF COURT

2011 DEC 12 A 10:47

FILED
NEWBERRY COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

ADELE J. POPE,

Plaintiff,

-v-

ALAN WILSON, in his Capacity as Attorney
General of South Carolina,

Defendant.

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT
)

) Case No.: 2011-CP-36 - 379
)

) MOTION TO
) PARTIALLY ALTER OR AMEND
) AND/OR RECONSIDER AND VACATE
) ORDER DATED NOVEMBER 22, 2011
)
)
)

TO: THE DEFENDANT ALAN WILSON, Attorney General of South Carolina, by J. Emory Smith, Esquire, AND TO PROPOSED INTERVENORS TOMMIE RAE HYNIE, individually and on behalf of her minor child JAMES B; HENRY DARGAN McMASTER; 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 children SYDNEY L. And CARRINGTON L.; TONYA BROWN; VENISHA BROWN; LARRY BROWN; TERRY BROWN; RUSSELL L. BAUKNIGHT, as purported agent for Defendant and as agent for each of the aforementioned proposed intervenors and in each fiduciary capacity in which he seeks to intervene.

YOU WILL PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as she may be heard, Plaintiff Adele J. Pope will move, through her undersigned counsel, pursuant to Rules 52 and 59(e), SCRPC, and all other applicable Rules of Civil Procedure, for an order partially altering, amending, reconsidering and/or vacating the judgment of the Honorable Frank R. Addy, Jr. dated November 22, 2011, a copy of which was received on November 22, 2011, and which is attached hereto as Exhibit A.

UNCHALLENGED RULINGS BY THE COURT

1. The Order properly stated that this Court had jurisdiction to hear and decide this Case, brought under the South Carolina Freedom of Information Act ("FOIA").

2. The Court properly declined to dismiss this FOIA case and properly directed

561

EXHIBIT

D

Defendant to answer.

MATTERS THE COURT FAILED TO CONSIDER AND/OR FIND

I. Purpose of FOIA

3. The Court failed to consider and/or find that the sole purpose of FOIA is to ensure that public bodies promptly release public documents properly requested by any person.

4. The Court failed to consider and/or find that where, as here, the documents to be produced may be illegal, improper or related to former, pending or contemplated litigation, such matters may be the subject of other litigation, which should have no bearing on FOIA disclosure.

5. The Court failed to consider and/or find that any substantial delay in compelling compliance with FOIA constitutes denial of FOIA rights.

6. The Court failed to consider and/or find that the parties in FOIA litigation should be limited to those seeking public documents and parties which are or are alleged to be public bodies.

II. Facts of this FOIA Case

7. The Court failed to consider and/or find that on July 19, 2011, Plaintiff made a proper FOIA request for the following documents, all of which are public documents:

a. The Attorney General's policies related to the release of litigation retention agreements with outside counsel, only approximately a dozen of which have been executed by Attorneys General of South Carolina;

562 b. The Agreement of former AG Henry McMaster with attorney Kenneth B. Wingate of Sweeney, Wingate & Barrow, P.C. (The "Wingate Firm") to bring a tort suit against Robert L. Buchanan, Jr. and Plaintiff

for money damages allegedly caused by their appeal of Aiken County Case 2008-CP-02-1647 and other alleged improprieties.

- c. AG McMaster's authorization for Russell L. Bauknight to act on behalf of the AG/State in the suit brought by the Wingate Firm.

8. The Court failed to consider and/or find that no stay or other impediment existed to prevent release of the McMaster/Wingate contract to sue Buchanan/Pope or other requested documents.

9. The Court failed to consider and/or find that the AG has no written policy with respect to its litigation retention agreements, but both AG Wilson and AG McMaster have repeatedly confirmed, as do all litigation retention agreements, that they are public documents and subject to FOIA disclosure.

10. The Court failed to consider and/or find that Plaintiff's FOIA request was proper and that Plaintiff sought public documents, but AG Wilson nevertheless refused to release the McMaster/Wingate contract to sue Buchanan/Pope or Bauknight's authorization.

11. The Court failed to consider and/or find that on August 10, 2011 Plaintiff properly commenced this action to require AG Wilson to comply with FOIA.

12. The Court failed to consider and/or find that AG Wilson, without cause, moved to dismiss this case and that such motion was interposed for the purpose of delaying or denying Plaintiff's FOIA rights.

13. The Court failed to consider and/or find that on or about September 13, 2011 AG Wilson confirmed publicly that all litigation retention agreements are public documents and should be produced.

14. The Court failed to consider and/or find that on or about September 22, AG Wilson, through Senior Assistant AG C. Havird Jones, confirmed that AG Wilson is "ready

and more than willing" to produce the documents requested by Pope.

15. The Court failed to take judicial notice that one or more members of the media have repeatedly requested copies of the McMaster/Wingate contract to sue Buchanan/Pope, which requests have also been denied by the office of AG Wilson.

16. The Court failed to consider and/or find that all active litigation retention agreements of AG McMaster and/or AG Wilson other than the McMaster/Wingate contract to sue Buchanan/Pope have now been publicly posted on the AG's website.

17. The Court failed to consider and/or find that the AG's refusal is directly contrary to the AG's published policy regarding FOIA disclosure.

18. The Court failed to consider and/or find that the AG's consent to the proposed intervention of the private intervenors aids and abets their improper and/or criminal actions under S.C. Code Ann. § 30-4-110.

19. The Court failed to consider and/or find that Plaintiff and Robert L. Buchanan, Jr. have never served as Trustees of the James Brown Legacy Trust.

20. The Court failed to consider and/or find that Plaintiff is entitled to the \$6,000 legal fees she has incurred to date, with costs of \$325, together with such additional fees at the rate of \$100 per hour (to a maximum \$1,500 per month), plus costs, as shall be incurred until AG Wilson has produced to Plaintiff all documents sought in this action.

III. Consolidation of the FOIA Suit and the Wingate Tort Case is Improper.

21. The Court failed to consider and/or find that it lacks jurisdiction to consolidate the FOIA Suit with the Wingate Case, an unrelated tort suit which is not before this Court.

22. The Court failed to consider and/or find that it cannot consolidate cases in

different judicial circuits without notice and an opportunity to be heard properly given to all parties to both cases.

23. The Court failed to consider and/or find that consolidation constitutes a denial of Plaintiff's FOIA rights.

24. The Court failed to consider and/or find that consolidation and the attendant delay violate the due process rights of all parties seeking the public documents which are the subject of this action.

25. The Court failed to consider and/or find that consolidation denies Plaintiff equal protection by delaying, for what may be years, her receipt of public documents which should be available without any delay to any member of the public through a proper FOIA request.

26. The Court failed to consider and/or find that consolidation with the Wingate Case effectively grants the private intervenors' improper motion to be a part of this FOIA action and thus violates Plaintiff's rights under FOIA.

27. The Court failed to consider and/or find that the consolidation order does not comply with Rule 42, SCRCP, because, among other things, there are no common questions of law and fact between the FOIA suit and the Wingate Tort Case.

28. The Court failed to consider and/or find that, as shown on Exhibit B, the tort claims in the Wingate Case are not similar to those asserted in this FOIA suit.

29. The Court failed to consider and/or find that the counterclaims of Buchanan and Pope, as asserted in the Answer and Counterclaim, attached herto as Exhibit C, are unrelated to the subject matter of this FOIA suit.

IV. Illegal Action by Proposed Intervenor.

30. The Court failed to find and/or consider that the proposed intervenors have violated S.C. Code Ann. § 30-4-110, which states in part:

Any person or group of persons who willfully violates the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars.... [emphasis supplied]

31. The Court failed to find and/or consider that neither their parents nor the Wingate Firm may take illegal action on behalf of minors, and that the minors should be exempt from any punishment which should be applied to the adult proposed intervenors.

32. The Court failed to find and/or consider that the Wingate Firm is aiding and abetting the adult proposed intervenors in denying Plaintiff's FOIA rights and the FOIA rights of other citizens.

V. In camera review.

33. The Court failed to find and/or consider that *in camera* review should not have been necessary because AG Wilson acknowledged that the requested documents were public, and they should have been produced.

34. The Court failed to find and/or consider that, to the extent not immediately produced to Plaintiff, the Court should have required that the documents be delivered to the Court for *in camera* review and immediate release.

VI. Miscellaneous.

35. The Court failed to find and/or consider that Newberry County Case No. 2011-CP-32-0364 is not before this Court at this time, and it is premature for the Court to speculate as to any appropriate action in that case.

36. The Court failed to find and/or consider that neither AG Wilson nor any member of his staff is counsel of record in the Wingate Case.

This motion is based on FOIA, the South Carolina Rules of Civil Procedure, especially Rules 52 and 59(e); the entire record in this matter; and the complaint and answer and counterclaim in the Wingate Case, of which the Court has taken judicial notice.

Respectfully submitted,


Adam T. Silvermail
Law Office of Adam T. Silvermail, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Tel: 803/779-1770
Fax: 803/403-8092
adam@silvermaillawfirm.com

November 29, 2011

Attorney for Plaintiff

AFFIRMATION OF COUNSEL

I certify pursuant to Rule 11, SCRCP, that consultation with opposing counsel is not required for a Motion to Alter or Amend and/or Reconsider or would serve no useful purpose as to the Motion herein.


Adam T. Silvermail

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Adele J. Pope,

Plaintiff,

v.

Alan Wilson, in his capacity as
Attorney General of South Carolina

Plaintiff.

) IN THE COURT OF COMMON PLEAS
)
) FOR THE EIGHTH JUDICIAL CIRCUIT
)
)

) Civil Action No.: 2011-CP-36-00379
)
)

) MOTION FOR SANCTIONS
)
)
)

Pursuant to Rule 11 of the *South Carolina Rules of Civil Procedure*, the Proposed Intervenor¹ move before the Court for an Order granting sanctions against Plaintiff Pope and her attorney, Adam Silvernail. The facts and law in support of this Motion are more fully set forth below.

FACTS BEARING UPON THE MOTION

The fee agreement between Proposed Intervenor and their counsel is the subject of a pending discovery motion before the Court in Richland County Case No. 2010-CP-40-4900 (this case is referred to as "Case No. 4900"). (See Defendant's Motion to Compel Production of Contingency-Fee Contract and Related Documents Prior to Hearing on Motion for Injunction; Plaintiff's Motion for Protective Order Concerning Fee Agreement and/or Motion to Strike

¹ The Proposed Intervenor are as follows: 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; 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 children, SYDNEY L., CARRINGTON L., and TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN. The Proposed Intervenor are the non-governmental Plaintiffs in Case No. 4900.

Defendant Pope's Motion to Compel Plaintiffs' Fee Agreement; previously provided to the Court by the parties.) During the pendency of these Motions, Plaintiff Pope served a Freedom of Information Act request on the Office of the Attorney General, seeking a copy of the fee agreement. The Attorney General responded but did not produce the agreement, due in part to the pending Motions. Plaintiff Pope then filed this lawsuit in Newberry County to enforce the FOIA request (the instant case is referred to as "Case No. 379"). In order to protect their interests, the non-governmental Plaintiffs in Case No. 4900 made a Motion to Intervene as Proposed Intervenors in this case. Plaintiff Pope opposed this Motion to Intervene. (See Pope's Return and Opposition to Motion to Intervene, attached hereto as Exhibit A; see also Affidavit of Adele J. Pope Opposing Motion to Intervene, attached hereto as Exhibit B.) By Order dated November 22, 2011, this Court consolidated Case No. 379 with Case No. 4900.² (See Order of Judge Addy, attached hereto as Exhibit C.) Plaintiff Pope filed a Motion to Alter/Amend Judge Addy's Order. (See Motion to Partially Alter or Amend and/or Reconsider and Vacate Order Dated November 22, 2011, attached hereto as Exhibit D.) The statements contained in Plaintiff Pope's Motion to Alter/Amend, as well as statements made in the Affidavit opposing the Motion to Intervene, are the subject of this Rule 11 Motion.

STANDARD OF REVIEW

An attorney's signature on a motion certifies that, "to the best of his knowledge, information and belief there is good ground to support [the motion]." Rule 11, SCRCP. Under

² Specifically, Judge Addy ruled that Defendant Wilson must answer the FOIA action, and that the cases would be consolidated when the pleadings were complete. (Order of Judge Addy, p. 7.) Judge Addy also held that "any motions and issues hereafter outstanding," including the Motion to Intervene, will be taken up by the Richland County Court in Case No. 4900. (*Id.*) Out of an abundance of caution, Proposed Intervenors have filed this Motion in the Newberry Court because the improper filing by Plaintiff Pope and Adam Silvernail was made in Newberry. Proposed Intervenors reserve the right to re-file this Motion in Richland County if the Newberry Court dismisses and/or deems improper the filing of the Motion in the Newberry Court.

Rule 11, "a party and/or the party's attorney may be sanctioned for filing a frivolous pleading, motion, or other paper, or for making frivolous arguments. The party and/or attorney may also be sanctioned for filing a pleading, motion, or other paper in bad faith whether or not there is good ground to support it." Ex parte Gregory, 378 S.C. 430, 437, 663 S.E.2d 46, 50 (2008) (citing Runyon v. Wright, 322 S.C. 15, 471 S.E.2d 160 (1996)). Further, "[t]he sanction may include an order to pay the reasonable costs and attorney fees incurred by the party . . . defending against the frivolous action." Id. (citing Runyon).

ARGUMENT

PLAINTIFF POPE, AND THE COUNSEL WHO SIGNED THE PLEADING AND FILED THE AFFIDAVIT, HAVE KNOWINGLY THREATENED CRIMINAL PROSECUTION IN ORDER TO OBTAIN AN ADVANTAGE IN A CIVIL MATTER. THIS CONDUCT IS IN VIOLATION OF RULE 11, SCRCP AND RULE 4.5 OF THE SOUTH CAROLINA RULES OF PROFESSIONAL CONDUCT.

According to Rule 4.5 of the *South Carolina Rules of Professional Conduct*, "[a] lawyer shall not present, participate in presenting, or threaten to present criminal or professional disciplinary charges solely to obtain an advantage in a civil matter." Rule 4.5, *South Carolina Rules of Professional Conduct*, Rule 407, SCACR. The rule is clear: a party to a civil suit cannot use the threat of criminal prosecution for the sole purpose of obtaining leverage in a civil case. In spite of this rule, Plaintiff Pope, by and through her attorney Adam Silvernail, have accused Proposed Intervenor of criminal acts and have asked the Newberry Court to so rule. In light of the bright-line rule against such conduct, Plaintiff Pope's (and Adam Silvernail's) decision to put forth this Motion cannot be in good faith and the Motion is frivolous within the meaning of Rule 11.

In Plaintiff Pope's Motion to Alter/Amend, she requests that the Newberry Court make several additional rulings that Judge Addy originally declined to make. In paragraph 18, she

states that "[t]he Court failed to consider and/or find that the AG's consent to the proposed intervention of the private intervenors aids and abets their improper and/or criminal actions under S.C. Code Ann. § 30-4-110" (all citations to the Motion to Alter/Amend are found at Exhibit D). Section 30-4-110 is an expressly criminal statute:

Any person or group of persons who willfully violates the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be find three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense.

S.C. Code Ann. § 30-4-110 (1976). On its face, the statute provides for both fines and imprisonment. In Paragraph 30, Plaintiff Pope requests that the Court find that Proposed Intervenor are in violation of the statute: "[t]he Court failed to find and/or consider that the proposed intervenors have violated S.C. Code Ann. § 30-4-110 . . ." Plaintiff Pope makes no mention of any of the protections afforded to criminal defendants by our constitutional system, but rather asks the Court to indict, try, and convict Proposed Intervenor of criminal activity. In paragraph 31 of her Motion to Alter/Amend, Plaintiff Pope expressly mentions her desire that criminal punishment be imposed upon Proposed Intervenor: "[t]he Court failed to find and/or consider that neither their parents nor the Wingate firm may take illegal action on behalf of minors, and that the minors should be exempt from any punishment which should be applied to the adult proposed intervenors" (emphasis added). Proposed Intervenor submit that such an absurd request, made by an attorney-client through her attorney of record, cannot be in good faith.

Plaintiff Pope's Motion to Alter/Amend does not stop at improperly accusing parties of criminal activity. In paragraph 32, Plaintiff Pope accuses Proposed Intervenor's counsel of

criminal activity, and requests that the Newberry Court so find: “[t]he Court failed to find and/or consider that the Wingate Firm is aiding and abetting the adult proposed intervenors in denying [Plaintiff Pope’s] FOIA rights and the FOIA rights of other citizens.” Proposed Intervenor’s assert that these inappropriate, unfounded attacks on Proposed Intervenor’s and their counsel, in a pleading signed by an officer of the Court and submitted to that Court, are the epitome of frivolous pleadings, are contrary to the *Rules of Professional Conduct*, and are in violation of Rule 11, SCRCP.

Plaintiff Pope also makes improper criminal allegations in her Affidavit submitted in opposition to Proposed Intervenor’s Motion to Intervene in Case No. 379 (all citations to Pope’s Affidavit are found at Exhibit B). In paragraph three of the Affidavit, Plaintiff Pope states that she is “informed and believe[s] that the wilful [sic] violation of FOIA by certain of the proposed intervenors violates § 30-4-110” In paragraph four, Pope further opines that she is “informed and believe[s] that the attempt to intervene is brought by the above-named persons in bad faith to wilfully [sic] violate the provisions of FOIA” and that “liability for violation of FOIA is not limited to Public Bodies” It is clear that Plaintiff Pope, in both her affidavit and through a signed motion, is bringing criminal allegations against Proposed Intervenor’s in an effort to gain an advantage in a civil matter, which is expressly unethical.

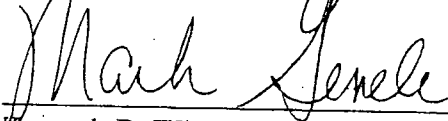
CONCLUSION AND REQUESTED RELIEF

Plaintiff Pope’s and Adam Silvernail’s threat of criminal prosecution in a civil matter cannot have been made in good faith, and is therefore a per se violation of Rule 11. Proposed Intervenor’s request that the Court strike Plaintiff Pope’s 59(e) Motion in its entirety as it relates to the Proposed Intervenor’s, strike any Affidavit of Plaintiff Pope that makes any allegation of criminal conduct on the part of the Proposed Intervenor’s, award Proposed Intervenor’s their

attorneys fees and costs associated with dealing with this Motion, and award Proposed Intervenor any other relief the Court deems just and reasonable. Proposed Intervenor reserve the right to supplement this Motion with further briefing (or any other materials) that supports Proposed Intervenor's position on this Motion.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

1515 Lady Street

Post Office Box 12129

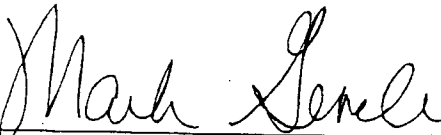
Columbia, South Carolina 29211

(803) 256-2233

**ATTORNEYS FOR PROPOSED
INTERVENORS**

Columbia, South Carolina
December 9, 2011

Pursuant to Rule 11, SCRCF, I hereby certify that conferring with Plaintiff Pope's counsel on this matter would serve no useful purpose.



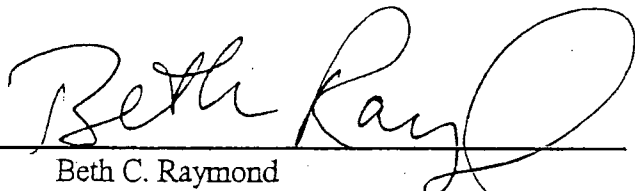
Mark V. Gende, Attorney for Proposed Intervenor

CERTIFICATE OF SERVICE

I, the undersigned secretary of the law offices of Sweeny, Wingate & Barrow, P.A., attorneys for Defendant do hereby certify that I have served a copy of the foregoing Motion for Sanctions in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Adam T. Silvernail, Esquire
1218 Taylor Street
P.O. Box 1898
Columbia, SC 29202-1898

J. Emory Smith, Esquire
Sr. Assistant Attorney General
P.O. Box 11549
Columbia, South Carolina


Beth C. Raymond

Columbia, South Carolina
December 9, 2011

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 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~~; 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~~; 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

THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2010-CP-40-04900

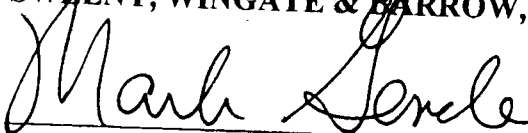
RICHLAND COUNTY
FILED
2012 FEB 13 AM 10:17
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

PLAINTIFFS' RETURN IN RESPONSE
TO MOTION TO CONSOLIDATE

In response to the Attorney General's Motion to Consolidate Case No. 2012-CP-40-350
[formerly Newberry Case No. 2011-CP-36-364] with this action, the above-referenced Plaintiffs
hereby state that they consent to the Motion.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

1515 Lady Street

Post Office Box 12129

Columbia, South Carolina 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina
February 9, 2012

) IN THE COURT OF COMMON PLEAS

;

1

1

1

4

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

0

Defendant/Counterclaimant Adele J. Pope respectfully submits that almost two years after filing this suit, none of the clients of Kenneth B. Wingate, Esquire and Sweeney, Wingate & Barrow, PC (collectively "Wingate") should be released from default on the counterclaims for the following reasons:

1. The default was inexcusable.
2. The Plaintiffs have presented no plausible defense to the counterclaims, and have none.
3. Many of the Plaintiffs have committed fraud upon this Court.
4. Plaintiff Tommie Rae, Bauknight and Wingate have actively stonewalled all discovery to prevent disclosing that she was never the spouse of James Brown.
5. Plaintiff Terry Brown, a joint venturer with felon David Cannon; Bauknight;

and Wingate have worked to conceal documents which show that their less-than \$4.7 Million valuation of Brown's worldwide music empire and the Estate/2000 Trust's claim against felon Cannon for the \$13+ Million he took was fabricated.

6. Relief from default will cause great hardship to Buchanan and Pope, as has the filing of this frivolous suit and the 4-year-old frivolous suit of Terry's son Forlando.

7. Terry, his joint venturers and other Plaintiffs have committed fraud upon the Court by advancing conflicting material misrepresentations to the Court by separate counsel and lying to the Court and parties.

This Defendant/Counterclaimant, however, submits that the State of South Carolina and its Attorney General are not in default and Wingate has no authority to seek relief from default on behalf of the State/AG because neither Wingate nor Bauknight had authority to bring this action on behalf of the State AG; the State was never a party to the action; and Wingate has no authority to argue for relief from default on behalf of the State or bind the General Assembly to pay if his purported representation of the State fails.

This return is supported by the Affidavit of Adele J. Pope filed herewith; all other affidavits of Defendants Pope and Buchanan filed herein; and other returns and motions, including the following:

- a. Motion to Dismiss of Buchanan and Pope, dtd. 6/22/10
- b. Affidavit of Adele J. Pope, dtd. 7/23/10, with Exhibits A-L
- c. Affidavit of Default, dtd. 11/10/10
- d. Affidavit of Adele J. Pope, dtd. 4/14/11
- e. Affidavit of Adele J. Pope Supporting Disqualification, dtd. 5/18/11, with Exhibits A, B and C (Exhibit A: Copyright Heirs and Musical Millionaires: Why the James Brown "I Feel Good" Trust Doesn't. . . (Draft))
- f. Affidavit of Adele J. Pope in Support of Motion to Compel Tommie Rae to Appear at Deposition, dtd. 6/2/11
- g. Affidavit of Buchanan and Pope, dtd. 9/21/10 with Exhibits 1-42
- h. Affidavit of Adele J. Pope in Support of Motion to Compel Deposition of Terry Brown, dtd. 6/2/11

- i. Motion to Compel Discovery, dtd. 6/7/11 with Exhibits.
- j. Return and Opposition to Plaintiffs' Motion for Protective Order, dtd. 7/12/11

Respectfully submitted,



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

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

April 10, 2012

Attorneys for Defendant Adele J. Pope

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 B[REDACTED]; 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 L[REDACTED] and Carrington L[REDACTED]; 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[REDACTED]; 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 L[REDACTED] and CARRINGTON L[REDACTED]; 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
JUDGE L. E. BROWN
C.C.P. & G.S.

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.

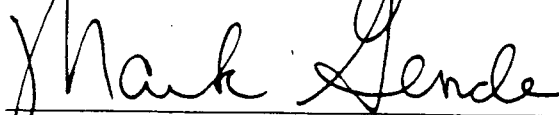
Plaintiffs and Defendant Buchanan held a mediation on Friday, May 4, 2012, at which the Mediation Agreement was reached. Upon information and belief, Defendant Buchanan now refuses to comply with the terms of this Agreement and seeks to avoid it altogether.

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

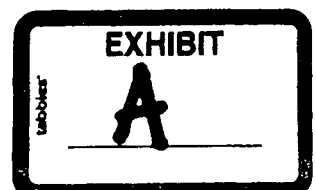
ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 18, 2012

581

**SETTLEMENT AGREEMENT TERM SHEET BETWEEN ALL PLAINTIFFS
(PLAINTIFFS) AND ROBERT L. BUCHANAN, JR. (BUCHANAN)**

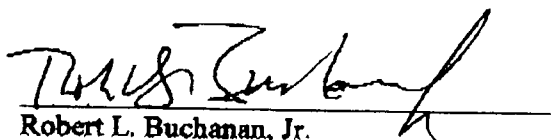
1. Buchanan, his personal representatives, executors, trustees, heirs, and assigns agree to dismiss with prejudice his claims against Plaintiffs in all current litigation involving James Brown, any estate or trust related thereto, and any beneficiary and/or party (including the settling parties) involved 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.

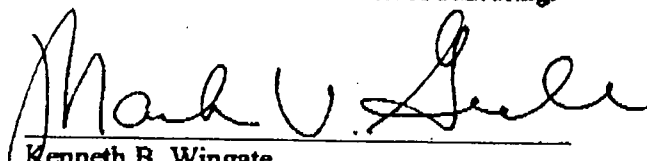


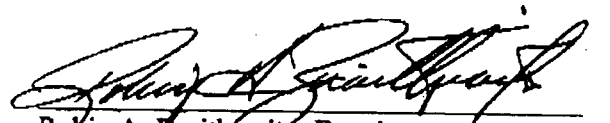
Settlement Agreement Term Sheet Between All Plaintiffs (Plaintiffs) and Robert L. Buchanan, Jr. (Buchanan)
Page 2 of 2

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; 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; 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

) 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; 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; 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

2012 MAY 21 PM 4:25
JEANETTE M. GORDON
C.C.P. & C.V.

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.

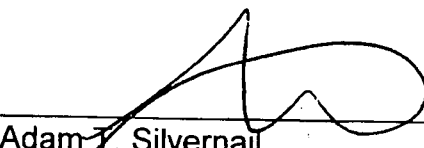
29. The Agreement is void and unenforceable for every other reason presented to this Court before the hearing on this motion.

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

) IN THE COURT OF COMMON PLEAS

1

4

1

2

4

1

5

1

Y

) ADELE J. POPE'S
) OFFER OF JUDGMENT TO
) THE SOUTH CAROLINA ATTORNEY
) GENERAL AND RUSSELL L. BA
) AS AGENT FOR THE SOUTH C
) ATTORNEY GENERAL

RICHLAND COUNTY
FILED
JUL 19 PM 4:32
JANETTE WINCATE
C.C.P. & G.S.
TORNEY

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendants shall seek from Plaintiffs all expenses and costs under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, along with interest as provided under Rule 68(b).

592

RECITALS

1. On or about May 19, 2010 Wingate commenced this action naming as two of the Plaintiffs former AG Henry McMaster and Bauknight as agent for AG McMaster.

2. Pope has repeatedly and consistently asserted, and asked the Court to rule, that Wingate has no authority to serve as sole counsel for the AG while serving the interest of private Co-Plaintiffs in this Case, and that Bauknight has no authority to serve as Agent for the AG.

3. In January 2011 AG Alan Wilson succeeded AG McMaster as Attorney General of South Carolina.

4. Since then Wingate and Bauknight have asserted that Wingate serves as sole counsel to, and Bauknight agent for, AG Wilson, to which Pope has objected.

5. Pope's request to enjoin Wingate from serving as sole counsel to the AG while serving the interests of private non-residents of SC, and to enjoin Bauknight from asserting he is the AG's agent, has been denied by Order dated July 5, 2012 (received on July 17, 2012).

6. By Order dated November 22, 2011, at the request of AG Wilson, a Newberry Case in which Pope sought documents under the S.C. Freedom of Information Act ("FOIA") was consolidated but not merged with this Case by direction of The Hon. Frank R. Addy, stating, in part:

1. The Defendant (AG Wilson) . . . will answer Plaintiff's complaint.
2. At the conclusion of the pleadings phase. . . this matter will be consolidated with *Bauknight v. Pope*, 2010-CP-40-04900 (Richland 2010);
3. Any motions. . . including an oral motion to intervene by an arguably

interested party, will be taken up by Richland County.

4. Any claim to attorney's fees, as permitted under the [FOIA], will be preserved for resolution by the Richland County Court.

7. The oral motion referenced by Jg. Addy was Wingate, for Tommie Rae Hynie and certain others to intervene in the FOIA Case and prevent release of the McMaster/Wingate contingency fee contract for Wingate to sue Pope in this Case.

8. Since November 2011 various issues and potential issues have arisen which make the action sought herein prudent.

Terms of Settlement

Attorney General Alan Wilson and Russell L. Bauknight in has capacity as agent for Attorney General Wilson and former Attorney General Henry McMaster, with Adele J. Pope, shall submit a Consent Order of Dismissal of Parties which states the following, or any similar language requested by Attorney General Wilson and approved by Pope.

The Parties having resolved their differences in this Case, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Case #2011-CP-36-379 in which Pope seeks documents under the South Carolina Freedom of Information Act ("FOIA"), which was consolidated but not merged with this case, is hereby severed.
2. The Dismissal herein shall not apply to the FOIA Case.
3. The Attorney General of South Carolina is hereby dismissed, without prejudice, as a party to this Case.
4. Russell L. Bauknight as agent for the Attorney General of South Carolina, is hereby dismissed, with prejudice, as a party to this Case.
5. The caption of this Case is hereby amended to delete dismissed parties as shown above. [Caption in the Order will remove McMaster, Wilson and all

references to the AG or Bauknight as his agent.]

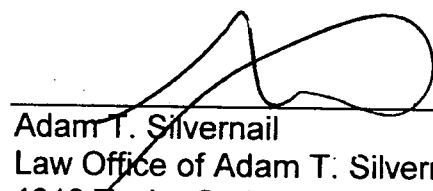
6. The parties are directed to use the above caption in all future filings in this Case.

7. This Order shall not be construed to impair or limit the right of The Honorable Alan Wilson to protect The James Brown "I Feel Good" Trust, including but not limited to seeking to intervene in this Case.

AND IT IS SO ORDERED.

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



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

July 18, 2012

Attorneys for Defendant Adele J. Pope

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; 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 Lamar and Carrington Lamar; 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; 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 LAMAR and CARRINGTON LAMAR; 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-402900

JEANETTE W. McBRIDE
Clerk, P. & G.S.

2012 JUL 18 PM 4:22

RICHLAND COUNTY
FILED

PLAINTIFFS' MOTION FOR
EMERGENCY TELEPHONE HEARING
ON PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER CONCERNING
THE DEPOSITION OF MR. ALBERT
DALLAS

TO: ALL COUNSEL OF RECORD

Plaintiffs' request the Court to schedule an emergency telephone hearing for Thursday, July 19, 2012 to hear Plaintiff's Motion for a Protective Order concerning the deposition of Mr. Albert Dallas.

On July 5, 2012 a status conference was held in this case. At that status conference the Court clearly indicated its intention to order mediation. The Court further stated that all pending discovery matters were to be held in abeyance until after mediation. A proposed order has been provided to the Court.

On July 9, 2012, subsequent to that status conference and in apparent contradiction of the Court's direction, counsel for Defendant Pope served deposition notices for Mr. Darrell Brown and Mr. Buddy Dallas on Plaintiffs. The deposition of Mr. Dallas was unilaterally noticed for July 20, 2012—this Friday. Plaintiffs filed a Motion for Protective Order concerning both depositions (see Motion for Protective Order concerning Deposition of Albert Dallas at Exhibit A).

After reading an "Affidavit" of Defendant Pope, Counsel for Plaintiffs became concerned that Pope would unilaterally go ahead with Mr. Dallas' deposition, despite Plaintiffs' motion for protection and the Court's directions.

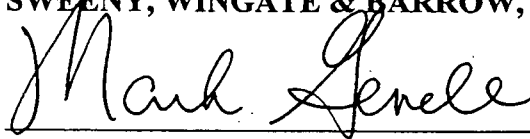
Counsel for the Plaintiffs emailed counsel for Pope this morning at 10:36 A.M., July 18, 2012, requesting that they promptly confirm, in light of the Motion for Protective Order and the Court's direction concerning mediation and discovery, Mr. Dallas' deposition was not going forward (see attached email at Exhibit B). At approximately 3:30 P.M. counsel for Plaintiffs called the offices of counsel for Mrs. Pope (Mr. Daryl Williams, Esq. and Mr. Adam Silvernail, Esq.) and was unable to reach either attorney, but left a message at Mr. Silvernail's office. At

3:41 P.M., Mr. Silvernail responded with the attached letter in which he states the he will go forward with Mr. Dallas' deposition, completely ignoring Plaintiffs' motion for protective order and either ignoring or totally misunderstanding the direction from the Court received at the July 5 Status Conference (see Silvernail letter at Exhibit C).

Therefore, Plaintiffs request an emergency hearing on Thursday, July 19, 2012 concerning their Protective Order and that the Court sign the proposed Order submitted by Plaintiffs following the July 5, 2012 status conference.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

July 18, 2012

EXHIBIT A

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~~; 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 ~~Lamar~~ and Carrington ~~Lamar~~; 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~~; 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 ~~LAMAR~~ and CARRINGTON ~~LAMAR~~; 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-404900

PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER CONCERNING
THE DEPOSITION OF ALBERT H.
DALLAS, ESQ.

JEANETTE M. MCBRIDE
C.C.P. & G.S.

2012 JUL 10 PM 1:56

RICHLAND COUNTY
FILED

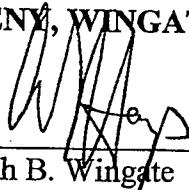
**TO: ADAM SILVERNAIL, ESQUIRE, ATTORNEY FOR DEFENDANT POPE, AND
TO THE DEFENDANT ABOVE NAMED:**

YOU WILL PLEASE TAKE NOTICE that Plaintiffs in the above-referenced action plan to move before the Court, and do hereby so move, for an Order from the Court quashing Defendant Pope's Notice Of Deposition of Albert H. Dallas, Esq. (issued on July 9, 2012) (attached hereto as Exhibit A). This Motion is made pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure, and is based upon the fact that Mr. Dallas' deposition is improper at this time in light of the Court's instructions at the status conference of July 5, 2012.¹ Further, Plaintiffs are informed and believe that Defendant Pope will seek to use this deposition in order to question Mr. Dallas on matters wholly irrelevant to this case.

This Motion may be supplemented by a Memorandum Of Law, Affidavits, or any other information as may be fit and proper.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
July 8, 2012
13

¹ Plaintiffs do not concede that Mr. Dallas' testimony would be proper in this matter at any time.

) IN THE COURT OF COMMON PLEAS

**RUSSELL L. Bauknight, as Trustee,
and others**

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

and

ADELE J. POPE'S
CORRECTED OFFER OF JUDGMENT
TO LINDSEY DELORES BROWN
AND JANISE B., A MINOR

**HENRY DARGAN McMASTER and
others**

Plaintiffs,

v.

Adele J. Pope,

Defendant

JEANETTE W. McBRIDE
G.M. & G.S.

2012 JUL 19 PM 4:32

RICHLAND COUNTY
FILED

TO: PLAINTIFFS LINDSEY DELORES BROWN ("LINDSEY") AND JANISE B. AND
THEIR ATTORNEYS, SWEENEY, WINGATE AND BARROW, PA.
("WINGATE"):

Pursuant to South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, and all other applicable law, Defendant Adele J. Pope ("Adele") proffers an Offer of Judgment in the above-referenced matter as set out below:

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendants shall seek from Plaintiffs all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, as well as interest as provided by Rule 68(b).

RECITALS

1. Lindsey and Janise are beneficiaries of the Irrevocable Trust established by

their grandfather, entertainment icon James Brown on August 1, 2000 (the "2000 Trust").

2. James Brown died on December 25, 2006.

3. The 2000 Trust created a separate \$285,000 education fund for each of Lindsey and Janise.

4. On January 24, 2007, when Lindsey was 16 and Janise was 11, their father Daryl J. Brown ("Daryl"), filed Aiken County Case 2007-CP-02-0122 ("Case 122") on their behalf.

5. When Brown's original trustees resigned, at the request of Lindsey and Janise, Adele and Robert Buchanan, Jr. ("Bob") were appointed by the Court as trustees of the 2000 Trust, with all authority and duty as if originally appointed by James Brown.

6. On December 26, 2007, Daryl filed suit to challenge the 2000 Trust, placing in jeopardy Lindsey's and Janise's education funds.

7. On August 10, 2008 Daryl, with others, agreed to substantially reduce, and commingle Lindsey's and Janise's education funds.

8. In an Order dated May 26, 2009 in Case 2008-CP-02-1647 ("Case 1647") the dismantling was approved, and Russell Bauknight became Trustee.

9. Bob and Adele appealed the Case 1647 Order, which is now before the S.C. Supreme Court.

10. On May 19, 2010 Lindsey and Janise (by Daryl) sued Bob and Adele in this Case 2010-CP-40-4900 ("Case 4900"), asserting, among other things, that their appeal in Case 1647 was improper.

11. Janise does not have a guardian *ad Litem* and, on information and belief,

Lindsey has not been informed of the conflict of interest she has with Daryl, her father and Co-Plaintiff.

12. Adele counterclaimed for abuse of process and other causes of action, including attorneys' fees.

13. Adele, Lindsey and Janise, through her parent(s), all now want to resolve their respective claims; confirm the validity of the 2000 Trust; and dismiss Lindsey and Janise as parties to Case 4900.

CONTENTS OF ORDER

The above statements will be included in the Order Granting Final Judgment only if approved by Lindsey and Janise.

The Order Granting Final Judgment shall be in the following form:

This Order Granting Final Judgment resolves all disputes between Lindsey Delores Brown ("Lindsey") and Janise B., a minor, against Adele J. Pope ("Adele") in this Case 2007-CP-40-4900 ("Case 4900"), and Adele's counterclaims against them.

Adele, Lindsey and Janise agree that James Brown believed education was important and provided a \$285,000 education fund for each of Lindsey and Janise under the James Brown 2000 Irrevocable Trust.

The claims of Lindsey and Janise against Adele in this action, and hers against them, are dismissed with prejudice and forever ended.

Adele, Lindsey and Janise agree that no attorneys' fees should be paid from Lindsey's or Janise's education funds.

Adele will take immediate and continuing steps to support Lindsey and Janise in

securing Court approval and immediate payment and/or reimbursement from the Estate/2000 Trust for all reasonable education expenses of Lindsey and Janise from and after the death of James Brown, up to \$285,000.00 each.

Because Lindsey and Janise have ratified the 2000 Trust and Brown's worldwide music empire earned almost \$10 Million last year, Lindsey, Janise and Adele stipulate such payments will not impair the rights of creditors.

Adele will not at any time, regardless of the outcome of the Case 1647 appeal, seek to enforce the *In Terrorem* clause of the 2000 Trust against Lindsey or Janise.

A Certified Copy of this Judgment may be filed in any Court as evidence of the positions of Lindsey, Janise and Adele.

AND IT IS SO ORDERED.

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



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

July 18, 2012

Attorneys for Defendant Adele J. Pope

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; 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 Luster and Carrington Luster; 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; 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 LUSTER and CARRINGTON LUSTER; 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-40-900

2012 JUL 19 AM 11:30
JEANETTE W. McBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

**PLAINTIFFS' MOTION TO STRIKE
THE AFFIDAVIT OF DEFENDANT
ADELE POPE DATED JULY 1, 2012
REQUESTING DEPOSITIONS OF 5 OF
91 WITNESSES, RULING ON
INJUNCTION; SEVERING FOIA
CLAIM; AND RELATED RELIEF,
FOLLOWED BY DAY-CERTAIN
MEDIATION**

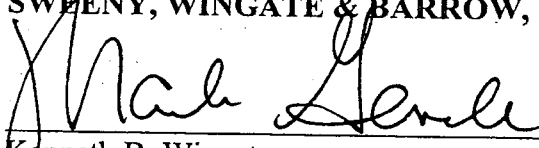
**TO: ADAM SILVERNAIL, ESQUIRE, AND DARYL WILLIAMS, ESQUIRE,
ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-
NAMED:**

YOU WILL PLEASE TAKE NOTICE that Plaintiffs in the above-referenced action plan to move before the Court, and do hereby so move, for an Order striking the Affidavit of Adele Pope Requesting Depositions of 5 Of 91 Witnesses, Ruling on Injunction; Severing of FOIA Claim; and Related Relief, Followed By Day-Certain Mediation (Affidavit attached hereto as Exhibit A). This Motion is made pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure, and is based upon the Affidavit's inclusion of material that this "redundant, immaterial, impertinent, or scandalous", as well as the Affidavit's inclusion of material that is wholly irrelevant and inadmissible in this case. Further, the Affidavit contains statements that are not based on personal knowledge.

This Motion may be further supplemented by Affidavits, a Memorandum Of Law, or any other information as may be proper.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
July 18, 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 of Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina and others

and

HENRY DARGAN MCMASTER, in his
capacity as Attorney General of the State of
South Carolina; and others,

Plaintiffs.

v.

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

) IN THE COURT OF COMMON PLEAS

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

) AFFIDAVIT OF ADELE J. POPE
) REQUESTING DEPOSITIONS
) OF 5 OF 91 WITNESSES,
) RULING ON INJUNCTION;
) SEVERING OF FOIA CLAIM;
) AND RELATED RELIEF,
) FOLLOWED BY DAY-CERTAIN
) MEDIATION

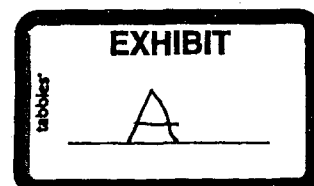
PERSONALLY APPEARED BEFORE ME, ADELE J. POPE, who being duly
sworn, deposes and says:

1. I am a Defendant in this Case, and a counterclaim Plaintiff.
2. I am informed and believe my counterclaims will be the primary subject of the
mediation in this case when it is held. They are briefly described below:

a. **Abuse of Process** - Plaintiffs' claim was maliciously commenced
for the improper purpose of forcing Bob Buchanan and me to abandon or
dismiss our appeal of the May 26, 2009 Order in Case 1647.

b. **Civil Conspiracy** - combining with each other and third parties to injure us.

c. **Intentional Interference with Contract** - the January 8, 2008
Order/Contract which gave Bob \$500,000.00 and me \$1,500,000.00, with
interest since 2009.



d. **Fraud under §62-1-106 of the S.C. Probate Code** - by intentional improper assertion of James Brown's "heirs" under the Federal Copyright Act; intentional undervaluation of Brown's worldwide music empire; and other false representations and filings.

e. **Attorneys' fees** - as provided in S. C. Trust Code Section 62-7-1004.

3. I am a Certified Mediator, and have been one for many years.

4. I was fortunate enough to be trained by Michael K. Lewis and Linda R.

Singer, two of the finest mediation specialists in the United States, at the Harvard Mediation training program.

5. Mr. Lewis, according to a recent ABS JAMS Blog, is "a former Foreign Service Officer...known for his ability to resolve the most complex disputes in virtually every area of law ...," and Ms. Singer is described as "tenacious, intelligent and possessing an innate ability to settle cases that others could not."

6. While I do not actively seek appointments as a mediator, my training with Mr. Lewis and Ms. Singer instilled in me an abiding belief in the value of mediation when it is done properly.

7. In James Brown Case 1647 I have unfortunately seen the vast damage to be caused where some of the parties are so anxious to conclude a complex matter that they forget even Rule #1 of Mediation – that the parties must be there.

8. Four years after the secret, rushed mediation and partial Case 1647 settlement, our Supreme Court is addressing the damage caused by the failure to follow basic rules.

9. I have heard reports that at least some of Plaintiffs, including Plaintiffs Terry Brown and Daryl Brown, now assert they should never have challenged their father's

noble estate plan to give his worldwide music empire for scholarships for needy and deserving student.

10. I have thought many hours about whether – if these reports are true – a mediation of my counterclaims in this case could result in Daryl, Terry, and others relinquishing some of their claims to dismantle their father's Estate Plan in favor of the "I Feel Good" Trust. Their depositions will help me – and them – be ready to address these complex issues at mediation.

11. I am very concerned for the 7 designated grandchildren James Brown wanted to educate because in the Case 1647 mediation they were abandoned by their own parents. A guardian ad litem for the minors, and the required presence of 2 of them who are now adults, should help keep that from happening here.

12. I incorporate by reference the letter of my counsel to Jg. Manning dated July 11, 2012, a copy of which is attached hereto as Exhibit A., as a fair statement of the many problems caused by Sweeney, Wingate and Barrow's ("Wingate") stonewalling discovery then presenting an Order for mediation which fails to not address serious issues.

13. Wingate's discovery abuse is the most egregious I have encountered in more than 30 years of practice, including cases I have worked on with Mr. Wingate over the years.

14. Whether Wingate can represent the State of South Carolina – and bind the general fund as to my counterclaims – is an essential question which needs to be answered before mediation, as is Mr. Bauknight's claim – modified as of yesterday – that he speaks as Agent for two separate Attorneys General of S.C.

15. I am informed and believe that these answers are extremely important since Plaintiffs are now seeking relief from default.

16. I deny any suggestion that I wish to delay mediation. The opposite is true, but I want a settlement – if one is reached – to be valid and binding on all parties to this case, including some who have not been parties to any other James Brown case.

17. I believe we could be ready for a meaningful mediation in fewer than 90 days by just taking the following small steps:

- a. Depose 6 of Plaintiffs' claimed 91 witnesses , including 5 Plaintiffs¹.
- b. The Court rule on the Wingate/Bauknight injunction request.
- c. Of the more than 1 million pages of public documents which relate to this action, require only 4 to be at mediation:
 - (1) The signed Legacy Trust created by Henry McMaster;
 - (2) The authorization, if any for Wingate/Bauknight to act for the AG/State;
 - (3) An Order vacating the 2008 Hynie "diary" Gag Orders.²
 - (4) Bauknight's less-than \$4.7 Million appraisal of Brown's worldwide music empire -- which he has failed to file, as required.
- d. Appoint one or more guardians ad litem for the minors.
- d. Sever or decide the FOIA Case;
- e. Require McMaster and someone with authority to negotiate for the current AG/State to attend if the injunction request is denied.

¹ Plaintiffs' witness Albert Dallas is scheduled to be deposed July 20.

² Judge Early has ruled that today he has no jurisdiction to void three 4-year-old Gag Orders this week. I plan to ask the Supreme Court to find that he does have jurisdiction, or that the orders were void ab initio.

f. Name the mediator, date and time; Order all Parties to appear; and direct each party to pay 1/17 of the mediator's cost.

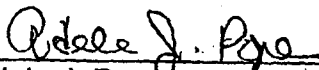
2. The Settlement recently reached by Bob Buchanan on May 4 is instructive for the following reasons:

- a. The Counterclaim Defendants/Plaintiffs received nothing in their claim.
- b. Bob received the \$500,000.00 he was awarded by Jg. Early in January 8 Order which gave me \$1.5 Million, with interest.
- c. The agreement conforms to Jg. Early's final April 8, 2008 Order finding Bob's and my service as both ethical and appropriate.
- d. The agreement conforms to Hynie's assessment to Jg. Early about Bob's and my service in September 2008:

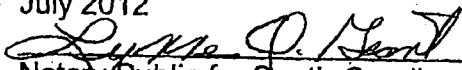
MR. MEDLIN: ...WE HAVE THE HIGHEST REGARD FOR MRS. POPE AND MR. BUCHANAN. I HAVE SAID THAT IN OPEN COURT BEFORE, AND I WILL CONTINUE TO SAY THAT BECAUSE I KNOW I DO, AND I'M PRETTY SURE EVERYBODY ON MY TEAM DOES.

THE COURT: AND SO DO I. [Hg., Case 122, 9/28/08,p.54.]

FURTHER DEPONENT SAYTEH NOT.


Adele J. Pope

SWORN TO before me this 1st day of
July 2012

 (L.S.)
Notary Public for South Carolina
My commission expires: 8-12-2020

**LAW OFFICE OF
ADAM T. SILVERNAIL, LLC**

POST OFFICE BOX 1899
1218 TAYLOR STREET
COLUMBIA, SOUTH CAROLINA 29202

July 11, 2012

By e-mail and U.S. Mail:
The Honorable L. Casey Manning
Post Office Box 192
1701 Main Street, Room 214
Columbia, South Carolina 29202-0192

Re: Bauknight et al vs. Pope and Buchanan ("Case 4900")
Case No. 2010-CP-40-4900

Dear Judge Manning:

We received yesterday afternoon a proposed Order for mediation presented by Kenneth Wingate purporting to represent the State of South Carolina through its Attorney General Alan Wilson, whose name has never appeared in the caption of a Circuit Court Order in this case before.

We believe that for each of the following – and other reasons – the Order is premature:

1. The Parties are not yet joined. The parties are not joined – especially with the *ex parte* removal of Henry McMaster from the pleadings when we have a motion that he be joined individually after his deposition.

2. Wingate has no Authority to Bind the General Fund of the State of South Carolina as to the Counterclaims, and neither Bauknight nor Wingate is an agent of the AG/State. We have firmly asserted since the commencement of this action that Sweeney, Wingate & Barrow ("Wingate") lacks all authority to speak for or bind the State of South Carolina; and has never been authorized to do so. This matter is especially critical since the State – if it is a party – is now seeking relief from default as to Mrs. Pope's and Mr. Buchanan's counterclaims for:

- A. Abuse of process;
- B. Intentional Interference with Contract;
- C. Civil Conspiracy; and
- D. Attorneys' fees.

We have also alleged that McMaster's bringing this suit exceeded and recklessly or intentionally abused his office.

A decision about whether Wingate has any authority to bind the general fund of the State of South Carolina as to our counterclaims is essential to any mediation.

You have indicated your intention to rule against us on our motion to enjoin Wingate and Bauknight from purporting to speak as agents for – or bind – the State of South Carolina, but have not yet issued a written Order on that motion.

A decision on this important issue of first impression in this State is critical to our ability to proceed to mediation.

3. Daryl Brown asserts he did not hire Wingate. In light of his recent statements to the press, there is substantial doubt as to whether Daryl Brown authorized Wingate to bring this suit. The deposition of this Plaintiff/Counterclaim Defendant is critical on that point, and Wingate has refused for 15 months to make him available.

4. The Minors have no Guardians ad Litem. The parents of the minors in this Case have obvious conflicts with their children, and no guardians *ad litem* have been appointed.

5. Tommie Rae Hynie Brown was not Brown's spouse. Defendants owed her no duty. Plaintiff/Counterclaim defendant Tommie Rae Hynie Brown, a companion of James Brown, has refused for 15 months to be deposed. Her deposition is critical to any evaluation of the strength of Mrs. Pope's counterclaim and Tommie Rae's claim to be relieved from default.

6. Terry Brown/Bauknight's false less-than \$4.7 Million valuation. Terry Brown and Russell Bauknight have told the IRS and the South Carolina Supreme Court that James Brown's worldwide music empire was worth less than \$4.7 Million when James Brown died on December 25, 2006 and that there has never been an offer to buy the assets. Nonetheless, this suit asserts that there was an offer in the fall of 2007 for \$100 Million and that Buchanan/Pope should have taken it, causing tens of millions of dollars of loss.

The deposition of these two Plaintiff/Counterclaim Defendants will help resolve this \$95 Million discrepancy in the alleged value of the James Brown assets – critical to any mediation.

7. Minimal document discovery must take place prior to mediation. Almost no document discovery would be necessary before mediation, because Buchanan/Pope have copies of tens of thousands of pages of public documents. What is needed is the depositions, since Plaintiff/Counterclaim defendants refused to admit the authenticity of approximately 100 public documents. We only need to obtain a handful of additional documents, chiefly:

1. The alleged Contingency Fee Contract between McMaster and Wingate;
2. A copy of the signed Legacy Trust; and
3. Tommie Rae Hynie Brown's "diary" which has been widely disseminated. [Ms. Pope is currently seeking to void a 4-year old Gag Order which would allow her to speak freely at mediation about the contents of the Hynie "diary."]

8. Buchanan did not conduct mediation. Bob Buchanan did not attend a proper mediation, as most of the Plaintiff/Counterclaim defendants were not present. It is my client's position that Bauknight/Wingate's attempt to make Bob Buchanan abandon his duty to the Estate Plan of James Brown without notifying and receiving permission from the S.C. Supreme Court and/or resigning is void. There has been no settlement presented to this Court for approval.

9. Deposition of Plaintiffs/Counterclaim defendants. Defendant/Counterclaim Plaintiff stands ready to conduct all of these deposition within 60 days if the Plaintiff/Counterclaim defendants will cooperate – something they have refused to do for more than a year. These depositions must be taken before a meaningful mediation can be held.

10. No expert testimony in two years. In two years Plaintiffs/Counterclaim defendants have produced no expert's report in support of any of their claims, although they have designated two expert witnesses. Unless they are not going to have one, these reports should be produced.

11. Early mediation after 6 depositions: It is likely the value of Mrs. Pope's counterclaims – and whether any Plaintiff/Counterclaim Defendant should be relieved from default – can be properly evaluated after the 3 documents listed above are released and the following depositions are taken: Tommie Rae, Terry, Daryl, Bauknight, McMaster and Albert Dallas. These will be important to the issue of Hynie's not being Brown's spouse; Bauknight/Terry's alleged \$4.7 Million value; and the offers – all essential element of both the defense and Counterclaims.

12. Suggestion that Mrs. Pope is uncooperative is false. The record is clear that Defendant/Counterclaim Plaintiff Pope has made repeated and substantial efforts to move this matter along, but that Plaintiff/Counterclaim Defendants have simply stonewalled traditional case management matters such as Plaintiff deposition.

13. Plaintiff/Counterclaim Defendants' failure to comply with Mediation Rules. Counterclaim Defendant/Plaintiff have made no effort to comply with the Mediation Rules, including but not limited to their failure to set forth any fact making it necessary to conduct an early mediation while refusing to comply with deposition notices for more than a year; failure to demonstrate how premature mediation could be efficient; and even unilaterally changing the caption on the proposed Order to prevent the appearance at the mediation of Henry D. McMaster, who, if the Order is signed, must be added.

14. The removal of Henry D. McMaster as a purported party and addition of Alan Wilson – with Wingate and Bauknight as his purported agents – was improper. There is no evidence whatsoever that – as the proposed Order's caption states – Russell Bauknight was authorized to continue this action as the Agent for Attorney General Alan Wilson, or Wingate to change the caption to so reflect. If the new Attorney General has authorized or condoned Wingate's presentation of this Order, he should be deposed as to why he is covering up the wrongdoing of McMaster, who must

be added as a party.

15. The wrongdoing of McMaster and Bauknight is an essential element of the request for relief from default. McMaster's presence as a party is essential to the case and to the mediation. Since January 2011, except as automatically mandated by the Appellate Court Rules, Attorney General Wilson has made no appearance. This last-minute change in a proposed order distributed without a motion is both unwarranted and improper.

16. The Freedom of Information Act suit must be severed prior to mediation. It is not only unusual but arguably unconstitutional to demand that a South Carolina Citizen be required to participate in a mediation in order for the Public Body – here the Attorney General of South Carolina – to comply with FOIA. The single FOIA case which has been consolidated with this case cannot proceed to mediation or be stayed for 90 days on the whim of Wingate.

17. Failure to require Plaintiffs, including the State (if a party) to pay. The mediation rules are clear that all parties – including Buchanan who has not yet presented a settlement or been dismissed from the action -- pay equal shares of the mediation expenses. Here, that would result in Plaintiffs being responsible for 1/17 of such expenses.

18. The Mediation Order was presented for an Improper Purpose. The mediation order was timed and presented to achieve a result in an Aiken County case: to delay or prevent Judge Early from issuing an Order which should declare void or expired a 4-year old Gag Order which will allow the more than 50 people familiar with writings of Plaintiff/Counterclaim Defendant Tommie Rae. Those who know of the explosive contents of the Tommie Rae diary – but whom the Plaintiff/Counterclaim Defendants are trying to Gag – are not only Defendants but longtime friends of James Brown named as Plaintiff/Counterclaim Defendants' witnesses in this case, including Andre Moses White and Albert Dallas. Media reports of the diary contents suggest that this information could be pivotal in this matter.

19. McMaster's hiding of the "explosive" diary and AG Wilson's coverup of McMaster's actions are central to the Counterclaims. The wrongdoing within the Office of Henry McMaster – including giving \$20 Million of James Brown's assets to Brown's companion – are essential to determining whether the State and Tommie Rae should be relieved from default. The Gag Orders should be voided before mediation.

20. Plaintiffs/Counterclaim Defendants have lacked candor with the Court. In order to prevent dismissal or release of this action, Plaintiffs, now Counterclaim Defendants in default, told this Court that Case 122 in Aiken was over. That, and other representations they have made to the Court, are false.

21. The Order fails to designate a mediator or set a date certain for mediation. With five law firms and more than 15 parties involved in this action (all of whom must attend mediation),

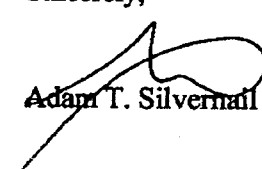
Letter to Judge Manning
July 11, 2012
Page 5

mediation is unlikely to occur without the Court designating a mediator and setting a time for mediation.

We understood from the status conference that Plaintiff/Counterclaim Defendants would make a motion or request which would address at least some of the above issues and comply with the ADR Rules. They did not. We respectfully request an opportunity to be heard on the record in open Court on our opposition to this matter so that there will be a complete record. Once again, we do not agree with Plaintiff/Counterclaim Defendants' representation of what happened off the record *in camera*.

Thank you for your consideration.

Sincerely,



Adam T. Silvernail

cc (via e-mail only):

Mark V. Gende, Esquire
J. Calhoun Watson, Esquire
Robin A. Braithwaite, Esquire
Daryl L. Williams, Esquire
Adele J. Pope, Esquire
J. Emory Smith, Esquire

General of South Carolina and also denying her request to enjoin and/or disqualify the law firm of Sweeney, Wingate and Barrow, PA ("Wingate") from serving as sole counsel for the State/Attorney General of South Carolina in this tort suit for money damages while simultaneously serving as counsel to, and seeking money damages for, more than a dozen private plaintiffs, the majority of whom are not residents of South Carolina. A copy of the referenced Order (the "Injunction Denial Order") is Attached hereto as Exhibit A.

Summary of Relief Requested

In her injunction request Defendant/Counterclaim Plaintiff Adele J. Pope ("Pope") seeks on Federal and State Constitutional Grounds, and based on equitable principles, to enjoin Wingate from placing the awesome power of the State/Attorney General against a South Carolina citizen in a tort suit for money damages to benefit his private clients, most of whom are nonresidents of the State (the "Private Co-Plaintiffs"), to whom Wingate simultaneously serves as counsel in this suit. This case is the only case of its kind in the nation of which Pope is aware in which a State/AG – without the participation of any attorney of the Office of the AG – has used private counsel to launch a tort suit using the State/AG to obtain money damages from a citizen for attorney's other, private clients.

Pope also seeks to enjoin private citizen Bauknight, a fiduciary for some of Wingate's Private Clients, from asserting that he speaks "on behalf of" the State/AG.

Pope asserts that failure to grant the injunction violates the U.S. and S.C. constitutions and illegally and/or improperly places the awesome power of the State against her and at the service of Wingate's private clients. Pope further asserts that the total failure of oversight or control by the AG is illegal and/or improper.

For the reasons stated in her Motion and Related filings, the Denial of Injunction

Order should be set aside; injunction and disqualification of Wingate ordered; and injunction as to Bauknight granted.

The grounds of this motion are:

I. The Parties and former Parties

1. **Pope**, a citizen and resident of Newberry County, SC, is now the sole Defendant and Counterclaim Plaintiff in this Case.

2. **Robert L. Buchanan Jr. ("Buchanan")**, served as Personal Representative of the Estate of entertainment icon James Brown with Pope from November 20, 2007 until May 26, 2009 and , along with Pope, is appealing a settlement and Order entered into by then-**AG Henry McMaster ("McMaster")**; recommended by Special PR/Trustee **Russell L. Bauknight ("Bauknight")**; and approved by Order of the Honorable Doyet A. Early, III ("Judge Early"). Buchanan was dismissed as a party to this action on July 5, 2012; was paid \$500,000 by Plaintiff/Counterclaim Defendants; and executed mutual releases with some or all them.

3. **Alan Wilson** replaced **McMaster** in January 2011 but, like McMaster, has never appeared as counsel in this tort suit; addressed the Court on behalf of the State; or signed a pleading or motion.¹

¹ Wilson did move to consolidate a Newberry County suit brought by Pope against Wilson in 2011 under the S.C. Freedom of Information Act ("FOIA") with this suit. In that suit, Wilson appeared through Emory Smith, Esquire of his Office. Over strenuous objection of Pope the FOIA Case, which seeks public documents, was consolidated but not merged with this Case ("Case 4900"). Nearly one year after the FOIA suit was filed, Wilson – at the request of Wingate on behalf of the Private Clients - has refused to produce the following public documents:

1. The McMaster/Wingate Contingency Fee "Litigation Retention Agreement"
2. Any authorization of Bauknight to speak on behalf of the State/AG.
3. A copy of the signed McMaster-created "Legacy Trust" which is one of

4. The **Private Plaintiffs**, for whom Wingate serves as sole counsel, are broadly classed as follows:

- a. Non-residents of South Carolina - includes adults (1) Jason, (2) Lindsey, (3) Janise (minor), (4) Yamma, (5) Terry, (6) Larry, (7) Venisha, (8) Sydney (minor) and (9) Carrington, (10) Tommie Rae (11) James (minor)
- b. Residents of South Carolina
- c. Bauknight in 3 fiduciary capacities.
- d. Bauknight as purported agent for all of the above and the State/AG.

II. Background

On May 19, 2010 Wingate filed this tort suit as sole counsel for all Plaintiffs. The complaint seeks actual and punitive damages for all Plaintiffs against Pope, a South Carolina resident, for the benefit of the majority non-S.C. resident clients.

Neither AG McMaster, nor AG Wilson, nor any member of the AG's office signed the Complaint or other pleadings, and none has appeared as counsel in this case.²

For the past 18 months, Plaintiffs/Counterclaim Defendants have been in default as to Pope's counterclaims for attorneys fees under the S.C. Trust Code and the following causes of action:

Plaintiffs herein.

² J. Emory Smith, Esq., counsel for AG Wilson in the FOIA Case has made clear that he does not purport to speak for the State in the Case 4900 tort claims or counterclaims by Pope. The FOIA transfer and consolidation has resulted in Pope's not receiving the documents requested under FOIA in the year since the request was made. Wingate's Plaintiffs have all refused to appear at depositions first noticed 15 months ago; has asserted that the Litigation Retention Agreement is private, although AG Wilson has said it is public; and have moved to intervene and sought sanctions against Pope for his Private Plaintiffs in the FOIA suit.

a. Abuse of Process

b. Civil Conspiracy

c. Intentional Interference with Contract (Approximately \$1.5 Million, plus interest at the legal rate since 2009, approved and awarded by The Honorable Doyet A. Early, III by unappealed Order dated Jan. 8, 2008 in Aiken Case 2007-CP-02-0122 ("Case 122").

d. Fraud under § 62-2-106 of the S.C. Probate Code.

Pope, and Buchanan prior to his dismissal, have at every turn called to the Court's attention that this unprecedented case violates Pope's Due Process rights and exceeds and abuses McMaster's authority because McMaster – through an illegally or improperly engaged private attorney – placed the mighty power of the State against its private citizen for the benefit of the Wingate Private Clients, mostly non-residents.

To date, including in its Order denying the request for Injunction of Bauknight and Injunction and Disqualification of Wingate, the Court has rejected Pope's arguments.

III. Grounds for Reconsideration

1. The Court failed to consider, find and order that the injunction should be granted because the AG is a Plaintiff in this suit, private counsel does not have statutory authority to represent the State of South Carolina pursuant to S.C. Code Ann. § 1-7-40 which requires that the AG shall appear for the State in the trial and argument of civil causes in which the State is a party or interested.

2. The Court failed to consider, find and order that the injunction should be granted because the AG is a Plaintiff in this suit, private counsel's attempted representation of the State of S.C. while simultaneously representing the Wingate Private Clients to obtain funds for themselves is void as violating the Constitution of S.C, the separation of powers of the

S.C. Constitution, the requirements for the engagement of Special Counsel for the State; the public trust; and Ethical Rules for Public Officials; and the Supreme Court requirements for legal representations.

3. The Court failed to consider, find and order that the injunctions should be granted where the Complaint violates the Due Process rights of Pope and others because the AG may not legally participate in or control a private tort action in which the proceeds will go to individual plaintiffs the AG has neither a duty nor a right to protect.

4. The Court failed to consider and/or find that the injunctions should be granted because the AG's authority to engage special counsel from the private sector is limited to matters which represent the interests of the State of S.C. in special situations and complex litigation.

5. The Court failed to consider and/or find that the injunctions should be granted because the Complaint neither alleges nor presents any constitutional, statutory or common law basis for the Attorney General to participate and help the Wingate Private Clients, nor any public right to be protected. *State ex rel. Condon v. Hodges*, 349 S.C. 232, 240, 562 S.C.2d 623, 627 (2002). See also S. C. Code Ann. § 1-7-10. Et seq.

6. The Court failed to consider and/or find that the injunctions should be granted because the purported joint engagement of counsel by the Wingate Private Clients and the AG violates S.C. Code Ann. § 1-7-40, as well as the public trust held by the AG.

7. The Court failed to consider and/or find that the injunctions should be granted because the S.C. Supreme Court Rules of Professional Conduct and S.C. Law require that the contract to engage outside counsel be declared void because counsel cannot serve the public interest and be under the direction of the AG of S.C. while at the same time

representing:

- a. Sydney L., Carrington L. and Janice B., minor beneficiaries of Brown's 2000 Trust, who have no guardian *ad litem* ("GAL").
- b. Minor James B., intentionally excluded by Brown, with no GAL.
- c. Tommie Rae Hynie Brown, specifically excluded by James Brown from his Estate Plan.

8. The Court failed to consider and/or find that the injunctions should be granted because the AG is a Plaintiff in this case, the Complaint violates the Due Process rights of Pope because it seeks funds from which, if recovered, it would be required by §1-7-150 to be deposited into the general fund of the State of S.C. which does not own, and is not entitled to any funds of Pope, the Estate of James Brown or the James Brown 2000 Trust.

9. The Court failed to consider, find and order that the injunctions should be granted because neither Wingate nor Bauknight has any authority whatsoever to bind the general fund of South Carolina as to the Counterclaims of Pope, as to which all Wingate clients are now in default.

10. The Court failed to consider, find and order that the injunctions should be granted because Bauknight has failed for two years to allege or demonstrate any constitutional, statutory or regulatory basis for his assertion in the caption and complaint that he is or can be an agent of the AG of South Carolina.

11. The Court failed to consider, find and order that the injunctions should be granted because the AG has no beneficial interest in James Brown's Private Estate Plan and is prohibited by law from having an interest as a beneficiary of the Legacy Trust.

12. The Court failed to consider, find and order that the injunctions should be granted because the Complaint violates Art. I, § 8 of the Constitution of South Carolina

which states that "the legislative, executive and judicial powers of the government shall be forever separate and distinct from each other," on the grounds that the AG, by seeking funds through Wingate and Bauknight on behalf of the State of S.C. from Pope to be paid to private individuals, usurps the legislative function by the executive branch.

13. The Court failed to consider, find and order that the injunctions should be granted because Wingate/AG by entering into a private contract with Wingate Private Clients Tommie Rae and Terry Brown has violated Section 8-13-1342 of the South Carolina Ethics, Government Accountability, Campaign Reform Act (the "Campaign Reform Act"), which provides that:

No person who has been awarded a contract with the State...other than contracts awarded through competitive bidding practices, may make a Contribution after the awarding of the contract or invest in a financial venture in which the public official has an interest if that official was in position to act on the contract's award. [Emphasis supplied.]

14. The Court failed to consider and find that the injunctions should be granted because the Wingate and Bauknight representations violate S.C. Code Ann. § 1-7-130 which limits the AG's authority as follows:

The Attorney General shall enforce the due application of funds give or appropriated to public charities within the State, prevent breaches of trust in the administration thereof and, when necessary, prosecute corporations which fail to make to the General Assembly any report or return required by law.

15. The Court failed to consider and find that the injunctions should be granted because McMaster' decision to allow Wingate's representation while representing the Wingate Private Clients exceeds the AG's statutory and constitutional authority.

16. The Court failed to consider and find that Wingate has threatened Pope with

sanctions – and sought them on behalf of the Wingate Private Clients for exercising her rights under FOIA while it is the duty of his purported client the AG to comply with FOIA.

17. The Court failed to consider and find that the injunctions should be granted because it is now apparent the AG cannot and should not support the action of Wingate Private Plaintiffs Terry Brown and Bauknight in undervaluing James Brown's worldwide music empire at less than \$4.7 Million for their private purposes where the proper value was about \$85 Million.

18. The Court failed to consider and find that the injunctions should be granted because there are now multiple and increasing irreconcilable conflicts between the public interest – which AG Wilson must uphold – and the interests of the Wingate Private Clients.

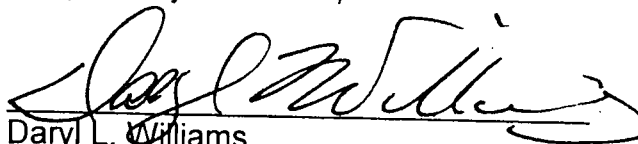
19. The Court failed to consider and find that the injunctions should be granted because it is the duty of AG Wilson to investigate documented statements such as that of Daryl Brown that he did not contract with Wingate to represent him; that he knew nothing about the suit until after it was filed; and that he regrets contesting his father's will which left about \$80 Million to The James Brown "I Feel Good" Trust, while Wingate must protect Tommie Rae and other Wingate Private Clients whom James Brown intentionally excluded from his Estate Plan.

20. The Court failed to consider and find that the injunctions should be granted where Wingate's clients have falsely accused Pope of overstating the value of James Brown's assets by \$79 Million, which would be a crime.

This Motion is supported by the United States Constitution; the Constitution of the State of South Carolina; the South Carolina Probate Code; the South Carolina Rules of Civil Procedure, including Rules 59(a), (b) and (e) and 60(a) and (b); the S.C. Appellate

Court Rules; all filings herein; and such additional memoranda and information as the Court shall require and Pope provide.

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

July 27, 2012

Attorneys for Defendant Adele J. Pope

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 Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina and others

and

HENRY DARGAN McMASTER, in his
capacity as Attorney General of the State of
South Carolina; and others,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

)

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

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

EXHIBIT A

To

Adele J. Pope's Motion to Vacate, Set Aside, Alter and/or Amend Order Denying
Injunction as to Russell L. Bauknight serving as Agent for the State/Attorney General
and Denying Injunction and Disqualification of Sweeney, Wingate & Barrow, PA as
sole counsel to both the State/AG and Private Plaintiffs, including Non-Residents of
South Carolina, in a Tort Suit for Money Damages Against a South Carolina Citizen

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

FORM 4

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 (Pl. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE 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 11 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

629

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; 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 Lamar and Carrington Lamar; 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; 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 LAMAR and CARRINGTON LAMAR; 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

ORDER CONCERNING DEFENDANT
ALELE POPE'S MOTION TO
DISQUALIFY SWEENEY, WINGATE
AND BARROW, P.A. FROM
REPRESENTING THE OFFICE OF
THE ATTORNEY GENERAL OF
SOUTH CAROLINA, ENJOINING
RUSSELL BAUKNIGHT FROM
PROPORTIONING TO SPEAK FOR THE
OFFICE OF THE ATTORNEY
GENERAL, AND OTHER BELIE

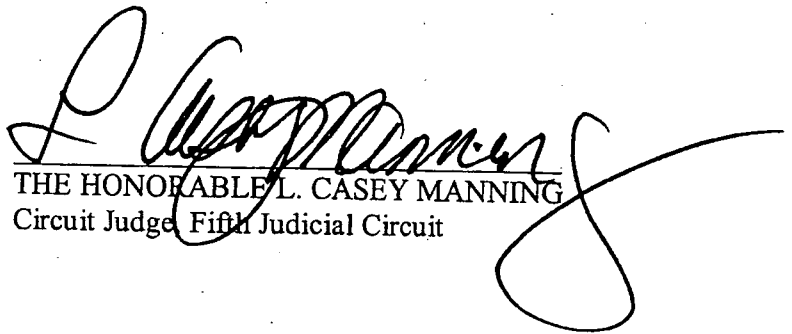
2012 JUL 5 AM 10:58
JAMES M. McBRIDE

RICHLAND COUNTY
FILED

At a Hearing before The Honorable L. Casey Manning on April 12, 2012, the Court heard Defendant Pope's Motion to Disqualify Sweeny Wingate and Barrow, PA from representing the Office of the Attorney General of South Carolina, enjoining Russell Bauknight from purporting to speak on behalf of the Office of the Attorney General of South Carolina, and for other miscellaneous relief.

Having considered the Memoranda of Law from Defendant Pope and Plaintiffs, hearing oral argument from both parties, and carefully considering the merits of the arguments of each party, this Court denies the relief sought by Defendant Pope in her Motion.

IT IS SO ORDERED.


THE HONORABLE L. CASEY MANNING
Circuit Judge Fifth Judicial Circuit

Dated this 5 day of July, 2012
Columbia, South Carolina

foundation - to provide scholarships for needy and deserving students.

2. On May 19, 2010 DARYL and others, through Wingate, brought this suit for the improper purpose of damaging the careers of ADELE and Robert Buchanan, Jr., so severely that they would be required to abandon their vigorous defense of Brown's Estate Plan and the "I Feel Good" Trust.

3. DARYL has recently notified Attorney General Alan Wilson of his support for the Estate Plan of his father which he previously sought to destroy.

4. It is the position of ADELE that those who have damaged and sought to destroy the "I Feel Good" Trust - or allowed others to do so - must help restore it or be charged with the costs.

5. In that spirit ADELE makes the Offer set out herein.

SETTLEMENT

The Parties having resolved their differences in this Case, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Subject to the terms of this Settlement Order, DARYL and ADELE have resolved their differences in this action, and DARYL is hereby dismissed as a party.

2. DARYL dismisses with prejudice all claims against ADELE as set out in the Complaint.

3. As to the Counterclaims, DARYL agrees that this Case 4900 was an abuse of process brought for the improper purpose of damaging ADELE and Robert Buchanan, Jr. and forcing them to abandon their appeal in Case 1647.

4. DARYL also agrees ADELE is entitled to the full amount awarded her under the January 8, 2008 Order in Case 122, with interest until paid, and that Plaintiffs intentionally

interfered with this entitlement.

5. DARYL agrees that ADELE is entitled to see any contract DARYL has with WINGATE to bring this suit, and directs WINGATE to produce it.

6. DARYL withdraws all requests to intervene in the FOIA suit, and withdraws his request for sanctions against ADELE.

7. DARYL agrees that he and the other five named children in the valid last Will of James Brown, along with Cinnamon Parris, LaRhonda Pettit and Jeanette Mitchell are the only heirs determined to date, and that Brown died without a surviving spouse.

8. DARYL asserts that Russell L. Bauknight's support of Tommie Rae creates an irreconcilable conflict, making him unable to serve the Estate and Trust of James Brown.

9. DARYL agrees that those fiduciaries, attorneys and advisors who have opposed the Estate Plan of James Brown or declared Tommie Rae to be Brown's spouse should not be paid from the Estate/2000 Trust.

10. DARYL agrees that it would be appropriate for the Estate/2000 Trust to pay up to seven acknowledged heirs of James Brown one (1%) of the annual income of the "I Feel Good" Trust for life to secure their relinquishment or vote in favor of the "I Feel Good" Trust of all rights under the Federal Copyright Act, including Termination Rights.

11. DARYL agrees that except for the 6 acknowledged children and their children, the only method of determination of an heir should be the official DNA testing set up by the Estate in 2007.

12. In consideration of ADELE's agreement if reinstated not to enforce the *In Terrorem* clause for his acts prior to today, DARYL has agreed that he will immediately notify the S. C. Supreme Court of South Carolina of his support of James Brown's Estate

Plan, and desire that it be followed.

13. DARYL will continue his requests to AG Wilson to reverse the actions of his predecessor which, if not reversed, will destroy the "I Feel Good" Trust.

13. DARYL agrees that a copy of this Settlement and Dismissal Order may be used for any purpose to show the position of the parties.

AND IT IS SO ORDERED.

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

July 26, 2012

Attorneys for Defendant Adele J. Pope

636

2. ADELE served as a personal representative under the Will of James Brown and Trustee of the 2000 Irrevocable Trust until replaced by Russell L. Bauknight on May 26, 2009 under an Order now on appeal to the S.C. Supreme Court in Case 2008-CP-02-1647 ("Case 1647").

5. On May 19, 2010 TONYA, through Sweeney Wingate & Barrow, PA ("Wingate") filed this suit against ADELE.

6. On November 30, 2010 TONYA, through Wingate, defaulted as to ADELE's counterclaims for attorneys' fees under the S.C. Trust Code and:

a. Abuse of Process;

b. Interference with Contract - Pope's entitlement to \$1.5 Million, plus interest at the legal rate from 2009, awarded in a 1/8/08 Order which TONYA approved and did not appeal.

c. Civil Conspiracy; and

d. Fraud under § 62-1-106 of the S.C. Code.

7. ADELE makes the Offer set out herein.

Terms of Settlement

The Parties having resolved their differences in this Case, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Subject to the terms of this Settlement Order, TONYA and ADELE have resolved their differences in this action, and TONYA is hereby dismissed as a party.

2. TONYA dismisses with prejudice all claims against ADELE as set out in the Complaint.

3. As to the Counterclaims, TONYA agrees that this Case 4900 was an abuse of process brought for the improper purpose of damaging ADELE and Robert Buchanan,

Jr. and forcing them to abandon their appeal in Case 1647.

4. TONYA agrees that ADELE is entitled to see any contract TONYA has with WINGATE to bring this suit, and directs WINGATE to produce it.

5. TONYA withdraws all requests to intervene in the FOIA suit, and withdraws her request for sanctions against ADELE.

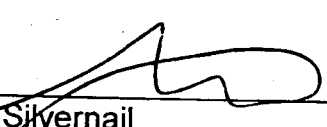
6. TONYA agrees that she is not a beneficiary of the Will or 2000 Trust.

6. TONYA agrees that a copy of this Settlement and Dismissal Order may be used for any purpose to show the position of the parties.

AND IT IS SO ORDERED.

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

July 26, 2012

Attorneys for Defendant Adele J. Pope

COUNTY OF RICHLAND

and

Plaintiffs,

V.

Defendant

Offer of Judgment
of Adele J. Pope to Terry Brown

JEANETTE M. HOBBS
C.C.P. & G.S.

2012 JUL 31 AM 10:25

RICHLAND COUNTY
FILED

2. Brown's dream was to dedicate his \$100 Million worldwide music empire solely to education, by establishing \$285,000 education trust for 7 designated grandchildren and the "I Feel Good" private foundation -- dedicated solely to providing scholarships for needy students.

3. On November 20, 2007 the Court appointed ADELE and Robert Buchanan, Jr. ("Bob") to carry out Brown's dream as PRs under his Will and Trustees of his 2000 Irrevocable Trust.

4. The Court gave them all duty and authority as if appointed by Brown himself, including the duty to "vigorously defend " any challenge to Brown's Estate Plan as an affront to his wishes.

5. On December 26, 2007 Daryl and some of Brown's acknowledged children, with no cause to do so and represented by a lawyer they agreed to pay \$150,000.00 plus 30% of what they get by destroying Brown's Estate Plan, challenged his Will even though all knew it to be valid and at least two were present when it was signed.

6. On January 30, 2009 TERRY -- having insisted for 2 years that James Brown's Estate Plan must be upheld and his *In Terrorem* clauses enforced -- abandoned his father's dream to get for himself:

a. a right to buy Brown's music empire; and

b. about \$5 Million.

7. On May 19, 2010, with no cause to do so TERRY, Daryl and others sued ADELE and Bob for appealing the destruction they caused to James Brown's dream.

8. By 2011, more than 50 lawyers had helped Daryl and TERRY on their plan to destroy James Brown's dream -- at least 10 of them paid by the taxpayers of South

Carolina.

9. In 2011 Attorney General Alan Wilson, Bauknight and TERRY all failed to seek a penny of restitution from felon David Cannon, who stole more than \$12 Million from James Brown and the needy children – after naming Cannon as their witness against ADELE and Bob in this Case.

10. Around July 24, 2012 – 5 ½ years after their father's noble plan for needy students should have been put in place – Daryl Brown stepped forward to ask AG Alan Wilson to stop the destruction he, his family and Brown's disinherited companion had caused.

11. ADELE's position is that TERRY and those who destroyed James Brown's Estate Plan and the "I Feel Good" Trust must rebuild it or be responsible for the \$40 Million - \$80 Million loss they are causing.

12. TERRY, with Daryl, can help save those Millions for needy students by advising the S.C. Supreme Court:

- a. TERRY told the truth until January 2009 when he told the Court the *In Terrorem* clauses of Brown's valid Will and Trust should be enforced.
- b. TERRY told the truth until January 2009 when he said Tommie Rae was not Brown's spouse, and her child probably not his.
- c. TERRY lied when he told the Supreme Court the value of Brown's worldwide music empire was \$4.7 Million.
- d. TERRY lied when he said there had been no offers to buy the music empire when he was part of two \$90 – \$100 Million offers.
- d. TERRY lied to the Supreme Court when he said Bob and ADELE falsely overstated the music empire at \$85 Million to get a big commission.
- e. Bauknight, committed to obtaining Brown's assets for Tommie Rae and others Brown intentionally excluded from his music empire, cannot serve as

Brown's PR/Trustee, and his less-than \$4.7 Million value is outrageous.

f. TERRY no longer wants S.C. Taxpayers to pay 10 lawyers for AG Wilson to try to justify what former AG McMaster, the family and the companion did to destroy Brown's Estate Plan and the "I Feel Good" Trust.

g. TERRY has given up his right to claim assets and benefits he received in the settlement and which he had knowledge that his father did not wish to leave to him.

13. ADELE and Bob have witnessed and vigorously tried to prevent the destruction of The James Brown "I Feel Good" private foundation for 5 ½ years.

14. ADELE believes that TERRY, Bauknight and others who destroyed the "I Feel Good" Foundation must restore it or be responsible for the loss.

15. In that spirit ADELE makes TERRY the Offer set out herein.

SETTLEMENT

ADELE proposes a Settlement Order as follows:

Terry Brown ("TERRY") and Adele J. Pope ("ADELE") have resolved their differences in this Case ("Case 4900") which involves the James Brown 2000 Trust, currently being administered in Richland County; the Aiken Estate of Brown; and another Richland County Trust created in 2008 by former AG Henry McMaster and others with Plaintiff Russell Bauknight as Trustee (the "Legacy Trust"). The Settlement terms are as follows:

1. TERRY dismisses with prejudice all claims against ADELE .
2. TERRY and ADELE have committed to meet every two weeks for as long as necessary to try to restore the approximately \$80 Million the Settling parties are trying to

take from the "I Feel Good" Foundation.

3. TERRY :

- a. Supports the immediate and permanent removal for cause/conflict of interest of Bauknight as PR and as Trustee of the 2000 Trust.
- b. Supports the return of ADELE as PR/Trustee of the 2000 Trust; the re-establishment of a private board; and the creation of a permanent, rotating family trustee seat on the "I Feel Good" Foundation for a Brown family member.
- c. Agrees to transfer/assign/relinquish, to go to the "I Feel Good" Foundation, but in a manner (approved by ADELE) which cannot benefit the "Settling Parties" – all assets and rights, including any right to buy and/or sell assets under the Settlement Agreement approved May 26, 2009 [now on appeal].
- d. Will immediately notify the S.C. Supreme Court of his desire to Support the Buchanan/Pope appeal; overturn the May 26 Order; and vacate all appointments of Bauknight.

4. TERRY acknowledges that the *In Terrorem* clauses of James Brown's Will and the 2000 Trust should be implemented against all Plaintiffs except Daryl – the first to step forward to try to save the "I Feel Good" Foundation.

5. As to ADELE's counterclaims against TERRY for (1) abuse of process; (2) fraud under § 62-1-106; (3) Civil Conspiracy and (4) Interference with Contract, TERRY acknowledges that:

- a. Bauknight/AG Wilson caused great loss by seeking no restitution from felon David Cannon – not even Cannon's Million-Dollar mansion in Honduras.
- b. ADELE and Bob faithfully served under the Will/2000 Trust; vigorously defended Brown's Estate Plan; and are entitled to a full commission, allocated in ADELE's discretion, based on the true \$100 Million value of Brown's assets.
- c. The Dallas Claim case in Aiken County should proceed immediately, with ADELE allowed to intervene, and Dallas allowed to demonstrate:

1. Dallas' efforts to defend Brown's Estate Plan.

2. Dallas' knowledge that Tommie Rae was not Brown's wife and should not have been given \$20 Million.
3. Brown's assets at death were worth about \$100 Million at death (less the TIAA debt) – not less-than \$4.7 Million.
4. Dallas left a \$100 Million offer with Jg. Early in 2007.
5. Why Dallas believes he is entitled to a commission even though he failed to discover or stop \$12+ Million of takings by Co-Trustee Cannon.
- d. Bauknight has breached his duty to the Estate/2000 Trust and should be removed if his appointment is not overturned by the Supreme Court.
- e. Tommie Rae was not the surviving spouse of James Brown.
7. ADELE and TERRY will will work vigorously to restore/prevent loss or payments from the Estate/2000 Trust to Bauknight or those who challenged Brown's Will/2000 Trust.
6. TERRY agrees that it would be appropriate for the Estate/2000 Trust to pay up to seven acknowledged heirs of James Brown one (1%) of the annual income of the "I Feel Good" Trust for life to secure their relinquishment or vote in favor of the "I Feel Good" Trust of all rights under the Federal Copyright Act, including Termination Rights.
- 7 TERRY agrees this Case 4900 was an abuse of process brought to damage ADELE and Bob, forcing them to abandon their appeal in Case 1647.
8. TERRY agrees that Plaintiffs intentionally interfered with ADELE's contract approving her entitlement to about \$1.9 Million under the January 8, 2008 Order in Case 122, plus future interest, much of which should have been paid by now.
9. TERRY directs WINGATE to deliver a copy of his Contract to sue Bob/ADELE in this Case 4900 and show her any documents TERRY has given him.
10. TERRY withdraws all requests to intervene in any FOIA suit, and all

requests for protective orders and/or sanctions against ADELE, and asks AG Wilson to produce all documents requested by ADELE under FOIA.

11. TERRY acknowledges that his agreement to speak the truth, and admit where he has deceived the Court, is an important part of this Settlement, and that ADELE will use such information to rehabilitate her reputation and recover against the other adult Plaintiffs/Counterclaim Defendants.

12. Within 20 days of this Order, TERRY agrees to submit to a deposition conducted by ADELE's counsel, giving full testimony, with no claim of privilege, about:

- a. TERRY's position that Brown's *In Terrorem* clauses must be enforced.
- b. TERRY's knowledge that no cause existed to contest Brown's Estate Plan.
- c. The failure of AG Wilson and Bauknight to seek restitution from Cannon.
- d. The less-than \$4.7 Million valuation and his \$90 Million - \$100 Million offers.
- e. TERRY/Bauknight's manipulation of the value of Brown's music empire to less than \$4.7 Million.
- f. Bauknight's claim Hynie's elective share claim was a "slam dunk."
- g. TERRY's and Bauknight's decision to bring this Case 4900.
- h. All other matters that may help ADELE undo the damage TERRY caused.

13. TERRY agrees the 6 children named in Brown's Will, Cinnamon, La Rhonda and Jeanette are the Brown's only properly-determined heirs to date.

14. TERRY agrees that the only method to determine additional heirs should be under the official DNA protocol set up by the Estate in 2007.

15. TERRY agrees that Bauknight's support of Hynie's claims has created an irreconcilable conflict and continuing breach of his duties to the Estate/2000 Trust.

16. TERRY agrees that none of the 50+ attorneys and advisors who have helped the Settling Parties or Bauknight destroy Brown's "I Feel Good" Trust and/or manipulate the value of the music empire should be paid from the Estate/2000 Trust, and none should have been paid by the Taxpayers of S.C.

17. TERRY will immediately notify the S. C. Supreme Court of his support of James Brown's Estate Plan, and support for Bob/ADELE's appeal.

18. TERRY will urge AG Alan Wilson to abandon his support of the destruction of the "I Feel Good" Trust.

19. TERRY and ADELE agree that a copy of the Offer of Compromise and this Settlement Order may and should be used to help save/restore the "I Feel Good" Trust.

20. In consideration of the covenants and commitments made by TERRY in the Settlement Agreement, ADELE's counterclaims against TERRY in this Case 4900 should be will be dismissed upon proper notification to the Supreme Court by TERRY as set out herein, with a copy of this Order; the completion of TERRY's deposition; and Terry's filing in the Dallas Case, all of which shall take place within thirty (30) days; and

21. TERRY and ADELE have requested that this Court retain jurisdiction over this final settlement for the sole purpose of enforcing its terms, if needed, but without impairing the ability of any other Court to proceed with any component of the Agreement.

Based on the above Agreement and Final Settlement, it is ORDERED,
ADJUDGED AND DECREED:

a. The terms of the Final Settlement set out above are hereby adopted as a final Order of this Court with respect to the claims between TERRY and ADELE;

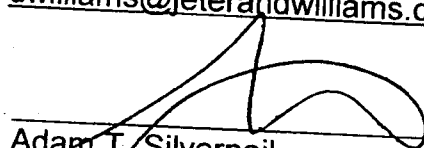
- b. All claims by TERRY against ADELE in this Case are hereby dismissed with prejudice and forever ended;
- c. TERRY is directed to submit to a full deposition as described herein in Columbia, S.C. within 20 days of this Order;
- d. ADELE's counterclaims against TERRY in this Case will be dismissed upon completion of the filing with the Supreme Court as set out herein; TERRY's notification to the Aiken Court of his position as to the Dallas Case; and the completion of TERRY's deposition, all of which he is directed to complete within thirty (30) days.
- e. Subject to paragraph f, below, this Court shall retain jurisdiction over the settling parties for the sole purposes of enforcing, if necessary, the terms of this Final Settlement Order between them.
- f. Retention of jurisdiction by this Court for the sole purpose of aiding in the implementation of this Settlement Order, if needed, shall not impair in any way the right and/or obligation of another Court, such as the Aiken County Court in the Dallas matter, to address and/or proceed with any component of the agreement between TERRY and ADELE.
- g. TERRY and ADELE having waived any right to appeal, this Order shall immediately become final.

AND IT IS SO ORDERED.

[Signatures 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

Attorneys for Defendant Adele J. Pope

July 30, 2012

RECITALS

1. On May 19, 2010 JASON, through WINGATE, sued ADELE and Robert Buchanan, Jr. ("Bob") in this Case ("Case 4900").
2. JASON and his Co-Plaintiffs seeks tens of millions of dollars from ADELE. JASON asserts ADELE breached her duty to him under a \$285,000.00 Education Trust, part of the James Brown 2000 Irrevocable Trust (the "2000 Trust").
3. JASON's \$285,000.00 Education Trust and one for each of six other designated grandchildren were created by JASON's grandfather, entertainment icon James Brown, as part of his August 1, 2000 Estate Plan.
4. JASON's mother Deanna provided the estate planning attorney who drafted the 2000 Trust with names, dates of birth and other information about the 7 grandchildren.
5. After Brown's death on December 25, 2006 Deanna served briefly as a Trustee of the 2000 Trust, but by January 9, 2007 Deanna had engaged Atlanta attorney Louis Levenson to help Deanna and her siblings, all intentionally disinherited from Brown's music empire, destroy it.
6. Deanna and others contracted to pay Levenson \$150,000 and 30% of what Levenson could get them by destroying Brown's Estate Plan.
7. Deanna knew she was disinherited by Brown from his music empire, and had stated it in her \$1 Million 2002 lawsuit against her father over royalties to about 23 of his more-than 800 published songs.
8. On December 26, 2007 Deanna, through Levenson, filed suit to void Brown's valid Estate Plan. Deanna and Levenson asserted that Deanna could speak for

JASON, then a minor, even though she was asking the Court to void his \$285,000.00 Education Trust.

9. Bob and ADELE, vigorously defended the Estate Plan and JASON's \$285,000 Trust, asserting that JASON needed a Guardian ad Litem because of Deanna's conflict.

10. On August 10, 2008 Deanna and AG Henry McMaster agreed to dismantle JASON's Education Trust along with Brown's "I Feel Good" private foundation for needy students, and to give to **"all parties hereto represented by Louis Levenson as they agree among themselves"** 25% of Brown's assets.

11. On January 30, 2009, concealing that he was already Deanna's trustee, Bauknight recommended that the Court to approve the agreement, with JASON's Education Trust dismantled and JASON receiving none of the 25%.

12. By early 2009 JASON was 18, but did not move to become a party to any Aiken County Case.

13. On March 25, 2009, JASON filed an Affidavit, notarized by an assistant in Levenson's office, which raises serious questions about whether JASON understood what Deanna and McMaster had done to his \$285,000.00 Education Trust. The affidavit says JASON was advised about the settlement by his mother – not any attorney; and says, in part: "... I believe this settlement is in my best interest."

14. While the approval request was pending Levenson threatened Bob and ADELE with sanctions and Rule 11 filings if they objected to the settlement, and told the media those standing in the way of the settlement better get out of the way.

15. Bob and ADELE appealed the May 26, 2009 Order, by which McMaster "gave" Deanna and others Brown disinherited more than 50% of Brown's "I Feel Good" foundation for needy students and dismantled the seven \$285,000.00 Education Trusts.

16. On information and belief, WINGATE sued ADELE for JASON:

- a. Without understanding or investigating ADELE's role in attempting to save JASON's \$285,000.00 Education Trust, destroyed by WINGATE's other clients, including Deanna.
- b. Without obtaining a signed contingency fee agreement with JASON;
- c. Without obtaining a conflict waiver signed by JASON.
- d. With knowledge, as defined in the S.C. Trust Code, that the suit was frivolous.

17. On or about November 30, 2010, JASON, through WINGATE, went into default as to ADELE's counterclaims for attorneys' fees under the S.C. Trust Code and:

- a. Abuse of Process;
- b. Interference with Contract – Pope's entitlement to \$1.5 Million, plus interest at the legal rate from 2009, awarded in a 1/8/08 Order which JASON, through Deanna, approved and did not appeal.
- c. Civil Conspiracy; and
- d. Fraud under § 62-1-106 of the S.C. Code.

18. In 2011 JASON, through WINGATE, moved to intervene in a Newberry County Case brought by ADELE under the S.C. Freedom of Information Act ("FOIA") to prevent disclosure of public documents which will help protect JASON's Education Trust.

19. On information and belief, JASON's attempt to intervene in a FOIA suit is unusual – if not unprecedented -- in the history of the State.

20. JASON also sought sanctions against ADELE in the FOIA suit, also an unprecedented act.

21. ADELE asserts that JASON's actions in both this Case and the FOIA suit have been reckless or intentional; designed to damage ADELE's career and reputation; brought without proper investigation; brought in bad faith to prevent ADELE from being paid the approximately \$1.9 Million awarded her by Jg. Early in the January 8 Order; and with the improper purpose of forcing her to abandon the appeal of the dismantling of Brown's Estate Plan.

22. ADELE's consistent position has been that those who destroyed Brown's Estate Plan – or allowed others to destroy it – should help rebuild it or suffer the loss.

23. JASON, through WINGATE, has adamantly refused to be deposed.

24. On information and belief, JASON's deposition would show whether or not:

a. JASON has ratified the acts of Deanna, Levenson and Bauknight in destroying his \$285,000.00 Education Trust;

b. JASON authorized WINGATE's suit against Bob and ADELE, knowing its purpose to damage her and stop the appeal of the destruction of his Education Trust.

c. JASON understands FOIA; its purpose; and the need for disclosure of public documents to hold public officials will accountable for their actions;

d. JASON authorized WINGATE to intervene in the FOIA suit and seek sanctions against ADELE.

e. JASON authorized Bauknight to speak as his agent.

f. JASON, Deanna and others obtained an improper distribution from the Estate/2000 Trust to buy themselves a release from Bob.

25. At the request of JASON, through WINGATE, The Honorable Casey

Manning has ordered ADELE and JASON to appear at mediation on or before October 15, 2012, and before the deposition.

26. Hoping that JASON either did not authorize or ratify -- or now regrets -- the reckless and intentional attacks on his grandfather's noble Estate Plan, ADELE and the right of citizens under FOIA made in his name, ADELE makes the following Offer of Judgment to JASON.

Terms of Settlement

The Parties having resolved their differences in this Case, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. JASON, subject to the terms of the Order, is hereby dismissed as a party to this Case.

2. All claims of JASON against ADELE in this Case are hereby dismissed with prejudice and forever ended.

3. JASON notifies the Court that **either**:

a. JASON understands, acknowledges and ratifies that the dismantling of his \$285,000.00 Education Trust by Deanna when he was a minor, and releases and relieves ADELE and all other fiduciaries under the 2000 Trust from any and liability for failure to "vigorously defend" or enforce the Estate Plan of James Brown as it applies to JASON, including in the creation, funding and proper management of JASON's \$285,000.00 Education Trust;

OR

b. JASON shall, within 30 days, notify the S.C. Supreme Court that he became an adult before May 26, 2009 but did not fully understand the effect the settlement entered into on his behalf by Deanna and Levenson on his \$285,000.00 Education Trust; that he did not have a Guardian *ad Litem* at any time, even though his mother's position in Case 1647 was patently adverse to his; that neither Levenson nor any attorney advised him when he declared that the settlement was in his best interest; and that he asks the Court to set aside

the May 26, 2009 Order as it relates his \$285,000.00 Education Trust.

4. Notification by JASON:

I elect (by checking ONLY ONE) Paragraph 3a___ OR 3b___.

5. (If 3 b elected) JASON asserts that he did not* [or did] sign a Contingency Fee Contract with WINGATE and did not * [or did] authorize and/or ratify Russell Bauknight to serve as his agent in commencing and/or continuing this Case 4900. In either case JASON directs WINGATE and Bauknight to produce to ADELE any and all documents which he or they assert constitute such contract or authorization. [*Must select truthful answer.]

6. JASON withdraws all attempts to intervene in any FOIA case and/or seek sanctions against ADELE.

7. (If 3b elected) JASON asserts that he did not* [or did, if correct] authorize and/or direct WINGATE or Bauknight to seek to intervene in a FOIA Case on his behalf; does not desire to prevent the release of any public document; and asks AG Wilson to produce any document which will help ADELE protect the "I Feel Good" Trust or his \$285,000.00 Education Trust. [*Must select truthful answer.]

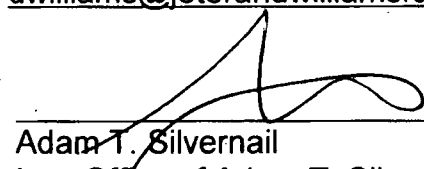
8. (If 3b elected) JASON and ADELE will make every effort to obtain payment and/or reimbursement to JASON of up to the full amount of the \$285,000.00 Education Trust fund upon his filing in Aiken County and the Supreme Court notice that he ratifies the August 1, 2000 Estate Plan of James Brown.

9. A certified copy of this Order may be presented to any Court as evidence of the settlement between JASON and ADELE in this matter and of their respective positions in any other Case or any other matter.

AND IT IS SO ORDERED.

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

Attorneys for Defendant Adele J. Pope

July 30, 2012

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
)
)

RUSSELL L. Bauknight, as Trustee,
and others

Case No.: 2010-CP-40-4900

and

) Offer of Judgment of Adele J. Pope
) to the Estate of James Brown
)

HENRY DARGAN McMASTER and
others

Plaintiffs,

v.

Adele J. Pope,

Defendant

2012 AUG -3 AM 10:24
JEROME W. LEBERIDE
C.C.P. & G.S.

TO: PLAINTIFF ESTATE BROWN AND SWEENEY, WINGATE AND BARROW, PA.
("WINGATE") HIS ATTORNEYS OF RECORD:

Pursuant to South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, and all other applicable law, Defendant Adele J. Pope ("ADELE") proffers an Offer of Judgment to Plaintiff/Counterclaim Defendant ESTATE of James Brown, whose current Personal Representative ("PR") is Russell L. Bauknight ("ESTATE") in the above-referenced matter as set out below:

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant is less than the above proffer, ADELE shall seek from ESTATE all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, and interest under Rule 68.

RECITALS

1. In 2008 Russell Bauknight's lawyer, Freddie Kingsmore of Nexsen Pruet, a

Senior Assistant to AG Henry McMaster and an agent for Brown's companion Tommie Rae began planning McMaster's takeover of entertainment icon James Brown's private property, a \$100 Million music empire, through use of McMaster's public office.¹

2. Over the next two years McMaster, Tommie Rae and Nexsen Pruet -- working both for Bauknight and to aid their managing partner who aspired to be the next Attorney General -- carried out the takeover and had it approved by a circuit court.

3. If not reversed in the pending appeal, McMaster's action will be the only scheme of its kind in the nation in which an Attorney General takes control of a properly run private foundation and -- in derogation of the documents -- gives himself the right to change the foundation in any way he chooses and hire and fire a single trustee who serves at his whim.

3. The McMaster Plan was:

a. Takeover Brown's \$100 Million music empire, the bulk of which Brown's valid Estate Plan placed in the "I Feel Good" private foundation, to be used solely for scholarships for needy and deserving students;

b. Give a big piece to Brown's disinherited companion, Hynie, represented by a professor and friend of the AG's Senior Assistant.

c. Give Brown's disinherited family whatever was necessary, so long as McMaster -- and hopefully Kingsmore's partner-- retained control of the \$100 Million purse strings and political capital to be amassed from grateful lawyers and other advisors in pay-to-play deals with the AG's trustee.

4. McMaster was already aware how lucrative pay-to-play deals were to his political campaign from having brought a half dozen or so cases enforcement suits

¹ The takeover can be traced to **before** Kingsmore took a trip to Memphis in 2008, but Bauknight, for the ESTATE, has refused to give a deposition which would reveal the exact date.

against pharmaceutical giants using outside counsel he select with no competitive bids.

5. McMaster received and declared both legal and ethical large contributions from the pharmaceutical attorneys he hired – until he was scorched in a *Wall Street Journal* article.

6. After the *Journal* took him to task, McMaster announced he was returning some of the big contributions, and would discontinue taking contributions from those he hired. [He forgot his promise when he sued ADELE, taking a contribution from a WINGATE lawyer just weeks after the suit was filed.]

7. McMaster had a roadmap for what he would do after the takeover from a 2006 New York ethics opinion related to Attorney General, then Governor, Elliot Spitzer.

8. Spitzer's detractors in the gubernatorial campaign accused Spitzer of passing out patronage and benefitting personally through his own family's \$25 Million private foundation which, as AG, Spitzer had a duty to regulate.

9. The Spitzer Ethics Opinion did not refute that there was substantial political favor to be gained from investment advisors and others engaged by the Spitzer foundation – or from the strategic placement of charitable funds where Spitzer needed votes. It found Spitzer's remaining on the Foundation board while AG was not improper for two reasons: Spitzer (a minority board member) did not control the vote on where funds were either spent or distributed for charitable purposes. And Spitzer, as AG, was not allowed to oversee either criminal or civil enforcement matters related to the Spitzer Foundation.

8. McMaster – preparing to take over a fund at least 4 times the size of the Spitzer Foundation by use of his public office – saw no use for such restraints on his

total power over Brown's money. Nor was he bothered that the \$100 Million was neither his family's money nor public money – but the private assets of the Estate of a S.C. Citizen.²

9. McMaster's soundly rejected the Spitzer ethics limitations, remaining deeply involved in civil and criminal aspects of Brown's property after he took it over. And McMaster enjoyed contributions from many attorneys, including Powell Goldstein, the Atlanta law firm which had represented felon David Cannon, one of Brown's original trustees.³

10. Knowing neither ADELE nor any other James Brown fiduciary could approve this outrage, McMaster asked the court to appoint Bauknight as an "independent" person to recommend the settlement to the circuit court.

11. Concealing his role as the Trustee for the "Legacy Trust" -- McMaster's vehicle to hold the assets he took over – Bauknight told the Court that giving away 52 ½ % of Brown's "I Feel Good" Foundation was the right things to do.

13. The rest is history – including that McMaster did not become Governor and

² Sr. Assistant AG Sonny Jones repeatedly told the Court that McMaster – unlike Spitzer – was in total control of Brown's music empire, through the right to replace Bauknight at will. Brown's money was routinely referred to as "the Attorney General's money." And Jones spoke of how AG McMaster could change the focus of the foundation as he desired – even turning it into a public foundation if he chose. McMaster also kept within his office criminal enforcement matters related to David Cannon, whose lawyers made large contributions to his campaigns. There is undeveloped evidence that Sr. Assistant AG Jones may have had a hand in Bauknight's false representation to the IRS in late 2010 that Brown's music empire was worth less than \$4.7 Million when Brown died and that ADELE and Bob Buchanan had committed the crime of overstating it at about \$85 Million in order to get a big fee. The \$85 Million [\$100 Million less the TIAA debt] was the value placed on the assets by all PRs other than Bauknight.

³ It took McMaster 2 1/2 years after the \$12+ Million Cannon took was discovered to indict him, during which time Cannon forged an "agreement" to cover it up. The AG's office – not the solicitor – controlled Cannon's case. Cannon was never tried while McMaster was AG. When Cannon did enter an *Alford* Plea in 2011 neither AG Wilson nor Bauknight sought jail time or restitution for the millions he took.

the Nexsen Pruet partner did not become Attorney General.

14. The current Attorney General, however, still controls the purse strings of Brown's private fortune, and has taken extraordinary measure – including repeated FOIA violations – to cover up what McMaster did.

15. Bauknight's destruction of the ESTATE and Estate Plan he now purportedly serves as PR under, has done as much since May 26, 2009 to damage the ESTATE as he did before.

16. Bowing to the "family," Bauknight valued Brown's music empire at less than \$4.7 Million, while at the same time – naming felon Cannon as his witness – asserting that ADELE caused tens of millions of dollars damage to claimed \$4.7 million music empire.

17. By 2011, more than 50 lawyers – all potential big contributors – had worked to help destroy James Brown's dream and place his "I Feel Good" Foundation under the AG – at least 10 of them paid by the taxpayers of South Carolina.

18. The first break in this alliance came on March 12, 2012 when AG Wilson's office and Bauknight pointed fingers at each other for not seeking any restitution for the million Cannon took. Both should have.

18. Around July 25, 2012 – 5 ½ years after his father's noble plan for needy students should have been put in place – Daryl Brown stepped forward to ask AG Alan Wilson to stop the destruction McMaster allowed Daryl and his own sisters and brothers to cause.

19. ADELE makes the following Offer of Judgment:

SETTLEMENT

ADELE proposes:

1. The above Recitals will not be a part of the Settlement unless approved by the Personal Representative of the ESTATE.
2. A Final Order in substantially the following form will dismiss the ESTATE as a party to this Case:

The parties having resolved their differences in this Case ("Case 4900"), it is
ORDERED, ADJUDGED AND DECREED:

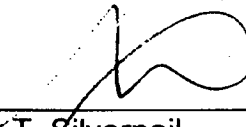
- a. The claims by the ESTATE against ADELE in this Case are hereby dismissed with prejudice and forever ended;
- b. ADELE asserts that she is willing to assert her claims, briefly described below, against the ESTATE, in Aiken County and/or elsewhere, where many are now pending:
 1. To set aside the McMaster Settlement and all Bauknight fiduciary appointments related to the Estate/2000 Trust.
 2. To be paid under the January 8, 2008 in Aiken County Case 2007-CP-02-0122.
 3. For a commission as filed in the Aiken County Probate Court.
 4. For the costs of Case 122 and the Forlando Case, including fees for those she and Robert Buchanan engaged.

As a result it is appropriate, and this Court hereby dismisses the ESTATE as as party to this action and directs that its name be removed from the caption

AND IT IS SO ORDERED.

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

Attorneys for Defendant Adele J. Pope

August 2, 2012

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

)

)

1

)

1

14

)

1

,

,

1

)

)

2012 AUG -3 AM 10:24
JEANETTE W. MORRIS
C.C.P. & G.S.

RECITALS

- 664

James Brown in the destruction of James Brown's dream – to give his \$100 Million worldwide music empire solely to education, providing scholarships in perpetuity for thousands of needy and deserving students.

2. In 2008 DEANNA forged what she knew to be a false alliance with her father's companion, whom she knew was not Brown's spouse, and disgraced her father by creating a "Legacy Trust" which bears his name but destroys his dream.

3. DEANNA and the now-fabricated "family" willingly allowed the Attorney General to create a political patronage fund of their father's \$100 Million empire – so long as they could take \$52 ½ million off the top for themselves.

4. DEANNA and the "family" never complained that 50+ lawyers --10 paid by the taxpayers of South Carolina – were feeding off the carcass of her father's assets and destroying his private foundation as long as it looked like the "family" would get an even bigger share of the assets.

5. Since November 1, 2011 when the "family" realized that they might not get away with their scheme to take the assets of the "I Feel Good" Trust for themselves, one or more members of the "family" have begun to make public statements placing blame on:

a. Bauknight - the "greedy" trustee they had so readily supported for two years while he represented to the S.C. Supreme Court the fabricated the less-than \$4.7 Million value of Brown's \$100 Million music empire.

b. AG McMaster - the Attorney General who abused his office and the S.C. Taxpayers by using 10 taxpayer-paid attorneys to take over Brown's private property and create a political patronage fund to generate contributions from the 50+ happy lawyers and investment advisors.

c. AG Wilson - the Attorney General who went to extraordinary lengths to cover up McMaster's improper actions and alliances, including violating the S.C.

Freedom of Information Act ("FOIA"); failing, along with Bauknight, to seek restitution from a felon who took \$12+ million from the needy and deserving student beneficiaries of the "I Feel Good" Foundation; and supporting Bauknight's fabricated \$4.7 Million valuation of the \$100 Million empire

d. David Cannon - the felon who took \$17 Million from Brown between 1999 and 2006, but apparently developed alliances with AG McMaster, AG Wilson and their trustee Russell Bauknight so that:

a. McMaster failed to indict Cannon until 2010, even though the millions taken were known of in 2007.

b. McMaster/Wilson's office – not the circuit solicitor – handled Cannon's indictment and plea.

c. McMaster did not indict Cannon for \$5 Million he took in 1999.

d. Wilson and Bauknight, his trustee did not seek jail time or restitution, allowing Cannon to enter an *Alford* Plea, even though Cannon took \$12+ Million and covered it up with a forgery.

e. Cannon never helped locate or restore to Brown's Estate either the \$1 Million mansion in Honduras or the hidden assets DEANNA and others reported in 2007 to be hidden on Brown's estate.

6. DEANNA and the "family" have for 5 ½ years – with the aid of Bauknight and

50 lawyers *they control* employed a dazzling array of dirty tricks, including:

a. Successive "facts" to successive lawyers and courts – To keep up with their ever-changing story designed to take for the "family" \$50+ Million their father gave to needy and deserving students in the "I Feel Good" Trust.

b. "Lying by Lawyer" – hiring lawyers who know nothing about the facts, and do not investigate before filing suit – such as WINGATE – who then, through ignorance, make material misrepresentations to the Court.

c. "Throwing under the Bus" including "False criminal allegations" - For example Terry Brown and family accusing Louis Levenson of forging his name to the \$150,000 + 30% contract DEANNA, Terry and others signed in January 2007 – less than a month after Brown died – to help them take Brown's assets.

7. Just a few examples of the many false and conflicting statements DEANNA and the "family" have made to secure more than 52 ½ % of Brown's \$100 Million music empire follow:

a. DEANNA served as a Co-Fiduciary with felon David Cannon for 7 years, and became a Co-Trustee with him immediately after Brown's death. Failing to get a big enough slice of the pie, DEANNA spent 2007 calling Cannon and his Co-Trustees crooks. [Nevermind that the \$17 Million Cannon took over 7 years is less than 1/3 of the \$52+ Million DEANNA and the "family" are taking from needy students.]

b. DEANNA's "family" produced a fake securities prospectus in early 2007 to raise \$200 Million to buy and manage Brown's worldwide music empire. In 2010 DEANNA sued ADELE for not accepting a \$100 Million offer to buy the music empire. Then in 2011 DEANNA told the S.C. Supreme Court that there had been no offers to buy Brown's music empire, and that it was worth less than \$4.7 Million when Brown died.

c. DEANNA told Judge James in the Cannon criminal proceeding that but for Cannon's takings the needy students he intended to benefit would now have money, but failed to disclose she and the family took – with no cause to do so – more than 4 times what Cannon was accused of stealing. [Cannon was charged with taking a little over \$12 Million. Deanna and the family, if the Supreme Court does not reverse, will take a little over \$50 Million.]

d. DEANNA allowed Bauknight to tell the S. C. Supreme Court that Tommie Rae's Elective Share claim was a "slam dunk" when she had actual knowledge the statement was false.

e. DEANNA, after the Supreme Court hearing, falsely stated to the press that there would be nothing left in the "I Feel Good" Trust in just a few years if the settlement giving the family about \$52.5 Million is not approved, when she had actual knowledge that the statement was false; Termination Rights apply only to some Royalties; and James Brown's Publicity Rights – the right to exploit his image and persona – is at least as valuable as the Royalties.

f. DEANNA and the "family" have repeatedly represented themselves to be Brown's heirs under the Federal Copyright Act termination provision when she has actual knowledge Tommie Rae is not an heir and that her siblings are half or fewer of Brown's heirs.

g. DEANNA called David Cannon a thief then named Cannon as *her witness* against ADELE and Bob Buchanan.

h. DEANNA has acquiesced in *and endorsed* Bauknight's fabricated less-than \$4.7 Million valuation of the music empire and numerous other breaches of Bauknight's fiduciary duty to the Estate/Trust because his breaches help the "family" destroy James Brown's dream and get \$50+ Million.

8. On May 19, 2010 DEANNA sued ADELE for tens of million of dollars, asserting ADELE owed DEANNA a duty as Brown's PR/Trustee.

9. ADELE's answer and counterclaim asserts she did not owe DEANNA any duty, and DEANNA had waived all rights to Brown's assets. ADELE also counterclaimed for attorneys' fees under the S.C. Trust Code and:

a. Abuse of Process;

b. Interference with Contract – Pope's entitlement to \$1.5 Million, plus interest under a 1/8/08 Order which DEANNA approved.

c. Civil Conspiracy; and

d. Fraud under § 62-1-106 of the S.C. Code.

10. DEANNA has been in default as to the Counterclaims since November 2010, during which period she has refused to appear at a deposition.

11. ADELE's position is that those who destroyed The James Brown "I Feel Good" Trust must help restore it or pay for the damage done to it.

12. ADELE is seeking both actual and punitive damages from DEANNA and others, and if they are successful in upholding the Settlement approved by the May 26, 2009 Order *all* will share in \$50+ million and be able to pay a substantial award.

13. ADELE has already committed all amounts she receives from DEANNA and the "family" in this Case 4900 above her fair commission; one for Bob; and costs for those who have faithfully defended Brown's Estate Plan during the past 5 years to a

private foundation for scholarship for needy students – in honor of James Brown.

14. ADELE is informed and believes that DEANNA and the “family” who have caused the destruction of the “I Feel Good” Trust must rebuild it or take full responsibility for the loss – not blame it on felon Cannon; arrogant, irresponsible public servants; “greedy” lawyers; or “greedy” Trustees.

15. In that spirit ADELE makes DEANNA the Offer set out herein.

Terms of Settlement

The Court shall issue a final order substantially in Form A, or Form B:

FORM A

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. DEANNA's claims against ADELE are dismissed with prejudice and forever ended.
2. DEANNA shall forthwith – within 10 days – notify the S.C. Supreme Court of her intention – and the intention of any other family member who agrees – to withdraw all objections to the Buchanan/Pope Case 1647 appeal; ask that all appointments of Bauknight be vacated; ask that the valid Last Will and Testament and 2000 Trust be confirmed; and ask that the matter be remanded for a proper determination of heirs.
3. ADELE and DEANNA agree that to date the only properly-determined heirs of James Brown are the 6 children acknowledged by Brown, Cinnamon, LaRhonda and Jeanette, and that all other claimants must undergo DNA testing.
4. DEANNA is hereby dismissed as a party to this action.

FORM B

The Parties having resolved their differences in this Case, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. DEANNA's request for judgment against ADELE is denied.

2. As to ADELE's Counterclaims, and subject to Paragraph 3, ADELE is granted judgment against DEANNA in the amount of \$4.4 Million Dollars.
3. The amount of ADELE's judgment against DEANNA shall be reduced and deemed partially satisfied by any one or more of the following payments by any Plaintiff between August 1, 2012 and January 3, 2013:
 - a. Payments to ADELE under Order of the Hon. Doyet A. Early, III dtd. 1/8/08, up to \$1.9 Million.
 - b. PR/Trustee commission payments to ADELE related for service to the Estate/2000 not under the 1/8/08 Order, up to \$1.4 Million.
 - c. Payments to James D. Bailey, Esq., up to \$120,000.
 - d. Payments to Tressa T. H. Hayes, Esq. up to \$75,000.
 - e. Payments to Adam T. Silvernail, Esq. up to \$200,000.
 - f. Payments to Jeter & Williams and/or ALPS, up to \$300,000.

AND IT IS SO ORDERED.

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@silvernailfirm.com

August 2, 2012

Attorneys for Defendant Adele J. Pope

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

Case No.: 2010-CP-40-4900

Offer of Judgment of
Adele J. Pope to Venisha Brown

Plaintiffs,

Adele J. Pope,

Defendant

TO: PLAINTIFF VENISHA BROWN AND SWEENEY, WINGATE AND BARROW PA.
("WINGATE") HER ATTORNEYS:

Pursuant to South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, and all other applicable law, Defendant Adele J. Pope ("ADELE") proffers an Offer of Judgment to Plaintiff/Counterclaim Defendant Venisha Brown ("VENISHA") in the above-referenced matter as set out below:

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendant/Counterclaim Plaintiff shall seek from VENISHA all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, and interest under Rule 68.

RECITALS

1. VENISHA has often honored her famous father James Brown with public

statements and performances, but disgraced him by making a deal with former Attorney General Henry McMaster to take for herself about \$5 Million Brown gave to needy and deserving children through The James Brown "I Feel Good" Trust, Brown's private foundation.

2. McMaster, to accomplish the takeover of Brown's private property for his personal/political use, also appointed VENISHA as an advisor to the "Legacy Trust" McMaster created – using James Brown's name while destroying his dream.

3. On May 19, 2010 Robert Buchanan, Jr. and ADELE were the only two people still vigorously defending James Brown's dream, as directed in his valid Estate Plan, in the S. C. Courts.

4. WINGATE brought this suit so that VENISHA could keep \$5 Million her father did not want her to have and McMaster, through Russell Bauknight who served at his pleasure, could keep control of a \$100 Million music empire James Brown did not want McMaster to have.

5. In November, 2010 VENISHA, through WINGATE defaulted on ADELE's counterclaims for attorneys' fees under the S.C. Trust Code and:

a. Abuse of Process;

b. Interference with Contract – Pope's entitlement to \$1.5 Million, plus interest at the legal rate from 2009, awarded in a 1/8/08 Order which VENISHA approved and did not appeal.

c. Civil Conspiracy; and

d. Fraud under § 62-1-106 of the S.C. Code.

6. Because many acts taken in VENISHA's name have been through an invalid springing Power of Attorney held by VENISHA's sister, Deanna Brown Thomas;

VENISHA has been incarcerated during critical periods of the James Brown proceedings; and WINGATE has refused to allow VENISHA or any other Plaintiff/Counterclaim Defendant to be deposed, ADELE does not know how much VENISHA actually participated, if at all, in the following and other actions taken on her behalf by WINGATE, Bauknight and/or Louis Levenson, Esq.:

- a. The August 10, 2008 deal with Henry McMaster to put McMaster in control of James Brown's \$100 Million private fortune and pay VENISHA about \$5 Million – rather than the 1/6 personal effects Brown gave her:
- b. The May 2011 false representation to the S.C. Supreme Court that James Brown's worldwide music empire was worth less than \$4.7 Million when James Brown died.
- c. The failure to seek recovery in Case 322 or restitution in the criminal proceeding against felon David Cannon.

8. ADELE makes the Offer set out herein to VENISHA.

Terms of Settlement

- a. The above recitals will not be made part of the settlement unless agreed by VENISHA
- b. VENISHA and ADELE agree that the Court should enter an Order dismissing VENISHA as a party in substantially the following form:

The Parties having resolved their differences in this Case, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Subject to the terms of this Settlement Order, VENISHA and ADELE have resolved their differences in this action, and VENISHA is hereby dismissed as a party.
2. VENISHA dismisses with prejudice all claims against ADELE as set out in the

Complaint.

3. As to the Counterclaims, VENISHA agrees that this Case 4900 was an abuse of process brought for the improper purpose of damaging ADELE and Robert Buchanan, Jr. and forcing them to abandon their appeal in Case 1647.

4. VENISHA agrees that Russell Bauknight has breached his fiduciary duty to the Estate of James Brown and the James Brown 2000 Irrevocable Trust in at least the following ways:

- a. By falsely asserting the Tommie Rae Hynie was the wife of Brown;
- b. By valuing James Brown's worldwide music empire at less than \$4.7 Million at his death;
- c. By failing to seek restitution for the \$12+ Million taken by David Cannon.
- d. By failing in 3 years to recover anything from David Cannon in Case 322.
- e. By engaging WINGATE to bring this suit for the improper purpose of stopping ADELE's and Robert Buchanan's appeal of the destruction of James Brown's dream – the "I Feel Good" Foundation.
- f. By asserting to the S.C. Supreme Court that there were no offers to purchase Brown's assets while suing ADELE for not accepting a \$100 Million offer to buy his music empire.
- g. By misrepresenting to the S.C. Supreme Court and others the heirs of James Brown under the Federal Copyright Act Termination Provisions and their rights.

5. VENISHA acknowledges she did not authorize WINGATE to intervene in her behalf or seek sanctions against ADELE in a FOIA suit.

6. If the McMaster Settlement is overturned and ADELE returned as PR/Trustee, VENISHA, in full settlement and dismissal of all claims and suits against

the Estate of James Brown and the James Brown 2000 Irrevocable Trust will accept \$230,000.00, being the approximate net value of her 1/6 of the personal and household effects.

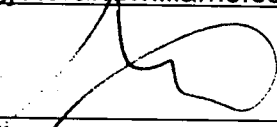
7. If the McMaster Settlement is overturned and ADELE returned as PR/Trustee, VENISHA offers to allow, by proper assignment and/or other documentation, the "I Feel Good" Trust to receive all benefits, if any, VENISHA has as an heir of James Brown under the Federal Copyright Act, including Termination Provisions, and ADELE agrees that it is appropriate for the Estate/2000 Trust to pay VENISHA an amount, at least annually, equal to 1% of the net income of Estate/2000 Trust for VENISHA's life, to be calculated and established in a fair manner by VENISHA and ADELE, and paid by Estate/2000 Trust beginning upon ADELE's reinstatement.

8. VENISHA and ADELE agree that a copy of this Settlement and Dismissal Order may be used for any purpose to show the position of the parties.

AND IT IS SO ORDERED.

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

Attorneys for Defendant Adele J. Pope

August 3, 2012

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. Bauknight, as Trustee,
and others

and

HENRY DARGAN McMASTER and
others

Plaintiffs,

v.

Adele J. Pope,

Defendant

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
)
)
)

Case No.: 2010-CP-40-4900

) Offer of Judgment of
) Adele J. Pope to Tommie Rae Hynie Brown
)
)
)

2012 AUG - 3 AM 10:24
JEANELLE M. McBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

TO: PLAINTIFF TOMMIE RAE HYNIE BROWN AND SWEENEY, WINGATE AND
BARROW, PA. ("WINGATE") HIS ATTORNEYS :

Pursuant to South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, and all other applicable law, Defendant Adele J. Pope ("ADELE") proffers an Offer of Judgment to Plaintiff/Counterclaim Defendant Tommie Rae Brown ("TOMMIE RAE") in the above-referenced matter as set out below:

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendant/Counterclaim Plaintiff shall seek from TOMMIE RAE all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, and interest under Rule 68.

RECITALS

1. TOMMIE RAE married Javed Ahmed in 1996.

2. On August 1, 2000 TOMMIE RAE witnessed the execution of Brown's Estate Plan from which she was intentionally excluded, noting she was the future Mrs. Brown.
3. In 2001, concealing her marriage, TOMMIE RAE signed a pre-nuptial agreement with Brown; obtained a license; and conducted a ceremony with Brown.
4. In 2003 Brown discovered TOMMIE RAE was married to Ahmed.
5. In 2004 Brown sued TOMMIE RAE to declare the ceremony void based on TOMMIE RAE's Annulment Order confirming her marriage to Ahmed.
6. TOMMIE RAE counterclaimed for separate maintenance and notified Brown that she had filed a \$5 Million suit against him.
7. Brown sought DNA testing of TOMMIE RAE's child.
8. The case settled almost immediately with an Order and Agreement:
 - a. Not mentioning the parentage of TOMMIE RAE's child or providing support;
 - b. TOMMIE RAE'S agreement never to claim to be Brown's common law spouse.
9. According to Brown's longtime attorney and a doctor who treated him, Brown's vasectomy and medical problems prevented him from fathering TOMMIE RAE's child.
10. Brown and TOMMIE RAE did not marry after her marriage was annulled.
11. Brown and TOMMIE RAE were separated and she was in California when he died on Christmas Day 2006.
12. In 2007 TOMMIE RAE filed claims as Brown's spouse; a defective Elective Share Claim; and a challenge to his Estate Plan.
13. On May 19, 2010 TOMMIE RAE sued ADELE for tens of million of dollars,

asserting ADELE owed TOMMIE RAE a duty as Brown's PR/Trustee.

14. ADELE's answer and counterclaim asserting she did not owe TOMMIE RAE any duty; TOMMIE RAE had waived all rights to Brown's assets; and TOMMIE RAE was not Brown's spouse. ADELE also counterclaimed for attorneys' fees under the S.C. Trust Code and:

- a. Abuse of Process;
- b. Interference with Contract – Pope's entitlement to \$1.5 Million, plus interest under a 1/8/08 Order which TOMMIE RAE approved.
- c. Civil Conspiracy; and
- d. Fraud under § 62-1-106 of the S.C. Code.

15. TOMMIE RAE has been in default as to the Counterclaims since November 2010, during which period she has refused to appear at a deposition.

16. ADELE makes TOMMIE RAE the Offer set out herein.

Terms of Settlement

The Court shall issue a final order substantially in the following form:

The Parties having resolved their differences in this Case, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

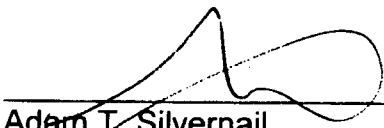
1. TOMMIE RAE's request for judgment against ADELE is denied.
2. As to ADELE's Counterclaims, and subject to Paragraph 3, ADELE is granted judgment against TOMMIE RAE in the amount of \$4 Million Dollars.
3. The amount of ADELE's judgment against TOMMIE RAE shall be reduced and deemed partially satisfied by any one or more of the following payments by any Plaintiff between August 1, 2012 and January 3, 2013:

- a. Payments to ADELE under Order of the Hon. Doyet A. Early, III dtd. 1/8/08, up to \$1.9 Million.
- b. PR/Trustee commission payments to ADELE related for service to the Estate/2000 not under the 1/8/08 Order, up to \$1.4 Million.
- c. Payments to James D. Bailey, Esq., up to \$120,000.
- d. Payments to Tressa T. H. Hayes, Esq. up to \$75,000.
- e. Payments to Adam T. Silvernail, Esq. up to \$200,000.

AND IT IS SO ORDERED.

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

Attorneys for Defendant Adele J. Pope

August 3, 2012

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. Bauknight, as Trustee,
and others

and

HENRY DARGAN McMASTER and
others

v.

Adele J. Pope,

Plaintiffs,

Defendant

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

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

) Offer of Judgment of
) Adele J. Pope to Carrington L., a minor

RICHLAND COUNTY
FILED
2012 AUG -7 AM 9:52
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO: PLAINTIFF CARRINGTON L. AND SWEENEY, WINGATE AND BARROW, PA. ("WINGATE") HIS ATTORNEYS :

Pursuant to South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, and all other applicable law, Defendant Adele J. Pope ("ADELE") proffers an Offer of Judgment to Plaintiff/Counterclaim Defendant CARRINGTON L. ("CARRINGTON"), a minor, in the above-referenced matter as set out below:

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendant/Counterclaim Plaintiff shall seek from CARRINGTON all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, and interest under Rule 68.

Terms of Judgment

The Court shall issue its order substantially as follows:

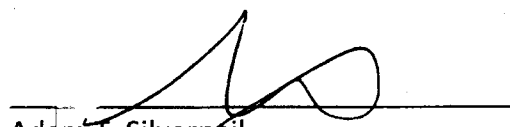
1. As to all claims of CARRINGTON against ADELE. CARRINGTON is entitled to nothing.

2. As to the counterclaims of ADELE against CARRINGTON, ADELE, is entitled to judgment against CARRINGTON on all causes of action in the aggregate amount of \$1.00.

AND IT IS SO ORDERED.

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

Attorneys for Defendant Adele J. Pope

August 6, 2012

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

)

))

)

)

)

)

)

)

)

)

2012 AUG - 8 AM 10:58
C.C.P. & G.S.

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendant/Counterclaim Plaintiff shall seek from SYDNEY all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, and interest under Rule 68.

On June 15, 1999 SYDNEY's famous grandfather James Brown created the first

version of his Brown Family Education Trust for SYDNEY and certain other designated grandchildren by creating a Revocable Trust.

SYDNEY was less than one (1) year old.

A year later, on August 1, 2000, James Brown finalized his Estate Plan, leaving his entire music empire solely to the James Brown 2000 Irrevocable Trust, which he immediately funded with his mansion and home estate. SYDNEY and certain other grandchildren were given education trust funds. Everything else went to the "I Feel Good" private foundation, solely to provide scholarship for needy and deserving students studying in South Carolina and Georgia.

In 2002 SYDNEY's mother, Dr. Yamma Brown, sued James Brown for \$1 Million over 23 of his more than 800 published songs. She acknowledged Brown had excluded her from his music empire.

On December 25, 2006 James Brown died. SYDNEY and 6 other grandchildren became entitled to their separate Education Trusts, as follows:

(1) SYDNEY: \$285,000.000; (2) Carrington: \$285,000.000; (3) Janise: \$285,000.00;
(4) Venisha: \$285,000.00; (5) Forlando: \$285,000.00;
(6) Romunzo: \$285,000.00; (7) Jason: \$285,000.00

On January 9, 2007 SYDNEY's mother, with others Brown excluded from his music empire, hired Atlanta attorney Louis Levenson and contracted to pay him \$150,000 and 30% what he could get them of Brown's assets.

On January 24, 2007, Levenson brought suit for SYDNEY, through her mother, seeking to removed Brown's trustees. SYDNEY was 7.

On March 7, 2007, at SYDNEY's request, ADELE and Robert Buchanan, Jr. ("Bob")

were appointed by Judge Doyet A. Early, III as Special Administrators (SAs) of Brown's estate.

In March 2007 SYDNEY's father went with Brown's Trustee Albert Dallas to the Creme de La Creme School, which SYDNEY attended, and paid her tuition.

By November 20, 2007 Brown's three original trustees had resigned and, with SYDNEY's consent, ADELE and Bob became PRs and Trustees of SYDNEY's Education Trust.

The Court gave ADELE and Bob all of the authority and duty as if originally appointed by James Brown – including the duty, as he directed, to vigorously defend against any challenges to the 2000 Trust.

Thirty-six days later, SYDNEY's mother, through Levenson, sued to declare SYDNEY's Trust void and set aside her father's Will. SYDNEY's mother purported to act for SYDNEY.

Bob and ADELE, vigorously defending SYDNEY's Trust and the rest of Brown's Estate Plan, have consistently asserted that SYDNEY's mother could not speak for SYDNEY while trying to destroy the \$285,000.00 Education Trust James Brown created for SYDNEY.

On August 10, 2008 SYDNEY's mother struck a deal with then-Attorney General Henry McMaster to decimate SYDNEY's \$285,000.00 Trust, commingling it with other funds and adding beneficiaries James Brown had intentionally excluded.

Bob and Adele appealed the approval of SYDNEY's mother's deal by Jg. Early on May 26, 2009, and that appeal is pending in the S.C. Supreme Court.

On May 19, 2010 WINGATE, purporting to speak both for SYDNEY and SYDNEY's mother, sued Bob and Adele in Richland County asserting they had breached their

fiduciary duty to SYDNEY by appealing the dismantling of SYDNEY's \$285,000.00 Education Trust.

Terms of Judgment

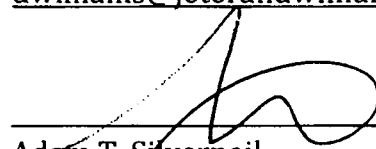
The Court shall issue its order substantially as follows:

1. As to all claims of SYDNEY against ADELE, SYDNEY is entitled to nothing.
2. As to the counterclaims of ADELE against SYDNEY, ADELE, is entitled to judgment against SYDNEY on all causes of action in the aggregate amount of \$1.00.

AND IT IS SO ORDERED.

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

Attorneys for Defendant Adele J. Pope

August 7, 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 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 [REDACTED]; 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 L [REDACTED] and Carrington L [REDACTED]; 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 [REDACTED]; 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 L [REDACTED] and CARRINGTON L [REDACTED]; 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

PLAINTIFFS' MOTION TO STRIKE
DEFENDANT POPE'S OFFERS OF
JUDGMENT

2012 AUG 13 PM 3:48
CLERK OF COURT
JULIA A. BROWN

**TO: ADAM SILVERNAIL, ESQUIRE, AND DARYL WILLIAMS, ESQUIRE,
ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-
NAMED:**

YOU WILL PLEASE TAKE NOTICE that Plaintiffs intend to move, and do hereby so move, for an Order from the Court striking the following "Offers of Judgment" filed by Defendant Pope in this matter:

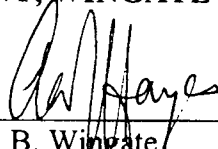
1. Defendant Pope's Offer of Judgment to Lindsey Delores Brown and Janise B. (attached hereto as Exhibit A).
2. Defendant Pope's Offer of Judgment to the South Carolina Attorney General and Russell Bauknight as Agent for the South Carolina Attorney General (attached hereto as Exhibit B).
3. Defendant Pope's Corrected Offer of Judgment to Lindsey Delores Brown and Janise B. (attached hereto as Exhibit C).
4. Defendant Pope's Offer of Judgment to Tonya Brown (attached hereto as Exhibit D).
5. Defendant Pope's Offer of Judgment to Daryl Brown (attached hereto as Exhibit E).
6. Defendant Pope's Offer of Judgment to Russell Bauknight (attached hereto as Exhibit F)
7. Defendant Pope's Offer of Judgment to Terry Brown (attached hereto as Exhibit G).
8. Defendant Pope's Offer of Judgment to Jason Brown-Lewis (attached hereto as Exhibit H).
9. Defendant Pope's Offer of Judgment to Tommie Rae Hynie Brown (attached hereto as Exhibit I).
10. Defendant Pope's Offer of Judgment to Venisha Brown (attached hereto as Exhibit J), and
11. Defendant Pope's Offer of Judgment to Carrington L.(attached hereto as Exhibit K).
12. Defendant Pope's Offer of Judgment to Sydney L. (attached hereto as Exhibit L).

13. Defendant Pope's Offer of Judgment to Deanna Brown Thomas (attached hereto as Exhibit M).
14. Defendant Pope's Offer of Judgment to the Estate of James Brown (attached hereto as Exhibit N).
15. Any other offers that have been served - or may soon be served - on any Plaintiff in this matter.

This Motion is made pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure, and is based upon the fact that these offers contain material that is "redundant, immaterial, impertinent or scandalous". These offers are also improper and do not comport with the requirements of Rule 68 of the South Carolina Rules of Civil Procedure. Plaintiffs requests that the Court strike these offers from the record in this matter, and that the Court award Plaintiffs the fees and costs associated with responding to these offers and making this Motion, as well as any other relief the Court deems just and proper. Plaintiffs reserve the right to supplement with Memorandum of Law.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

August 13, 2012

EXHIBIT A

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT

RUSSELL L. Bauknight, as Trustee,
and others

Case No.: 08-CP-02-1647

and

ADELE J. POPE'S
OFFER OF JUDGMENT
TO LINDSEY DELORES BROWN
AND JANISE B., A MINOR

HENRY DARGAN McMASTER and
others

Plaintiffs,

V.

Adele J. Pope,

Defendant

TO: PLAINTIFFS LINDSEY DELORES BROWN ("LINDSEY") AND JANISE B. AND
THEIR ATTORNEYS, SWEENEY, WINGATE AND BARROW, PA.
("WINGATE"):

Pursuant to South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, and all other applicable law, Defendant Adele J. Pope (“Adele”) proffers an Offer of Judgment in the above-referenced matter as set out below:

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendants shall seek from Plaintiffs all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, as well as interest as provided by Rule 68(b).

RECITALS

1. Lindsey and Janise are beneficiaries of the Irrevocable Trust established by

their grandfather, entertainment icon James Brown on August 1, 2000 (the "2000 Trust").

2. James Brown died on December 25, 2006.

3. The 2000 Trust created a separate \$285,000 education fund for each of Lindsey and Janise.

4. On January 24, 2007, when Lindsey was 16 and Janise was 11, their father Daryl J. Brown ("Daryl"), filed Aiken County Case 2007-CP-02-0122 ("Case 122") on their behalf.

5. When Brown's original trustees resigned, at the request of Lindsey and Janise, Adele and Robert Buchanan, Jr. ("Bob") were appointed by the Court as trustees of the 2000 Trust, with all authority and duty as if originally appointed by James Brown.

6. On December 26, 2007, Daryl filed suit to challenge the 2000 Trust, placing in jeopardy Lindsey's and Janise's education funds.

7. On August 10, 2008 Daryl, with others, agreed to substantially reduce, and commingle Lindsey's and Janise's education funds.

8. In an Order dated May 26, 2009 in Case 2008-CP-02-1647 ("Case 1647") the dismantling was approved, and Russell Bauknight became Trustee.

9. Bob and Adele appealed the Case 1647 Order, which is now before the S.C. Supreme Court.

10. On May 19, 2010 Lindsey and Janise (by Daryl) sued Bob and Adele in this Case 2010-CP-40-4900 ("Case 4900"), asserting, among other things, that their appeal in Case 1647 was improper.

11. Janise does not have a guardian *ad Litem* and, on information and belief,

Lindsey has not been informed of the conflict of interest she has with Daryl, her father and Co-Plaintiff.

12. Adele counterclaimed for abuse of process and other causes of action, including attorneys' fees.

13. Adele, Lindsey and Janise, through her parent(s), all now want to resolve their respective claims; confirm the validity of the 2000 Trust; and dismiss Lindsey and Janise as parties to Case 4900.

CONTENTS OF ORDER

The above statements will be included in the Order Granting Final Judgment only if approved by Lindsey and Janise.

The Order Granting Final Judgment shall be in the following form:

This Order Granting Final Judgment resolves all disputes between Lindsey Delores Brown ("Lindsey") and Janise B., a minor, against Adele J. Pope ("Adele") in this Case 2007-CP-40-4900 ("Case 4900"), and Adele's counterclaims against them.

Adele, Lindsey and Janise agree that James Brown believed education was important and provided a \$285,000 education fund for each of Lindsey and Janise under the James Brown 2000 Irrevocable Trust.

The claims of Lindsey and Janise against Adele in this action, and hers against them, are dismissed with prejudice and forever ended.

Adele, Lindsey and Janise agree that no attorneys' fees should be paid from Lindsey's or Janise's education funds.

Adele will take immediate and continuing steps to support Lindsey and Janise in

securing Court approval and immediate payment and/or reimbursement from the Estate/2000 Trust for all reasonable education expenses of Lindsey and Janise from and after the death of James Brown, up to \$285,000.00 each.

Because Lindsey and Janise have ratified the 2000 Trust and Brown's worldwide music empire earned almost \$10 Million last year, Lindsey, Janise and Adele stipulate such payments will not impair the rights of creditors.

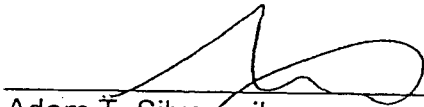
Adele will not at any time, regardless of the outcome of the Case 1647 appeal, seek to enforce the *In Terrorem* clause of the 2000 Trust against Lindsey or Janise.

A Certified Copy of this Judgment may be filed in any Court as evidence of the positions of Lindsey, Janise and Adele.

AND IT IS SO ORDERED.

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



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

July 16, 2012

Attorneys for Defendant Adele J. Pope

694

EXHIBIT F

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

)

)

)

)

)

)

)

)

)

)

)

)

G

A

5

RECITALS

1. The LEGACY TRUST was created in late 2008 by former Attorney General Henry D. McMaster ("McMaster") and others as Settlers and Bauknight as its Trustee.
2. Although the LEGACY TRUST bears the name of entertainment icon James Brown, who died on December 25, 2006, it was not created by Brown, but is, instead, the vehicle by which the Attorney General McMaster, under color of his office, took over the private property of James Brown, attempting to give more than half to some of Brown's disinherited claimed relatives selected by McMaster.
3. All James Brown fiduciaries objected to the McMaster/State takeover and Bauknight's appointment.
4. Adele served as a PR under the Will of James Brown and trustee of Brown's 2000 Irrevocable Trust when McMaster asserted his right to take over and control Brown's private property.
5. On January 30, 2009 Bauknight, without revealing to the Court that he was already Trustee of McMaster's LEGACY TRUST, recommended that James Brown's worldwide music be placed in the LEGACY TRUST,
6. Bauknight, recommend the approval of McMaster's takeover of Brown's and placing Brown's assets in the McMaster-controlled LEGACY TRUST even though:
 - a. He knew nothing about James Brown's Estate Plan or wishes;
 - b. He knew nothing about the Federal Copyright Act; and
 - c. He considered tax matters beyond the scope of his inquiry.
7. Without disclosing he was their Trustee, Bauknight also recommended giving more than half of Brown's assets to Brown's companion Tommie Rae and others

intentionally excluded from his music empire.

8. Adele has asserted that if McMaster's takeover succeeds, \$40 - \$80 Million will be taken from James Brown's "I Feel Good" private foundation to educate needy and deserving students, with the loss primarily caused by:

a. McMaster (now AG Wilson) - for turning Brown's private property into a personal political patronage fund, controlling Brown's \$85 Million so that grateful attorneys, investment advisors and others his trustee hires will make political contributors to the AG's campaigns (and Wilson for not acknowledging and correcting McMaster's error.)

b. Bauknight - for breaches of fiduciary duty, including the less-than \$4.7 Million value of Brown's music empire.

b. Tommie Rae - Brown's disinherited companion - about \$40 Million

c. Terry - Brown's son. About \$4.5 Million at the creation, and tens of millions by manipulation of the value of the music empire and exercise of the right McMaster gave Terry to buy the music empire.

d. David Cannon - whose \$17 Million takings from Brown were known by early 2008, and from whom neither Wilson nor Bauknight sought restitution for the needy students.

e. The 35+ attorneys Bauknight and the LEGACY TRUST propose to pay between \$10 and \$20 million for helping destroy the "I Feel Good" Trust.

9. Adele asserts that those who have damaged and destroyed the "I Feel Good" Trust and the Education Trusts Brown created for 7 selected grandchildren must help rebuild them or pay the costs.

10. On information and belief, the assets of the LEGACY TRUST are now:

a. A piece of property Yamma received from James Brown at death;

b. A claim to Brown's Tangible Personal Property ("TPP") or proceeds, valued by Bauknight at less than \$1 Million.

c. Termination Rights of Brown's 6 acknowledged children, fewer than 1/2 of Brown's claimed heirs under the Federal Copyright Act; and

d. Similar Copyright claims of Tommie Rae, of no value because she is not an heir under the Act.

11. On May 19, 2010 the LEGACY TRUST and others, through WINGATE, sued Adele in this Case 4900, claiming she had caused tens of millions of dollars loss to Brown's Estate/2000 Trust.

12. In November 2010 the LEGACY TRUST defaulted as to Adele's counterclaims for actual and punitive damages and attorneys' fees for (1) abuse of process; (2) Civil Conspiracy; (3) Fraud under § 62-1-106; and (4) Intentional interference with a contract/Order of January 8, 2008, by which she is currently owed approximately \$2 Million.

13. After filing this Case 4900, Bauknight told the IRS and S.C. Supreme Court that Brown's TPP was worth less than \$1 Million, and the music empire less than \$4.7 Million at his death.

14. After filing this Case 4900, Bauknight told the S.C. Supreme Court that Tommie Rae's baseless elective share claim was a "slam dunk."

15. After filing this Case 4900, Bauknight and the LEGACY TRUST threatened, then moved for, sanctions against Adele for exercising her rights under the S.C. Freedom of Information Act ("FOIA").

16. After filing this Case 4900 Bauknight, on information and belief to protect Tommie Rae, made false representations to the Supreme Court about the Federal Copyright Act as it relates to Brown's assets.

17. After filing this Case 4900 Bauknight violated his duty under the Probate Code to file the less-than \$4.7 Million appraisal of the music empire.

18. After filing this Case 4900 Bauknight, to protect the LEGACY TRUST and Tommie Rae, has fought to secrete more than a million pages of public documents, including the "diary" of Hynie.

19. Since creating the LEGACY TRUST, Bauknight, McMaster - and now AG Wilson - have paid or propose to pay from assets Brown gave to needy and deserving students \$10 - \$20 Million to 35+ attorneys who are helping and have helped destroy the "I Feel Good" Trust.

20. The 35+ attorneys the LEGACY TRUST wants to pay for their help in destroying Brown's Estate Plan and the "I Feel Good" Trust include substantial contributors to the political campaigns of McMaster, AG Wilson and Wilson's opponent in the AG campaign.

21. Since late 2011 two or more descendants of James Brown have agreed that Adele's vigorous defense of Brown's "I Feel Good" Trust is appropriate; that Adele's appeal of McMaster's takeover of Brown's private property was appropriate; that no probable cause existed to challenged Brown's Estate Plan; that Tommie Rae was not Brown's wife; and that the LEGACY TRUST should not receive Brown's assets.

20. On information and belief, Bauknight and the LEGACY TRUST, rather than taking advantage of this chance to restore the "I Feel Good" Trust, are trying to quash these truthful statements, lending further support to McMaster's egregious error.

21. On information and belief, Bauknight's acts since May 26, 2009 have added millions of dollars of damage to the already-millions he caused by recommending the settlement on January 30, 2009.

22. Bauknight naming of felon David Cannon as a witness, and failure to collect

restitution from him have resulted in several millions of dollars loss to the Estate/2000 Trust.

23. In order to mitigate the damage to the "I Feel Good" foundation, Adele proposes this Offer of Compromise to the LEGACY TRUST.

CONTENTS OF ORDER

The above statements will not be included in the Order Granting Final Judgment.

The Order granting Final Judgment as to the LEGACY TRUST and Bauknight as its trustee, shall have substantially the form and content set out below.

This Order Granting Final Judgment resolves the disputes between Plaintiff/Counterclaim Defendant James Brown Legacy Trust ("Legacy Trust") and Defendant/Counterclaim Plaintiff Adele J. Pope ("Adele") in this Case 2010-CP-40-4900 ("Case 4900") as follows:

1. Legacy Trust's claims against Adele are hereby dismissed with prejudice and forever ended.
2. Legacy Trust's motion to intervene and obtain sanctions against Adele in what was formerly Newberry County Case No. 2011-CP-36-0379 (the "FOIA Case") are hereby withdrawn.
3. Legacy Trust shall, within 10 days, pay to Adam Silvernail \$2,500, representing the portion of Adele's attorneys' fees and costs in the FOIA Case attributable to the Legacy Trust's attempt to intervene and obtain sanctions.
4. Adele is hereby granted judgment against the LEGACY TRUST as set out below:
 - a. The relief granted Adele against Legacy Trust herein, and for which Legacy Trust accepts responsibility hereunder, constitutes only a portion of Adele's losses as described in her Counterclaims, and Legacy Trust and WINGATE agree that this Settlement and Order do not relieve any other Plaintiff of its liability to Adele; nor may this Settlement and Order be used in any manner to

offset or limit the liability of any Plaintiff or other person or entity to Adele.

b. If not fully paid by the Estate/2000 Trust within 150 days of this Order the Legacy Trust will be jointly and severally liable for \$1,970,000.00 of the amount due Adele under the Order of the Honorable Doyet A. Early, III, with interest at the judgment rate from January 1, 2012.

c. The Legacy Trust, for itself and its beneficiaries, agrees not to oppose Adele's request for a full PR/Trustee commission, now pending before the Aiken County Probate and/or Circuit Court.

d. The Legacy Trust, for itself and its beneficiaries, will actively support the immediate Court approval and payment by the Estate/2000 Trust of the following amounts:

1. Jeter & Williams	\$325,000.00
2. Tressa T. H. Hayes, Esq.	\$ 65,000.00
3. James D. Bailey, Esq.	\$110,000.00
4. Adam Silvernail, Esq.	\$165,000.00
5. Adele Pope (costs)	\$ 37,000.00

e. The Legacy Trust, for itself and its beneficiaries, acknowledges its joint and several liability with the Estate/2000 Trust and/or others for all of the amounts described under paragraph d, with interest at the legal rate,

f. Unless this Case 4900 is fully resolved within 210 days of this Order as to all parties and Bauknight has resigned as PR under the Will and Trustee of the 2000 Trust in favor of Adele, the Legacy Trust shall pay Adele \$300,000, representing a portion of her lost wages caused by this Case 4900.

g. The Legacy Trust acknowledges that it is responsible for all taxes and penalties resulting from the less-than \$4.7 Million value of Brown's music empire represented to the IRS.

h. The Legacy Trust and its trustee agree not to make any additional false statements about Adele or Robert Buchanan, Jr., and acknowledge that Adele and Robert Buchanan, Jr. did not overstate the value of James Brown's music empire to the IRS.

i. The Legacy Trust authorizes all payments it has agreed to make hereunder to be paid directly from the Estate and/or 2000 Trust prior to any the transfer of assets of James Brown to the Legacy Trust.

j. The Legacy Trust shall make no distributions to non-charities without Adele's written consent until all of its payments and obligations hereunder are met, with

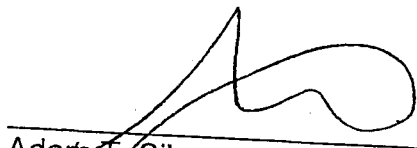
applicable interest.

I. This Settlement does not diminish or affect Adele's rights in any matter pending in any other Court or Case, or as to any other party in this Case 4900.

AND IT IS SO ORDERED.

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

July 27, 2012

Attorneys for Defendant Adele J. Pope

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 B. [REDACTED]; 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 L. [REDACTED] and Carrington L. [REDACTED]; 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. [REDACTED]; 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 L. [REDACTED] and CARRINGTON L. [REDACTED]; 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

PLAINTIFFS' MOTION FOR
DIRECTION FROM THE COURT
CONCERNING POTENTIAL
PREJUDICIAL TRIAL PUBLICITY

JEANETTE M. [REDACTED]
C.C.P. [REDACTED]

2012 AUG 23 PM 4:19

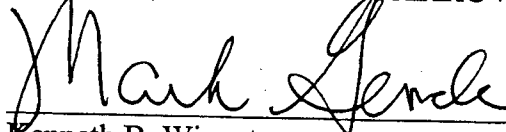
RICHLAND COUNTY
FILED

TO: ADAM SILVERNAIL, ESQUIRE, DARYL WILLIAMS, ESQUIRE, ATTORNEYS
FOR DEFENDANT POPE, AND TO DEFENDANT POPE ABOVE-NAMED:

Plaintiffs hereby request that the Court provide Plaintiffs with guidance on how to proceed in this matter in light of the potentially prejudicial trial publicity that has occurred. For the Court's reference, Plaintiffs have accumulated and indexed a portion of the pretrial publicity that this case has generated (see Binder of Articles, attached hereto as Exhibit A). Upon information and belief, Defendant Pope, her counsel, and/or persons acting on behalf of Defendant Pope may be responsible for many of the statements contained at Exhibit A¹. Plaintiffs are concerned that these statements may be doing continuing harm to the Estate of James Brown and may prejudice this adjudicative proceeding.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

August 23, 2012

¹ For example, the July 11, 2012 letter of Adam Silvernail to Judge Manning in case 4900 has appeared on *Newberry Observer* reporter Sue Summer's Facebook page (See screenshot from Facebook page, attached hereto as Exhibit B). Upon information and belief, neither counsel for Plaintiffs nor Judge Manning's office disclosed this letter to Sue Summer.

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 B. [REDACTED]; 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 L. [REDACTED] and Carrington L. [REDACTED]; 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. [REDACTED]; 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 L. [REDACTED] and CARRINGTON L. [REDACTED]; 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

EXHIBIT A

TO PLAINTIFFS' MOTION FOR
DIRECTION FROM THE COURT
CONCERNING POTENTIAL
PREJUDICIAL TRIAL PUBLICITY

Media Binder Index

ABC Columbia

1. *High SC Court to Take Up James Brown Settlement*: 11/1/11

Aiken Standard

2. *Woman Again Lays Claim to Brown Trust*: 5/19/10
3. *AG Asked to Turn Over James Brown Documents*: 8/9/11
4. *James Brown Manager Convicted*: 10/28/11

August Chronicle

5. *SC Supreme Court Hears James Brown Estate Feud*: 11/1/11
6. *Arguments Begin in James Brown Settlement Case*: 11/11/11
7. *Judge Dismisses Man's James Brown Claim*: 3/12/12
8. *Former James Brown Songwriter, Producer Sues for Property Rights*: 3/14/12
9. *S.C. Supreme Court Sticks Ex-Brown Trustee with Attorney's Fees*: 5/2/12

Atlanta Post

10. *The Estate Woes of James Brown: A Lesson in Planning*: 8/8/11

EstateofDenial.com

11. *AG Asked to Turn Over James Brown Documents*: 8/11/11
12. *Wilson and James Brown Trustee Double Efforts to Prevent Release of Music Empire Documents (SC)*: 9/18/11
13. *AG Wilson Attempts to Exclude Affidavit of Local Copyright Expert in James Brown FOIA Lawsuit (SC)*: 1/6/12
14. *Recovery of James Brown's Missing Millions Delayed by AG, Outside Parties (SC)*: 3/7/12
15. *Actions surrounding 'The Godfather of Soul' James Brown's estate continue generating interest, questions (SC)*: 5/8/12
16. *New Article, Old Song Provides More to Ponder with James Brown estate controversy (SC)*: 5/19/12
17. *Dead or Alive- James Brown, Danny Tate Show Threats to Property Rights Thrive*: 5/22/12
18. *For Father's Day, Pappa Gets a Brand New Son: Las Vegas Man Claims James Brown Was His Father (SC)*: 6/17/12
19. *As James Brown Estate Saga Gains Spotlight, South Carolina Fights to Keep Public in Dark*: 8/18/12

EURweb

20. *James Brown's Charitable Trust Fate Marinating in Confusion*: 3/11/2012
21. *James Brown's Son Regrets Contesting Will*: 7/1/12

Facebook

22. *Images of Brief in Support of Summary Judgment and Opposing Motions to Dismiss and Strike of Attorney General Alan Wilson (Case no. 379) – printed 10/27/11.*
23. *Wall posts from "James Brown 'I Feel Good' Trust (FOIA Concerns)" page – printed 10/27/11*
24. *Images of Last Will of James Brown, printed 11/10/11.*

25. Images of *Deposition of Deanna Brown Thomas*, printed 11/11/11.
26. Images of *Unsigned Order* from Case No. 379; printed 11/28/11 (followed by printout with timestamp of the posting of the unsigned order from the wall of "James Brown 'I Feel Good' Trust (FOIA Concerns)").
27. Images of a group of Affidavits (Mary Holmes, Nancy S. Wells, Rev. Larry Fryer, Charles Bobbit, Gloria J. Boynton Mayo, Gloria Daniel, J.B. Ross, Talmadge Lewis, Emma Austin, Al Bradley, Andre Moses White) printed 11/28/11.
28. Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)": 12/8/11
29. Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)": 12/8/11
30. Preliminary version: *Goliaths Roar in James Brown FOIA Lawsuit*: Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)" 12/12/11
31. Revised Version: *Goliaths Roar in James Brown FOIA Lawsuit*: Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)" 12/12/11
32. Images of *Motion for Sanctions*, letter to Judge Addy from J. Emory Smith, and letter to J. Emory Smith from Adam T. Silvernail, from Case No. 379; printed 12/13/11.
33. Images of *Motion of AG to Strike Or Exclude Affidavit of Jeffrey Smith*; printed 1/4/12.
34. Images of *Plaintiff's Return To Motion Of AG To Strike Affidavit of W. Jeffrey Smith and Attachments*; printed 1/4/12.
35. Images of *Affidavit of W. Jeffrey Smith Opposing Striking Or Disregarding My Affidavit With Attachments*; printed 1/4/12.
36. Images of *Affidavit of Adele J. Pope Opposing Striking Or Disregarding Affidavit and Article of Jeff Smith and Other Affidavits; Opposing Dismissal and Supporting In Camera Review and Summary Judgment; Exhibit A- Affidavit Supporting Immediate Release of FOIA documents*; printed 1/4/12.
37. *Search for James Brown's Missing Millions Returns to Aiken*, dated 2/23/12, located 2/27/12
38. Facebook Comments regarding *Former James Brown Songwriter, Producer Sues for Property Rights* post on "Brown 'I Feel Good' Trust (FOIA Concerns)" Facebook page; post dated 3/22/12, comments printed 3/23/12
39. *AG Wilson Continues Battle To Conceal James Brown Documents and Deny FOIA Requests*: 3/21/2012
40. Images of *Pope Subpoena & Letters to AG, Rosen*- printed 5/14/12
41. Images of *Motion to Quash Subpoena, Filed by Pope* 5/14/12- printed 5/16/12
42. Images of *Pope Affidavit to Quash Subpoena & Unseal Documents*- printed 5/16/12
43. Images of *Motion to Vacate or Declare Void/Moot Orders related to Diaries of Tommie Rae Hynie Brown, and for related relief*- printed 5/16/12
44. Images of *Gende (AG's at) tries to force Buchanan settlement, Pope responds*- printed 5/22/12
45. Images of *Buchanan Counterclaim in Forlando suit, Black Letter*- printed 5/22/12
46. Images of *Gende (AG) seeks to force Buchanan into compliance with settlement*- printed 5/22/12
47. Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)": 6/13/12
48. Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)": 6/15/12 re: Sue Summer's article *AG Wilson Ask Judge to Conceal Diaries of James Brown's Companion*
49. Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)": 6/25/12
50. Images of *Silvernail letter to Judge Manning, July 11, 2012*- printed 7/13/12
51. Images of *Silvernail return re: Opposition to Dallas Deposition*- printed 8/2/12
52. Images of *Daryl Brown Pleads with AG Wilson: Protect the Needy Children*- printed 8/14/12

53. Wall post by "James Brown 'I Feel Good' Trust (FOIA concerns)": 8/14/12

financialplanning.com

54. *James Brown Squabble Highlights Importance of Proper Estate Planning*: 8/30/11

Forbes

55. *James Brown's Estate and Wishes Remain in Limbo*: 8/8/11

56. *Court Battles and Debt Leave James Brown Estate Not Feeling Good*: 11/1/11

Fox 54 Augusta

57. *James Brown Trust Hearing in S.C. Supreme Court*: 11/14/11

FreeTimes

58. *Future of Private Philanthropy in S.C. at Stake in Supreme Court Case*: 11/10/2011

Grantland

59. *James Brown and the Other Side of the Masters: James Brown's Augusta*: 4/6/12

Huff Post: Black Voices

60. *The Estate Woes of James Brown: A Lesson in Planning*: 8/8/11.

NBC Augusta

61. *Former James Brown Trustee David Cannon Could Avoid Jail*: 6/16/2010

Newberry Observer

62. *AG's Promise to Release Contracts May Resolve Newberry James Brown FOIA Case*: 9/21/2011

63. *Attorney General Still Refuses to Release Documents in Two Newberry FOIA Cases Related to James Brown Music Empire*: 9/29/11

64. *Will James Brown's Last Wish be Granted?*: 10/12/11

65. *Wingate Firm, James Brown Children, Others Ask to Join Wilson in Fighting Release of Public Documents*: 11/2/11

66. *Former James Brown Trustees Ask S.C. Supreme Court to Restore "I Feel Good" Trust to Original \$80 Million*: 11/3/11

67. *Judge Casey Takes Control of Ring Two in James Brown Circus*: 11/11/11

68. *Attorney Claims Nobody Influenced Brown to Give \$100 Million Music Empire to Needy Children*: 11/15/11

69. *Immediate Release of FOIA Request for Contract to Sue Brown Estate Trustees Denied*: 11/29/11

70. *Brown Grandson Fires Lawyers in Trust Lawsuit*: 12/9/11

71. *James Brown Estate Planning in His Own Words*: 12/13/

72. *AG Wilson Attempts to Exclude Affidavit of Local Copyright Expert in James Brown FOIA Lawsuit*: 1/5/12

73. *Wilson Denies FOIA requests in James Brown Suite (sic)*: 3/26/12

74. *James Brown diaries FOIA request to be decided*: 5/3/12

75. *Attorneys for James Brown Companion Subpoena Information About 'Explosive' Diaries*: 5/14/12

76. *James Brown Trustee Claims Son, Grandson conspired with Companion*: 5/24/12

- 77. *Former James Brown Trustee Fights "Career-Threatening" Allegations of Lying to Court:* 6/17/12
- 78. *Las Vegas Man Claims James Brown Was His Father:* 6/18/12
- 79. *Brown's Son Regrets Contesting Will, Says Father's Wishes Should Be Followed:* 7/5/12
- 80. *At request of AG, Judge Keeps Gag Order on Diaries:* 7/16/12
- 81. *AG Wilson and James Brown Companion Stop Deposition, but not Bombshell:* 7/26/12
- 82. *James Brown Son Pleads 'Protect the Needy Children':* 8/1/12
- 83. *Court Hears Arguments, Finger-pointing, at hearing on James Brown Restitution:* 8/4/12
- 84. *Former Brown Trustee Appeals Gag Orders:* 8/21/12

Obnoxious TV Blog

- 85. *The Trust of Legendary Singer James Brown is Now in the Hands of the South Carolina Supreme Court!:* 3/28/12

RTT

- 86. *James Brown's Estate in Legal Limbo:* 7/21/11

Rolling Stone

- 87. *Years After Death, Battle for James Brown's Estate Rages on:* 8/4/11

Solicitors from Hell 2

- 88. *AG Wilson Wins Fight to Take Newberry FOIA Lawsuit to Richland (SC):* (printed 3/13/12)

The State

- 89. *Wilson, Loftis Spar over Hiring Law Firms:* 9/14/11
- 90. *Brown's Estate Saddled by Debt:* 10/31/11

Today

- 91. *Judge OKs Settlement over James Brown Estate:* 5/26/09

Toronto Estates and Trusts Monitor

- 92. *Court Battle over James Brown's Estate Drags on:* 8/10/11

Wall Street Journal

- 93. *James Brown Said It Loud:* 3/10-11/12

Wills, Trusts & Estates Prof Blog

- 94. *Legal Battles over James Brown's Estate Continue:* 7/26/11
- 95. *James Brown's Estate Thriving, but Contests Continue:* 11/1/11
- 96. *South Carolina and the FOIA:* 4/24/12
- 97. *More On James Brown's Estate and FOIA Requests:* 5/6/12
- 98. *The Continued Dispute Over James Brown's Estate:* 8/20/12

WLTX

- 99. *Ex-Trustees Want Court to Strike James Brown Deal:* 11/1/11

WRDW News 12: The Inside Story

100. *The Inside Store: Deanna Brown Talks Court Battle, James Brown Movie Deals: Deanna Brown is Fighting a Heated Court Battle Against her Father's Former Trustee with One Focus: Payback: 3/14/12*

SC Supreme Court hears James Brown estate feud

By Sarita Chourey

Morris News Service

Tuesday, Nov. 1, 2011 9:53 AM

COLUMBIA -- Today the South Carolina Supreme Court will take a swing at the charitable legacy of James Brown.

Former state-appointed trustees Robert Buchanan Jr. and Adele Pope are appealing they say thwarts Brown's intentions as laid out in legal documents from 1999 against the artist's children and his wife Tomi Rae Brown.

More than a dozen attorneys representing an even larger volume of heirs and dispute are expected to pack the high courtroom.

The central dispute is whether to throw out a settlement that Judge Jack Early approved on May 26, 2009, which replaced the charitable trust with "The Legacy South Carolina attorney general, and shuffled trustees.

The 2009 agreement gave half of the legendary entertainer's assets to a James quarter to Tomi Rae Brown and a quarter to the six adult children named in J

"My clients are very desirous of the Supreme Court approving Judge Early's settlement and his approval of the settlement," said Atlanta-based attorney, Le Brown's children and spouse.

"I'm hoping the Supreme Court will recognize the importance of the family and Rae, bringing peace to what was a contentious estate."

Levenson added: "The appellants don't -- according to law in South Carolina -- It's not their right to disagree (with what was agreed upon)."

But a final brief from the appellants say the settlement takes away more than his private foundation for needy students and instead shifts it to his adult children

The side consisting of appellants Pope, Buchanan, and former trustees David C Bradley and others also suggests the circuit court was wrong to to discard trust the settlement agreement negotiated by the Attorney General."

712

Ex: 5

Brown died at age 73 on Christmas Day of 2006. He left his personal and household items, a maximum of \$2 million for a family educational fund, and the Jam Foundation to benefit poor students in Georgia and South Carolina schools, according to the will.

Brown's family members challenged the plan, alleging that he had suffered from dementia. The South Carolina attorney general intervened, said spokesman Mark Plowden. The state is under state law with protecting all charitable trusts.

The trust/estate's original tax counsel had valued Brown's assets at \$80 million already in the 2000 Trust, according to the appellants' final brief. In 2006, the trust was valued at \$100 million with \$40 million to \$50 million assigned to publicity rights for his likeness and \$45 million to royalties for his more than 800 published and unpublished works.

The most recent development in the strife over the soul singer's legacy came last week when the South Carolina Supreme Court ruled in favor of the family.

A circuit court judge sentenced Cannon to three years of home confinement and a fine of \$100,000 for his role in the estate dispute. Cannon did not admit guilt but acknowledged that he had been involved in the dispute.

Estate of Denial®

- Home
- The Issue
- Multimedia
 - Video
 - Audio
- Archive
- Links
- Contact Us

← Caregiver accused of murdering elderly Rancho Bernardo man (CA)
Don't let 'super panel' increase death tax! →

AG asked to turn over James Brown documents (SC)

August 11, 2011

A complaint filed in a Newberry court last week against South Carolina Attorney General Alan Wilson asks a judge to order the Attorney General's office to release documents it claims are related to the value of the Godfather of Soul James Brown's assets.

Columbia attorney and former trustee Adele Pope filed a complaint against Wilson and Russell Bauknight, the current trustee of the James Brown Legacy Trust.

The trust, according to the complaint, was never a part of Brown's estate plans but was created by former South Carolina Attorney General Henry McMaster.

Pope claims that on May 4 Bauknight filed documents that valued Brown's "worldwide music empire" at \$4.7 million upon Brown's Christmas Day 2006 death – much less than the \$85 million Pope claims it is worth, after the payment of debts.

In the complaint, Pope states that records for which her Freedom of Information Act requests have been repeatedly denied would prove that the assets are valued at \$85 million – not less than \$4.7 million.

After Brown died in 2006, his trust was ordered to be used to pay for the education of his six children and then to help provide an education for underprivileged children.

Controversy ensued involving the trustees of the estate, and the initial trustees were removed and replaced with Pope and Robert Buchanan.

McMaster and Bauknight filed a lawsuit against Pope and Buchanan in 2010, claiming that the two overvalued the assets at \$85 million.

Over the past 10 months, Pope stated in the complaint, her requests for the records that both Wilson and the legacy trust possess were denied, and, further, she claims that she received a threatening letter from attorneys representing the trust.

The letter, added to the complaint as exhibit E, states "In the event that you continue to file unnecessary ... FOIA requests, please be advised that the Trust and Estate will have no other choice than to file an action against you for abuse of process and sanctions."

However, Pope asserts that she is entitled to review the requested documents, and no record is specifically excluded from disclosure under the FOIA.

In the complaint, Pope states that the legacy trust should be declared a public body, as it is under the direction of the Attorney General.

The complaint asks the court to issue an order declaring that the documents are public records and should be made available for public inspection and also asked the court to declare the James Brown Legacy Trust as a public body as it relates to the FOIA.

Lastly, the complaint asks the court to order Wilson "to perform his official duty" and the Legacy Trust to comply with the FOIA.

When contacted for comment Monday afternoon, Mark Plowden, communications director for the Attorney General's office, said the Attorney General's office just received the lawsuit and would have to review it.

Attribution:

AG asked to turn over James Brown documents

Anna Dolianitis

August 9, 2011

[aikenstandard.com](http://www.aikenstandard.com)

<http://www.aikenstandard.com/local/0809-James-Brown>

 Share / Save    

News

← Caregiver accused of murdering elderly Rancho Bernardo man (CA)

Don't let 'super panel' increase death tax! →

Leave a Reply

Name (required)

Mail (will not be published) (required)

Website

Estate of Denial®

Shining light on the dark side of estate management

- [Home](#)
- [The Issue](#)
- [Multimedia](#)
 - [Video](#)
 - [Audio](#)
- [Archive](#)
- [Links](#)
- [Contact Us](#)

← [Hancock Co. probate court judge accused of "double dipping" \(GA\)](#)
[Marsfield woman accused of stealing money from incapacitated senior \(TX\)](#) →

Wilson and James Brown trustee double efforts to prevent release of music empire documents (SC)

September 18, 2011

On Friday afternoon, a second attempt was made to prevent former James Brown trustee Adele Pope from obtaining public documents related to the value of Brown's \$100 million music empire and to a trust created by former South Carolina Attorney General Henry McMaster and Columbia CPA Russell Bauknight.

Bauknight's counsel, Camden Lewis of Columbia, mirrored current AG Alan Wilson's attempt to dismiss Pope's Aug. 3 Freedom of Information Act (FOIA) lawsuit, again asserting the Newberry venue is improper. Bauknight was appointed by McMaster as trustee of the "Legacy Trust," which McMaster created in late 2008 or early 2009 and now serves at the pleasure of Wilson.

Pope's return to Bauknight's attempt to dismiss the suit asserts the name of McMaster's "Legacy Trust" is deceptive because it had nothing to do with James Brown's true estate plan.

According to an affidavit filed with Pope's return, the "Legacy Trust" was McMaster's vehicle to take control of Brown's assets and funnel \$50 million from the needy and deserving students James Brown intended to benefit to claimed heirs Brown intentionally disinherited from his worldwide music empire.

Pope's FOIA suit also seeks a declaration that McMaster's "Legacy Trust" is a public body under FOIA.

Pope's return, filed Monday, asserts both AG Wilson and the "Legacy Trust" are seeking to conceal public documents which would show improper acts by members of the AG's office, the previous AG and/or the trustee of the "Legacy Trust."

"It is surprising that AG Wilson, who prosecutes FOIA violations, will not produce documents to show why he told the Court that James Brown's \$100 million dollar music empire was worth only

716

Ex: 12

\$4.7 million. It is shocking that AG Wilson refuses to produce a copy of the James Brown Legacy Trust, under which Wilson now controls that music empire," said Columbia attorney Adam Silvernail, Pope's attorney.

Pope and Aiken attorney Robert Buchanan served from 2007-2009 as court-appointed fiduciaries of music icon James Brown's estate and trust which includes The James Brown "I Feel Good" private foundation established in 2000 by Brown to benefit needy and deserving students in South Carolina and Georgia.

Brown's estate plan stated that at his death, the proceeds of his music empire, including royalties to more than 800 songs, would be rolled into his "I Feel Good" Trust.

According to Pope's affidavits on file in two FOIA lawsuits filed in August in Newberry County, McMaster reached an agreement in August 2008 with some of Brown's more than a dozen claimed heirs. The agreement, in addition to giving the disinherited relatives half of Brown's estate, called for the creation of what became McMaster's "Legacy Trust."

Although the attorney general refuses to release a copy of the signed "Legacy Trust," statements by his office and drafts filed in Aiken County make clear the "Legacy Trust" is controlled by the attorney general through a right to remove and replace the trustee at will.

Yet, Pope's requests for a copy of the "Legacy" trust have been repeatedly denied as have her requests for documents related to Bauknight's \$4.7 million valuation of Brown's music empire which was valued by all previous Brown fiduciaries, until Bauknight, at about \$100 million (less a \$15 million dollar debt).

In May Bauknight revealed he had filed documents with the Internal Revenue Service, asserting at Brown's death in December 2006, the value of his music empire was \$4.7 million. Wilson and Bauknight later asked the Supreme Court to accept this valuation, as well.

An order issued by the Supreme Court in July declined to supplement the record to include Bauknight's \$4.7 million valuation.

Through Columbia attorney David Black of Nexsen Pruet, Bauknight threatened Pope with legal action and sanctions if she continued to exercise her rights under the FOIA. Pope asserts the many James Brown cases — most pending in Aiken County — should not prevent her from exercising her FOIA rights in Newberry County.

Under Brown's estate plan, the "I Feel Good" Trust was slated to be South Carolina's largest private foundation dedicated solely to provide education benefits for needy and deserving students.

Attribution:

Wilson and James Brown trustee double efforts to prevent release of music empire documents
Sue Summer

September 14, 2011

The Newberry Observer

http://www.newberryobserver.com/view/full_story/15512120/article-Wilson-and-James-Brown-trustee-double-efforts-to-prevent-release-of-music-empire-documents?instance=secondary_news_left_column

AG Wilson attempts to exclude affidavit of local copyright expert in James Brown FOIA lawsuit (SC)

Estate of Denial®

Shining light on the dark side of estate management

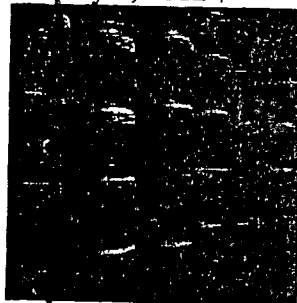
- Home
- The Issue
- Multimedia
 - Video
 - Audio
- Archive
- Links
- Contact Us

Estate of Denial

← Williamson County politics inspire grassroots activism (TX)
Mark Steyn asks 'happy new year'? →

AG Wilson attempts to exclude affidavit of local copyright expert in James Brown FOIA lawsuit (SC)

January 6, 2012



As the new year appeared, so did more filings in the Newberry Freedom of Information Act (FOIA) lawsuit related to the James Brown estate, filed in August.

On Dec. 22, Attorney General (AG) Alan Wilson moved to strike an affidavit from local copyright expert W. Jeffrey Smith in support of releasing documents that reveal how the James Brown estate plan was dismantled by former Attorney General (AG) Henry McMaster in a settlement deal that gave away over half of Brown's worldwide music empire to non-heirs and disinherited family.

In Smith's affidavit and in an article he is writing, he sites one major failing of the McMaster deal was the fact that the AG's office did not properly establish James Brown's heirs for the purpose of the Federal Copyright Act. The act grants limited future rights in certain of Brown's more than 850 songs to heirs as determined under the act.

Soon after Brown's death on Christmas Day 2006, former Judge Rodney Peeples established a DNA protocol for the estate to determine who Brown's heirs-at-death are—and are not. McMaster ignored the DNA protocol and three properly determined heirs in deciding which parties were to be included in his settlement deal.

Among the settling parties in dispute are Brown's companion, Tommie Rae, who was married to another man at the time she exchanged vows with Brown, and her son. Tommie Rae refused to allow her son to take Peeple's DNA test.

On Jan. 3, Newberry resident and former Brown trustee Adele Pope filed documents opposing the AG's motion to strike Smith's affidavit and article, as well as affidavits from others, including Deborah Spence, widow of former Congressman Floyd Spence, and this reporter. Pope also asked the Court to consider the affidavit of former Observer editor, Vic MacDonald, who won a press award for his vigorous defense of the FOIA.

Pope states that the firm of Columbia superlawyer Camden Lewis and his clients—Brown's original trustees—"collected and agreed to make public the diary of Brown's companion and other records confirming she was not Brown's wife and had waived any claim to be his spouse or enjoy his property." The original trustees also obtained Brown's vasectomy records and sworn testimony that demonstrated Tommie Rae's son was not likely Brown's son.

The Lewis firm represented original trustees "Buddy" Dallas and David Cannon as fiduciaries only and did not assist them in filing a \$10 million claim for commissions.

Smith's affidavit included a draft of an article he is writing with Pope, "Private Foundations, Copyright Heirs and Musical Millionaires: Why The James Brown 'I Feel Good' Trust Doesn't...."

The article explains how the James Brown estate plan was dismantled by former AG McMaster, and it raises the question: what is the future of private philanthropy if an AG is allowed to rewrite at will an estate plan simply because it is challenged by disinherited relatives.

As a copyright expert, Smith wrote in his affidavit that the "intentional and/or reckless disregard for a proper determination of heirs-at-death was a primary factor in the destruction of what should have been the approximately \$80 million James Brown 'I Feel Good' Foundation."

He further stated "no expertise is needed to determine that Brown's music empire—which earned at least \$50 million between 1999 and Brown's death in 2006—does have substantial intellectual property assets and was worth substantially more than \$4.7 million when Brown died..."

Current trustee Russell Bauknight, who serves at the pleasure of AG Wilson, filed IRS documents that claim Brown's worldwide music empire, including both the royalties and rights to exploit Brown's image and persona, was worth less than \$4.7 million at his death.

Former AG McMaster's settlement deal gave Brown's son Terry the right to purchase Brown's music assets. Smith wrote, "The public needs to know about AG McMaster's association with Terry Brown—whom he gave a right to buy Brown's assets—and Terry's law firm, Powell Goldstein, now Bryan Cave, and joint venturers Cannon, Dallas, son Forlando and TJBL, LLC.

According to other filings, TJBL, LLC attempted to buy Brown's assets for \$100 million in late 2007 and early 2008. In September of 2008, Forlando Brown, a principal in TJBL, asserted the assets were worth at least \$150 million.

Pope's affidavit states that the public has a right to learn about the role, if any, of the AG's office "in Bauknight/Terry Brown's manipulation of the value of Brown's music empire."

She states that the delivery of public documents at a minimum cost and delay is essential for FOIA compliance, and it is the right of individuals and the public under FOIA to receive the documents without regard to the use to be made of the documents.

In her affidavit, Pope states that the "State/Legacy Trust is represented by a seasoned Assistant Deputy AG and has authorized the Legacy Trust to engage a superlawyer whose hourly rate in 2007 was \$500 to fight release of public documents."

The State has been fighting the release of public documents, including the McMaster-created Legacy Trust, for over six months, and the Trust has threatened Pope with sanctions for exercising her FOIA rights.

Pope's affidavit states she believes the journalists' affidavits should be considered in the FOIA lawsuit because they emphasize the importance to the press and to the public of swift and inexpensive compliance with the FOIA. The affidavits of lawmakers should be considered because they constitute expert opinions as to the FOIA's role in open government.

Attribution:

AG Wilson Attempts to Exclude Affidavit of Local Copyright Expert in James Brown FOIA Lawsuit
Sue Summer
The Newberry Observer
January 3, 2012
http://newberryobserver.com/view/full_story/16981030/article-AG-Wilson-Attempts-to-Exclude-Affidavit-of-Local-Copyright-Expert-in-James-Brown-FOIA-Lawsuit?instance=secondary_news_left_column

Share / Save    

News

← [Williamson County politics inspire grassroots activism \(TX\)](#)
[Mark Steyn asks 'happy new year'?](#) →

Like

Add New Comment

[Login](#)



Type your comment here.

Showing 0 comments

Sort by popular now 

M [Subscribe by email](#) S [RSS](#)

720

Estate of Denial®

Shining light on the dark side of estate management

- [Home](#)
- [The Issue](#)
- [Multimedia](#)
 - [Video](#)
 - [Audio](#)
- [Archive](#)
- [Links](#)
- [Contact Us](#)

← [Lawyers accused of overbilling Parks saved her belongings, attorney says \(MI\)](#)
[OKDHS Revenue Generating Adoptions: Judge Tammy Bass LeSure](#) →

Dead or alive – James Brown, Danny Tate show threats to property rights thrive

May 22, 2012



That's a headline to grab attention in Austin, Nashville, L.A. and for entertainers across the country – as it should. Growing use of probate instruments like wills, trusts, guardianships and powers of attorney is putting at risk both individual liberties and property rights. An ongoing legal battle involving the “Godfather of Soul” James Brown’s estate helps illustrate this point as also does the case of Nashville rocker Danny Tate who in past years fought a questionable conservatorship (guardianship) and now is targeted in what appears a series of retaliatory actions for speaking out against the perpetrators of his alleged probate abuse and the “justice” system that allows it to continue. The general public may read or hear of such actions while continuing to enjoy an “it can’t happen to me” mindset, but such confidence is misplaced as a reality emerges in which people at all levels of wealth – be it worth \$50,000 to \$100,000, \$1 million or far more – are targeted for Involuntary Redistribution of Assets (IRA) actions. Wealth is relative and in today’s world – there’s always someone happy to take yours.

Disgruntled family members, wannabe heirs and/or disingenuous legal professionals are often perpetrators of IRA actions. The James Brown estate case includes the full range of these parties. Traditional media sources have widely reported on the wrangling of Brown’s heirs – the legitimate, the disinherited and the wannabe, but only The Newberry Observer is reporting on the multi-layered legal industry machinations that commenced in the years following the singer’s December 2006 death and continue today.

721

Ex:17

In 2000, Brown established the James Brown "I Feel Good" private foundation to provide scholarships for poor children in South Carolina and Georgia. Brown's estate plan reportedly stated that upon his death, "the proceeds of his music empire, including royalties to more than 800 songs, would be rolled into his 'I Feel Good' Trust." Attorneys Adele Pope and Robert Buchanan served from 2007 to 2009 as court-appointed fiduciaries of Brown's estate and trust which includes the "I Feel Good" trust. During Pope's tenure, Newberry Observer reporter Sue Summer reports that Brown's music empire – per all previous Brown fiduciaries – was valued at about \$100 million less a \$15 million dollar debt.

Summer further writes how in late 2008 or early 2009 former South Carolina Attorney General (AG) Henry McMaster and Columbia CPA Russell Bauknight created the "Legacy Trust." She quotes a Pope legal response describing the trust as "McMaster's vehicle to take control of Brown's assets and funnel \$50 million from the needy and deserving students James Brown intended to benefit to claimed heirs Brown intentionally disinherited from his worldwide music empire." AG McMaster appointed current trustee Russell Bauknight who serves at the pleasure of the attorney general. During this timeframe, the estate value was also revised to a reported \$4.7 million at-death appraisal despite, per Pope, the estate generating \$4 to 5 million a year in royalties alone prior to Brown's death.

And though Brown's will and trust included clauses excluding from distributions any parties that challenged his estate plan, McMaster ultimately negotiated a settlement deal giving away more than half of Brown's music empire to those Brown specifically disinherited, including his former companion Tommie Rae Hynie and about half of his alleged children. Summer describes Tommie Rae Hynie as follows:

After Brown's death in 2006, Hynie claimed to be Brown's wife and sued his estate for a share of his \$100 million music empire. The two had exchanged vows in 2001, but Hynie was married to another man at the time. When Brown discovered her marriage, he sued Hynie for an annulment. The Aiken County case was settled when Hynie signed an agreement that she would never claim to be Brown's common-law wife.

With this backdrop, it's difficult to believe that Brown's final wishes are being honored. It's troubling that the state of South Carolina has been such a force in this action. Adele Pope appears to share such sentiments as she continues working to determine how private assets that were once part of a private foundation were then legally placed in an alleged public trust in violation of the asset owner's clear intention? And if it's a public trust, why can't the public access information revealing its details?

Pope has used Freedom of Information Act (FOIA) requests to attempt accessing copies of the trust and documentation regarding the \$4.7 million appraisal. The office of current Attorney General Alan Wilson – the office that prosecutes FOIA violations – has resisted all efforts. Instead, Summer reports "Legacy" trustee Bauknight having "threatened Pope with legal action and sanctions if she continued to exercise her rights under the FOIA."

Most recently, Pope is facing a subpoena related to the diaries of Tommie Rae Hynie. Specifically, Summer writes, Pope is being asked to "turn over all written communications related to the Hynie diaries, including any communications with this reporter, any 'blogger, website or media outlet.'"

Summer's latest article describes a long-time Brown friend suggesting "that the diaries could be key in disallowing Hynie's claim and returning about \$25 million to the Brown trust for needy and deserving children." The diaries were once available to all parties early in the case, but in February 2008, Judge Doyet Early issued an order for a return of the original diary to Hynie attorney Robert

Rosen and other copies returned to the Clerk of Court pending a hearing. Four years later, a hearing has yet to be scheduled.

Pope has previously alleged the AG's office is seeking to conceal public documents which would reveal "improper acts by members of the AG's office, the previous AG and/or the trustee of the 'Legacy Trust.'" The Hynie diaries could further support that claim if, as some believe, they reveal Hynie's ineligibility as a Brown heir and that the AG's office elected to disregard or neglected to investigate this important point.

Through the state of South Carolina's revision of James Brown's estate plan, the entertainer's property rights appear to have been posthumously disregarded while his designated beneficiaries' inheritance rights – namely the children for whom he intended scholarships – appear violated. The state's failure to respect Freedom of Information Act (FOIA) requests creates concerns over its commitment to transparency and open government as well as its approach to taxpayer accountability. This latest development seems now to flirt with free speech and freedom of the press issues which further heighten the case's ever-intriguing nature and the warning it should send the public regarding the safety of their own property.

While the James Brown estate gives an important example of posthumous asset diversion, Nashville musician Danny Tate's experience shows that while alive – probate actions can also be used to target property and other individual liberties.

Nashville musician Danny Tate admits his struggle with alcohol and drug issues may at a point have merited assistance, but never would he – or most anyone else – have dreamed that such "help" would manifest as the near depletion of his \$1.5 million estate and a continued assault on any future prosperity. These, however, are the circumstances directly resulting from a 32-month "temporary" conservatorship petition initiated in October 2007 by his brother David Tate, facilitated by attorney Paul T. Housch and sanctioned by Davidson County Circuit Court Judge Randy Kennedy.

A series of articles entitled Musician Danny Tate's conservatorship: a case of caring or corruption? (Part One Part Two Part Three) provides the long, sordid details of Tate's plight. From the beginning of this action at which time David Tate is alleged to have used a fraudulent Durable General Power of Attorney to gain initial control of his brother's finances and then fund attorney Housch's October 2007 petitioning for the musician to be conserved, the administrative ease and casualness of process accompanying this life-altering status is noteworthy and should serve as a cautionary tale to all Americans.

For 32 months, Danny Tate simultaneously fought to regain control over not just substance abuse, but also his civil and property rights that some court observers believe were hijacked by the Tennessee probate court. His day in court arrived only after the Middle Tennessee Court of Appeals reversed one of Judge Kennedy's critical case rulings, an act described by Nashville Scene as "meaning the Probate Court had strayed so far from established legal procedure that an extraordinary judicial slap on the wrist was dealt to Kennedy. More remarkable still, Judge Frank Clement, the jurist who issued the Appeals Court decision, used to sit in Kennedy's seat in Probate Court."

This court ruling basically acknowledged the questionable process by which Tate was conserved and forced Judge Kennedy to allow a hearing that would make the 32-month "temporary" conservatorship permanent or else the status would be terminated. Danny Tate's day in court came on May 24, 2010, and took place in a courtroom full of Tate supporters along with a local television camera crew. The hearing quickly evolved into what seemed a scripted media event with Danny Tate's release from the conservatorship put front and center for all (especially the cameras) to see. "They saved him" seemed a recurring theme used to justify the 32-month legal ordeal which left Tate destitute.

The day's victory played well from a public relations standpoint and was likely hoped to appease the supporters on hand, but the day's real outcome became evident nearly three weeks later upon Judge Kennedy signing the hearing final order. Rather than signing a final order submitted by Danny Tate attorney Michael Hoskins that reflected the May 24 ruling, Judge Kennedy instead opted for a Paul T. Housch-written statement that gave the now-terminated "temporary" conservatorship of David Tate functional control over his brother's assets through a 60-day "wind down" period. This translated practically into further depletion of Danny Tate's estate by the "temporary" conservator despite Tate's "rights" alleged to be restored. Judge Kennedy further demonstrated support of this course at a June 11 hearing.

Danny Tate has seen little to no relief in the last two years. The decimation to his estate has been irreparable. The May 2010 Nashville floods severely damaged his residence. Equipment used for his livelihood was also lost in the flood and later discovered as uninsured due to the policy being allowed to lapse during the 32-month "temporary" conservatorship. Tracking down his past and current, U.S. and foreign royalties is proving highly difficult. A once respectable credit rating was reduced to worthless while a stream of government-oriented administrative complications and legal obstacles continue to a point that "questionable" ceases to be a strong enough descriptor.

Most recently, Housch filed a motion asking for the sale of Tate's house in order to collect legal fees stemming from the conservatorship – fees ascribed to Housch and to former Danny Tate attorney Michael Hoskins. While Estate of Denial® certainly supports property rights including one's right to pursue legitimate claims or debts, legitimacy is not a term many observers see as applicable to this case. Contrived seems more appropriate.

And speaking of contrived – or seemingly so – the same day Tate received the Motion for Order of Sale of his home, he also received a Notice of License Revocation. In a Pauper v. Probate: Motion for Order of Sale blog post he asks, "Coincidence? Hardly. Without the ability to drive, it would be challenging to show up to defend the Order of the sale of my home." One has to wonder.

Tate has been a vocal critic of Randy Kennedy's court and its appearance of needlessly sanctioning actions that target specific individuals for denial of their personal liberties and/or property rights. Tate's is not the only case in recent years to attract attention. The Nashville media has somewhat covered several cases, the Tennessee legislature is well aware of this court's activities, yet nothing happens to stop this assault on private citizens.

In this recent post, Danny Tate also asks:

For those that have stood fast to this "cause", I humbly request making calls to Senate Judiciary Committee members, write emails to the same, call the Nashville Bar, even make calls to the Court of the Judiciary.

It would be appreciated, not just for me, but more importantly for Jewel Tinnons and Ginger Franklin, Robert Thurman and Jerry Eckwood, and those yet to become victims of this errant court.

This action has mandated the return of Pauper v. Probate, in the First Civil Court of Public Opinion. Like Al Pacino's character in Godfather III, "Everytime I try to get out, they pull me back in."

There are Constitutional provisions to stop this action, but you will find the Constitution is loathed and ignored in our legal system today. "We, the people...", wherein all power is inherent, must insure that our Constitution is restored to full faith and effect.

In January 2010, Nashville Scene's Brantley Hargrove wrote a great piece on Tate's case entitled Court-Ordered Hell — how an errant judge and a controlling sibling stripped Nashville rocker Danny Tate of his money, his livelihood and his legal rights. For now, for Danny Tate, Court-Ordered Hell indeed remains in session.

Both the James Brown estate and Danny Tate conservatorship cases suggest – at the least – that all might not be as it should when it comes to the administration and execution of probate actions. While still often occurring quietly, these cases are receiving far more attention than just a few years ago. It's still, however, important to understand that probate abuse is a lucrative part of an entrenched system deriving its power to act from a protectionist legal industry and reform will not be allowed to come easily or quickly.

Lou Ann Anderson is an advocate working to create awareness regarding the Texas probate system and its surrounding culture. She is the Online Producer at www.EstateofDenial.com, a Policy Advisor with [Americans for Prosperity – Texas](#) and a Director of [Women on the Wall](#). Lou Ann may be contacted at info@EstateofDenial.com.

Share / Save    

Commentary

← Lawyers accused of overbilling Parks saved her belongings, attorney says (MI)
OKDHS Revenue Generating Adoptions: Judge Tammy Bass LeSure →

Like 1 person liked this.

Add New Comment

[Login](#)



Type your comment here.

Showing 0 comments

Sort by popular now 

M [Subscribe by email](#) S [RSS](#)

Reactions



Trackback URL <http://www.estateofdenial>

725

Estate of Denial®

Shining light on the dark side of estate management

- [Home](#)
- [The Issue](#)
- [Multimedia](#)
 - [Video](#)
 - [Audio](#)
- [Archive](#)
- [Links](#)
- [Contact Us](#)

← [Friends of aging socialite testify man accused of trying to swindle Mary Ellen Bendtsen threatened to take away his friendship if she didn't give him control of property, money \(TX\)](#)
[Cartoll Shelby: Wife vs. Kids in war over auto legend's body \(TX\)](#) →

For Father's Day, Pappa gets a brand new son: Las Vegas man claims James Brown was his father (SC)

June 17, 2012



How many children did music legend James Brown have?

As of Father's Day, perhaps 13.

James Curtis of Las Vegas has stepped forward, claiming to be Brown's son.

His mother, now deceased, met James Brown in Augusta juke joints and became pregnant with him when she was 13 years old, he said.

Brown was also a teen-ager at the time.

Curtis was born in 1951, which makes him—at age 61—Brown's oldest child, if his claim is proven. He has offered to take a DNA test.

Curtis's mother showed him pictures of the two of them together, and he always knew Brown was his father, he said.

726

Ex: 18

At age 12, Curtis went to the Apollo Theater in New York, where Brown was performing, so that he could meet his father. "His band members and body guards pushed me aside," he said.

Now Curtis would like to receive a share of Brown's estate. "Something, anything—even a piece of jewelry. He didn't provide anything for me through the years, and I want some compensation."

Even if DNA proves that Curtis is Brown's son, he may receive nothing from the Brown estate settlement—but he could benefit as Brown's heir under Federal Copyright laws.

In Brown's will, he left six named children his personal and household effects. They and Brown's companion, Tommie Rae Hynie, challenged Brown's estate plan and were included in a 2009 settlement deal forged by former S.C. Attorney General Henry McMaster. The deal gave away over half of Brown's music empire to the six claimed children and companion.

Brown's estate plan left his entire music empire to the "I Feel Good" Trust, his education charity.

The deal has been appealed to the S.C. Supreme Court. Arguments were heard in November, but no decision has been issued. One reason for the appeal was that the McMaster deal stopped an ongoing procedure to determine who were Brown's heirs under Federal Copyright laws. McMaster's deal also exempted some claimed children from DNA testing.

The question of heirs is critically important because heirs have termination rights to Brown's songs. That means after a certain number of years—but before copyrights expire—Brown's heirs may be able to terminate or renegotiate them.

In a career that spanned 60 years, Brown copyrighted more than 850 songs.

Legitimate and illegitimate children have the same rights under Federal Copyright law, and James Brown was known to have had intimate relations with many women.

The original trustees of Brown's estate set up a DNA protocol to determine Brown's heirs, and three have been proven thus far: LaRhonda, Cinnamon and Jeanette.

There are others who have claimed to be heirs for whom testing has not been completed.

According to court filings, about half of Brown's presumed or proven heirs were included in the settlement deal.

Curtis has not been in touch with his sisters in Augusta, but he has talked with LaRhonda, one of the three Brown children identified by the DNA protocol.

"She knew about me," he said.

According to Curtis, he has not yet talked with an attorney.

Attribution:

For Father's Day, Pappa Gets a Brand New Son: Las Vegas Man Claims James Brown Was His Father

Sue Summer

June 15, 2012

The Newberry Observer

WHITNEY BROWNSTON UPDATES: [Ray J 'Still Hurting' Over Whitney's Death \(Video\)](#) - [Bobbi Kristina Brown Plans on Changing Her Name](#) - [Whitney's Sister-in-Law](#)

our best deals
are online

shop online for
special offers
from AT&T

Shop Now

James Brown's Charitable Trust Fate Marinating in Confusion

March 11, 2012 [1 Comment](#)



*The trust of legendary singer and icon James Brown has been battered by greed and confusion since his death.

According to an exclusive EUR source, Sue Summer, a South Carolina journalist, high officials have been attempting to cover up money swindling and trust theft. Now the fate of Brown's charitable trust sits in the hands of the South Carolina Supreme Court.

Summer explained that the media is vilifying the wrong parties. Original trustee of Brown's trust, David Cannon appears to have been stealing money all along, while Robert Buchanan and Adele Pope have been fighting the court to uphold the singer's original wishes to donate his trust funds to poor children's education.

"In an interview with WKDK, you can hear in his own voice, James Brown says he was led by a Bible verse to use his music empire to fund education opportunities," she explained. "He grew up very hard, so he had a lot of sympathy for poor kids... he said not everyone can have his talent, but education can get them an opportunity."

But family members and other interests, who knew of Brown's decision long before his death to give his wealth to needy children, challenged Brown's decisions after his death in the court.

Thus Buchanan and Pope have been targeted. However, they've been attempting to keep with Brown's original plan and Brown's grandson,

Summer also suggested that former Att. General Henry McMaster may have had a hand in the brutal breakdown of Brown's trust and could be financially benefiting from the confusion.

Brown's grandson, Forlando Brown filed a lawsuit in 2008 in an attempt the interests of his grandfather. He alleged that Pope and Buchanan were illegally appointed as the trustees and would not "protect Brown's estate plan from disinherited relatives."

However, shortly after appearing to the media with McMaster in 2008, McMaster entered into a s
Brown's Irrevocable Trust.

728



Ex: 20

In an article published in Carolina Reporter & News, back in November last year, two former trustees demanded the court to renegotiate the provisions of the charitable trust and give half the funds to his own children and Tomi Rae Hynie, whose role in Brown's wife is still unclear.

According to Debra Opri, one of Brown's attorneys, the two were never legally married and she was not to refer to herself as his wife. She was technically still married to another man during their union.

Now that his charitable trust has been sliced in half and turned into an inheritance, it's no longer considered charity and will likely be eaten up by taxes and other penalties, according to the source.

For more reading visit EstateofDenial.com and the [James Brown "I Feel Good" Trust Facebook Page](#).

Follow EUR on [Twitter](#), [Fan us on Facebook](#), [Subscribe to our daily newsletter or RSS feeds](#). And access us anytime, anywhere on your smartphone.

Do you like this story?

Filed Under: [Entertainment](#), [EURweb Exclusives](#), [News](#), [Top News](#) Tagged With: [celebrity death](#), [estate](#), [james brown](#), [james brown trust](#), [south carolina](#) Uploaded By: [BlackBee](#)

More Recent News



James Brown's Charitable Trust Fate Marinating in Confusion



'Think Like A Man' Producer Will Packer and More Do Disney's Dreamer's Academy with Steve Harvey



Audio: Mary J Blige Dishes on 'Idol' Visit; New Single 'Why'



\$ 1000/day Click Here
Cash to your door or call 954-262-3789

James Brown's Son Regrets Contesting Will

July 1, 2012 [Leave a Comment](#)

Daryl Brown says father's wishes should be followed

By Sue Summer for The Newberry Observer (EURweb publication by permission)

N.O. 6/29/12

(Sue Summer)



Daryl Brown

*The son of music legend James Brown now regrets that he did not follow his father's wishes as expressed in his will—and he shared his concern that his daughters will never receive the education funds their grandfather left them in a trust he established in 2000.

Daryl Brown, in a taped telephone interview on Wednesday (June 27), said, "When my oldest daughter went to school, her mother had to get loans for her because no money was there (in the trust). We asked for it and asked for it, but still no money came."

Had Brown's will been carried out at his death over five years ago, a \$285,000 education fund would have been created for each of Daryl's daughters.

The rest of Brown's music empire would have funded the "I Feel Good" charity to provide scholarships for needy and deserving students in South Carolina and Georgia.

Brown says his younger daughter graduates next year and his nephew is already have received no assurances that their tuition will be paid, despite pleas to

730



Ex: 21

Levenson of Atlanta, as well as to Brown trustee Russell Bauknight of Columbia and to the office of the S.C. Attorney General (AG).

"They paid off the bond deal. Why is the money for the grandchildren not being released now?" Daryl asked.

"Every time we want to hear where the money goes, we're told this person has to be paid first, that person has to be paid first. They throw up smokescreens," he said.

Brown's estate plan gave his personal and household effects to six children named in the will, including Daryl. Although Daryl did not see the estate plan before his father's death in 2006, his father had told him about the education charity and the grandchildren's education funds.

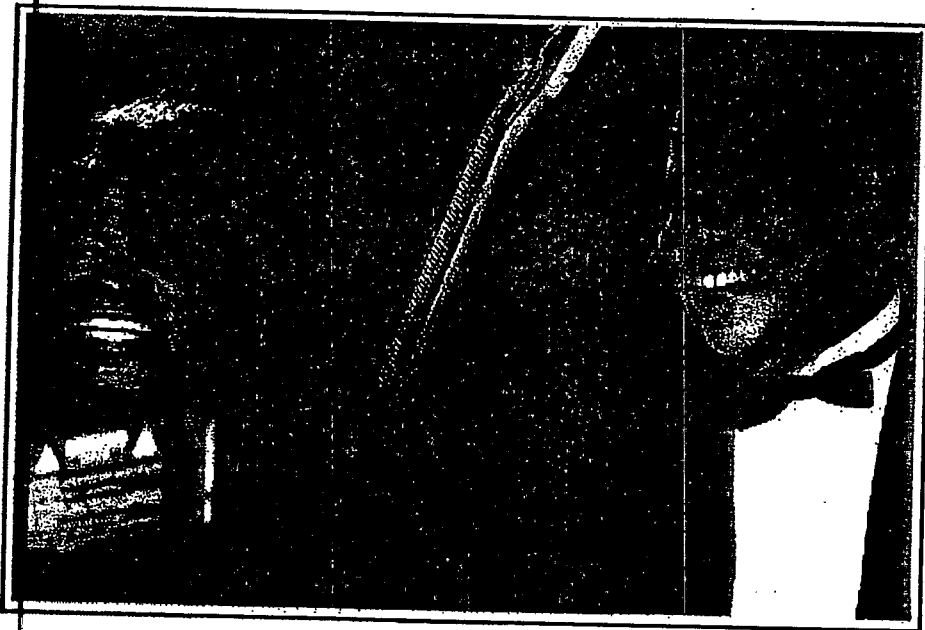
In 2007 James Brown's estate plan was contested by the children named in the will and by Brown's companion, Tommie Rae Hynie, who claimed to be his wife even though she was married to another man when she and Brown exchanged vows in 2001.

"I just went along with the family, but I admit my mistakes," Daryl said.

Although Daryl's attorney Levenson filed affidavits in 2007 that accused original trustees—"Buddy" Dallas, David Cannon, and Alford Bradley—of mismanagement of the trust, Daryl now claims they did not exercise "undue influence" over Brown when he set up his estate plan. "I trusted those guys. My father trusted those guys. I'd known Mr. Dallas since I was a little boy."

Daryl insisted, "James Brown knew what he was doing. Nobody ran James Brown, he did it his own way."

On Nov. 1, however, "Sonny" Jones of the AG's office told the S.C. Supreme Court that the "undue influence" claim by Daryl and others supported a settlement deal forged by former AG Henry McMaster—a deal that gave more than half of Brown's music empire to Daryl, certain other children, and Hynie.



James Brown & Daryl Brown

731

STATE OF SOUTH CAROLINA
COUNTY OF Aiken

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Adole J. Pope and Robert L. Buchanan, Jr.,
as Personal Representatives of the Estate
of James Brown, Deceased, and as
Trustees of the James Brown 2000
Irrevocable Trust,
and
James Brown Enterprises, Inc.,
Plaintiffs,

C/A # 2005-CP-02-322

EXHIBIT E

AFFIDAVIT OF MARY HOLMES

vs.

David C. Cannon, Albert H. Dallas,
Judge Alford A. Bradley, Joel A. Katz,
Greenberg Traurig, LLP, and
Enterprise Bank of South Carolina,
Defendants.

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths in the State of Georgia, came Mary Holmes, 525 Maxwell House Apartments, Augusta, Georgia 30901, who under oath deposes that the following facts are true and correct:

1. My name is Mary Holmes, and my address is 525 Maxwell House Apartments, Augusta, Georgia 30901. I knew James Brown for over thirty years as friend, companion, soul mate, lover, and Christian brother. Mr. Brown was a man's kind of man, totally about his business, twenty-four hours a day, seven days a week. He never allowed anyone to get in the way of his business. This passion of James Brown was like a force within him.
2. James Brown loved Buddy Dallas. It was always Mr. Dallas, "one of the best," he would often say. James Brown trusted Buddy Dallas as his friend and personal attorney. He trusted few people, but he never trusted anyone completely. God was always in his decisions, and he would never let anyone make final decisions for him. He would think through his decisions and would never be dictated to by anyone. I am surprised to learn that Mr. Dallas has been accused of undue influence on Mr. Brown. As much as he cared for Mr. Dallas, he would never allow Mr. Dallas or anyone else to make decisions for him. I know Mr. Brown and to suggest that someone could unduly influence Mr. Brown would suggest to me that the person making the statement does not know what they're talking about. One could easier push a rope uphill than unduly influence him or cause him to do something that he did not choose to do.
3. Mr. Brown's children played no role in his business whatsoever. I was with Mr. Brown during Thanksgiving of 2006 in the presence of all of his children where he informed them, "I am going to tell you something. You are not going to get what you think, but you will get things because of me." He told me things were going to be hard for Tommie Rae as "she won't listen to me." He was very disappointed with his children and with Tommie Rae telling Tommie Rae in December, just before Christmas, that he did not want her to come back to Beeson Island. Tommie Rae told me, "I am tired of him and am never coming back." Mr. Brown told me he felt relieved that she was not coming back. Tommie Rae would always refer to Little James as "me and my son," never "our son." Tommie Rae would beg him in the year 2006 to remarry her. She kept saying, "We are going to Vegas and remarry." Mr. Brown felt she had made a fool of him by marrying him while she was still married to another man, and he was greatly disappointed when he found out Tommie Rae was a lesbian and was involved with Candace. He showed me her crack can and dildo stating that he did not understand how he ever got caught up with Tommie Rae. He felt that Candace and Tommie Rae were working him. When they would argue, Tommie Rae would taunt him by saying, "You may know Candace, but you don't know Candace like I know Candace." Tommie Rae slept in her own room and did not have a key to Mr. Brown's bedroom. He would lock her out of her room with me in bed with him. On one occasion, Tommie Rae came to me and congratulated me, and Mr.

MH

732

Ex:27

Brown made her apologize for such a statement telling her that he and I had been together for thirty years. He would tell her to go shopping or get out of the house because Ms. Holmes would be giving him a rubdown. During 2006 Tommie Rae was supposed to be in rehab three times for extended periods of time. Once Mr. Brown found out about her sexual inclination, there was no way that James Brown was going to remarry her again.

4. As it related to Mr. Brown's business matters, Mr. Brown made his own decisions. No one influenced him to do anything that he did not want to do. If it was not Mr. Brown's idea, it simply did not happen. Mr. Brown was involved daily in every part of his business, and it cannot be said that someone else forced or pressured Mr. Brown to do anything. Everyone around Mr. Brown knew better than to even try to push something on him as he would quickly put you in your place if you did. If anyone says that Mr. Brown was unduly influenced then they simply did not know the James Brown that I knew for over thirty years. It was no secret to anyone that Mr. Brown intended to leave most of his property to needy kids for educational purposes.
5. For some reason unknown to me, since Mr. Brown's death, it seems that all of the people who were really close to Mr. Brown have been abused by all of the lawsuits. Mr. Brown would never allow Mr. Dallas to be abused as Mr. Brown treasured his relationship with his friend Buddy Dallas.
6. Mr. Brown would often refer to me as his very best friend. Mr. Brown died as a very lonely man.
7. I was present with Mr. Brown on Tuesday night prior to Mr. Brown passing the morning of December 23, 2006, when Mr. Brown called Mr. Dallas telling him how much he appreciated the many things he had done for him over the years. Mr. Brown would recall specific events and say to Mr. Dallas over the phone, "Mr. Dallas, you didn't have to do that for me." I thought at the time that Mr. Brown was saying goodbye to Mr. Dallas as Mr. Brown had said to me throughout the month of December, "I will be leaving you all soon." Mr. Brown was a person of great intelligence and had a large capacity for understanding human nature. He could size a person up very quickly as to whether he would have any kind of relationship with you.

My statements are made from my personal knowledge, information, and belief, from statements made to me by Mr. Brown, my personal observations, as there were few people on earth closer to Mr. Brown than was I as he expressed to me often. I love and shall forever miss the late James Brown, the Godfather of Soul. To the extent additional information is necessary, please do not hesitate to contact me.

Witness my hand and seal this 19th day of May, 2008.

Kimberly Kitchens
Notary Public

My commission
Expires 6/1/2010

Mary Holmes
Mary Holmes

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Adele J. Pope and Robert L. Buchanan, Jr.,
as Personal Representatives of the Estate
of James Brown, Deceased, and as
Trustees of the James Brown 2000
Irrevocable Trust,
and
James Brown Enterprises, Inc.,
Plaintiffs,

C/A # 2008-CP-02-322

AFFIDAVIT OF J.B. ROSS

vs.

David G. Cannon, Albert H. Dallas,
Judge Alford A. Bradley, Joel A. Katz,
Greenberg Traurig, LLP, and
Enterprise Bank of South Carolina,
Defendants.

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths in the State of Illinois, came J.B. ROSS, who under oath deposes that the following facts are true and correct:

1. My name is J.B. Ross, practicing attorney in Chicago, IL, 840 W. Grand Ave., Chicago, IL 60622, admitted to the Illinois Bar in 1968. It was my great pleasure to have known and represented the late James Brown, the Godfather of Soul, Mr. Dynamite. The Hardest Working Man in Show Business, over the past fifteen years prior to his death. Mr. Brown was an unusual personality who spoke his mind and was his own counsel. James Brown had a predetermined mindset about what he wanted, and my job would be to try and accomplish his wishes under his direction. Mr. Brown was possessed with a predilection to meet the needs of needy people, particularly children, in acquiring education. Mr. Brown felt that education was a way out for needy kids and often spoke his mind through his music, "Stay in school. Don't be a dropout. School is in. Killing is out." Mr. Brown was never too busy to lend his voice to the cause of education.
2. I have known Mr. Albert Dallas as Mr. Brown's personal attorney for many years but did not know Mr. Dallas as a part of Mr. Brown's entertainment counsel.
3. I am surprised to learn that civil actions are filed alleging undue influence on the person that I knew as James Brown. The person that I knew as James Brown was influenced by no one. If it was not Mr. Brown's idea, it simply didn't happen. This characteristic of Mr. Brown's personality was very obvious to those who knew him or who would ever try to get him to see it your way. If he had a choice between your way or the Brown way, rest assured it would always be the Brown way. That's just the kind of man he was.
4. I make this statement from my personal knowledge, from my personal observations, and from having known and represented James Brown both in person and over the telephone.

734

for some fifteen years prior to his death. I am privileged to have known him personally and professionally.

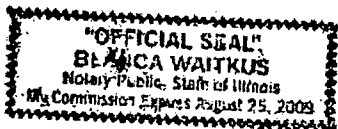
WITNESS MY HAND AND SEAL.

J.B. ROSS

J.B. Ross (SEAL)
DL # R300-4224-2043

Blanca Waitkus
NOTARY PUBLIC

(SEAL)



735

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Adele J. Pope and Robert L. Buchanan, Jr.,
as Personal Representatives of the Estate
of James Brown, Deceased, and as
Trustees of the James Brown 2000
Irrevocable Trust,
and
James Brown Enterprises, Inc.,
Plaintiffs,

C/A # 2008-CP-02-322

AFFIDAVIT OF EMMA AUSTIN

vs.

David G. Cannon, Albert H. Dallas,
Judge Alford A. Bradley, Joel A. Katz,
Greenberg Traurig, LLP, and
Enterprise Bank of South Carolina,
Defendants,

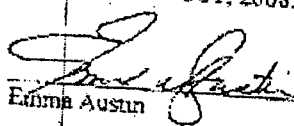
Personally appeared before the undersigned attesting officer,
duly authorized to administer oaths in the State of Georgia,
came Emma Austin, who under oath deposes that the following
statements are true and correct:

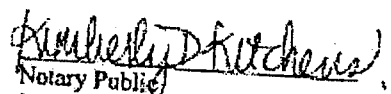
1. I, Emma Austin, residing at 1932 Milledgeville Road,
Augusta, Georgia 30901 with my husband, Leon Austin.
My husband and Mr. James Brown were close, personal
friends and confidants since the third grade at Silas X.
Floyd Elementary School. I met Mr. Brown in 1969. All
these years we have maintained regular contact with each
other. Mr. Brown was comfortable in sharing his
thoughts, ideas, dreams, and issues with us.
2. There were very few individuals who really knew Mr.
Brown as my husband did. They went through some of
the most stressful times of Mr. Brown's career together.
Mr. Brown was a totally independent-thinking man with
regards to his business. A business organization built
with the sweat of his brow and his tears when faced with
seemingly impossible adversities. Mr. Brown believed
the lyrics of his songs, e.g., "I don't want no body to give
me nothing, open up the door and I'll get it myself."
3. Through our experiences with Mr. Brown, family and
friends were especially precious. His early interaction
with family caused Mr. Brown to form specific, even
confirming for most people, theories of the

responsibilities/duties/allegiances of the family. Therefore, any slight(s) be they real or perceived dealt a sharp and harsh blow to Mr. Brown. The title of "friend" was not idly given to anyone. Mr. Brown had acquaintances too numerous to count but a very few friends.

4. Mr. Brown's deep-seated humanism and optimism started within him a desire to leave this world a better place for underprivileged children and his friends. In some of our final conversations he spoke of the annual "Turkey and Toy" give-aways. Mr. Brown never forgot where he came from, who he became, and certainly not how he "arrived." In some small measure, he wanted the "have-nots" to be happy during two of the most meaningful seasons of the year.
5. Mr. Brown has always placed special emphasis on education and the power and freedom that it gives. That's just one reason for his designated trust and will should be honored. Ensuring that a future "James or Jamisa Brown" is not lost because of circumstances and the lack of fund to cultivate and hone their God-given talent.
6. In a conversation concerning Mr. Albert Dallas, Mr. Brown said, "he's a good man...and he is faithful." That Mr. Dallas had made monetary advances to him at an especially low-point in his career, without hesitation. Further, Mr. Brown stated that Mr. David Cannon was the reason his tax issues had been resolved and did not know what may have transpired had he (Mr. Cannon) not aggressively sought to resolve the matter(s). Both of these statements were re-stated at the dedication of the James Brown Arena on October 16, 2006.
7. I humbly beseech the Court to honor Mr. Brown's expressed wishes that will enable boys and girls to realize the "impossible dream." Do not allow his legacy to blow away aimlessly in the wind. Let his life and his struggles be fruitful in children who otherwise have no hope. A man who in spite of his humble beginnings, established a soulful sound and place in the music world that has allowed other musicians and singers to be deemed great artists. Mr. James Brown, the "hardest working man in show business."

WITNESS MY HAND AND SEAL THIS 14 DAY OF AUGUST, 2008.


Emma Austin L.S.


Notary Public
My commission expires
6/1/2010

738

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Adele J. Pope and Robert T. Buchanan, Jr.,
as Personal Representatives of the Estate
of James Brown, Deceased, and as
Trustees of the James Brown 2000
Irrevocable Trust,
and
James Brown Enterprises, Inc.,
Plaintiffs,

C/A # 2008-CP-02-322

AFFIDAVIT OF ANDRE MOSES WHITE

vs.

David G. Cannon, Albert H. Dallas,
Judge Alford A. Bradley, Joel A. Katz,
Greenberg Traurig, LLP, and
Enterprise Bank of South Carolina,
Defendants.

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths in the State of Georgia, came Andre Moses White, who under oath deposes that the following facts are true and correct:

1. My name is Andre Moses White, 5122 Hunter's Luck, Stone Mountain, GA 30088. I have known the late James Brown, The Godfather of Soul, for the past fifty years. My family and I have been close to him as friends, companions, and confidants over these many years. I have been by his side through his trials, tribulations, and accolades in both his personal and professional life. I am also proud to say that I have been his Christian brother, sharing many confidences along the way.
2. It has been suggested that some unduly influenced Mr. Brown. To that statement, I would respond that those making such a statement do not know what they're talking about and certainly did not know James Brown. He was a man among men, carved from a segregated culture and molded by street smarts and a will to survive. James Brown may influence you, but it is for certain that James Brown led his life and made his decisions to suit himself, not someone else.
3. James Brown loved his dear friend and attorney, Buddy Dallas, constantly praising him wherever he went. He acknowledged him publicly that except for Mr. Dallas he would not have been where he was.
4. Mr. Brown did not involve his children in his business decisions, nor did he rely upon anyone else. James Brown relied upon God for his decisions as he was deeply spiritual and had a strong and abiding faith in God.
5. When there was a conversation about the HOPE Scholarship, Mr. Brown would mention what he was going to do with his money was help educate the needy kids when he

739

passed. What was his was his, and he did with it as he saw fit and would quickly correct anyone who thought they could decide anything for him.

6. Mr. Brown's emphasis on education was evident during his life. Mr. Brown played a significant role in my own daughter's education, and now, as a result of her education, she serves in a prominent public relations position for Coca-Cola in Johannesburg, South Africa. She has been featured in the May 2008 edition of *Black Enterprise* as one of the top five people on the move in corporate America. My daughter, Racquel White, is proof that Mr. Brown valued education, and her education is an indicator of his support for education during his life, for which I have much gratitude.
7. America gave James Brown plenty of reason to quit, but he never did. In my opinion, it is quite sad that the wishes of James Brown and those he designated to carry it out have not been allowed to do so. I am certain there is no smile on my departed friend's face with the way that this matter has been handled.
8. If additional information is sought, please do not hesitate to contact me.
9. I have made these observations and statements from my personal knowledge, information, and beliefs based upon my long and personal relationship with him.

Witness my hand and seal this 2nd day of June, 2008.

Paulette Dalloway McMillan
Notary Public

Andre Moses White
Andre Moses White

L.S.

Notary Public, Haralson County, Georgia
My Commission Expires March 6, 2012

Adele J. Pope,

Plaintiff,

Y.

**Alun Wilson, in his capacity as
Attorney General of South Carolina**

Plaintiff,

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-36-00379

MOTION FOR SANCTIONS

Pursuant to Rule 11 of the *South Carolina Rules of Civil Procedure*, the Proposed Intervenor¹ move before the Court for an Order granting sanctions against Plaintiff Pope and her attorney, Adam Silvernail. The facts and law in support of this Motion are more fully set forth below.

FACTS BEARING UPON THE MOTION

The fee agreement between Proposed Intervenor and their counsel is the subject of a pending discovery motion before the Court in Richland County Case No. 2010-CP-40-4900 (this case is referred to as "Case No. 4900"). (See Defendant's Motion to Compel Production of Contingency-Fee Contract and Related Documents Prior to Hearing on Motion for Injunction; Plaintiff's Motion for Protective Order Concerning Fee Agreement and/or Motion to Strike

¹ The Proposed Intervenor is as follows: 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; 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 children, SYDNEY L., CARRINGTON L. and TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN. The Proposed Intervenor is the non-governmental Plaintiff in Case No. 4900.

HOME | CONTACT | WRITE TO THE EDITOR | WORK AT FREE-TIMES



LOG ON & Get Luxury for LESS!
We Get The Area's BEST Trade-Ins!

501 W. Killian Road • 888.529.1857 • Click here for more information



BLOGS | BEST OF COLUMBIA | NEWS+OPINIONS | MUSIC | ARTS+CULTURE | DINING | REAL ESTATE | JOBS | ARCHIVES | CLASSIFIEDS

Issue #24.45 :: 11/09/2011 - 11/15/2011

Future of Private Philanthropy in S.C. at Stake in Supreme Court Case

James Brown Estate Back in Court

BY COREY HUTCHINS

Like Send Be the first of your friends to like this.

2

In South Carolina, if you die and leave behind a charitable trust, can the attorney general come in and re-write it as he or she pleases?

On Nov. 1, the State Supreme Court heard arguments to a packed courtroom in Columbia that could determine the answer.

At the center of the case is a fight over the estate of musician James Brown.

The Godfather of Soul lived in Aiken and died on Christmas Day in 2006.

Succumbing to heart failure at the age of 73, Brown left behind a 60-acre home and a fortune that was originally estimated at \$100 million. The estate, however, was saddled with debt — but has almost been restored with royalties from his music empire.

In his will, Brown intended for a portion of his wealth to go toward the education of seven grandchildren (capped at \$2 million) and other portions to go toward a charity he'd set up called the I Feel Good Private Foundation, named after one of his famous songs. The foundation would provide scholarships for needy children in South Carolina and Georgia.

Brown specifically excluded all past and future spouses and all children and other claimed heirs from inheriting his music empire, according to court filings by attorneys for two of Brown's former trustees.

Brown didn't update his documents after he exchanged vows with a woman who was already married at the time (Brown didn't know) or after the birth of a child who was allegedly Brown's, which opened the door to litigation.

Shortly after Brown died, questions arose about possible mismanagement of his trust, and some family members argued that Brown might have been unduly influenced in planning his will. Then, former Attorney General Henry McMaster got involved.

The Columbia Republican brokered a settlement that would give 25 percent of Brown's assets to his companion, 25 percent to all of his children, and the rest to a charitable trust.

But that's never what Brown intended to happen to his estate, according to attorneys representing two former Brown trustees who McMaster ousted in his rewriting of the estate plan.

Speaking to the State Supreme Court on Nov. 1, attorney Jim Richardson said McMaster "didn't have a shred of authority" to intervene in the matter of Brown's trust in the way he had, and called his re-write an "attack on this man's noble estate plan."

As part of his negotiations, McMaster required the ousted trustees, Adele Pope of Newberry and Robert Buchanan of Aiken, to consent to the re-write, including an agreement not to criticize the deal or McMaster in the future. Neither signed off on it.

"Nothing like this has ever been seen in case law of South Carolina, so far as we know," Richardson wrote in filings to the High Court on behalf of Pope and Buchanan. "Persons considering

Your Say

Comments (0)

☒ EMAIL THIS STORY

☒ PRINT THIS STORY

☒ WRITE A LETTER TO THE AUTHOR

☒ SHARE

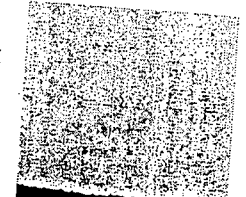
MORE GOVERNMENT FROM THIS ISSUE:

- Shelter Helps Residents Work Their Way Off the Streets
- Amid Beltway Narrative of Gridlock, Clyburn Optimistic About Super Committee
- Could S.C. Presidential Primary Be Mirror Image of 2010 Governor's Race?

MORE BY Corey Hutchins:

- Amid Beltway Narrative of Gridlock, Clyburn Optimistic About Super Committee
- Could S.C. Presidential Primary Be Mirror Image of 2010 Governor's Race?
- National Occupy Crackdowns Don't Reach Columbia

Full Site Search



742

Ex: 58

the creation of private foundations, and counsel advising them, should know whether the attorney general has the authority claimed by him in this case."

Richardson added that private philanthropy in South Carolina "would be chilled" if those intending to leave charitable trusts behind after their death knew those funds could be diverted from their chosen recipients to others by the attorney general.

Lawyers for the attorney general's office argued in briefs that the state attorney general has "broad power" to protect the public interest. They also argue that McMaster did not single-handedly settle the family litigation, but rather helped craft a compromise, and that trustees not willing to accept it don't have the right to halt it.

During the Nov. 1 oral arguments at the State Supreme Court, Richardson argued that the High Court should reverse McMaster's settlement and restore the funds to the trust.

It could take months for the justices to make a decision.

Let us know what you think: Email news@free-times.com or comment below.

Have your say

* Name:

* E-mail (will not be published):

* Message:

Spam prevention. Enter the code from the image below

hntx

* Required

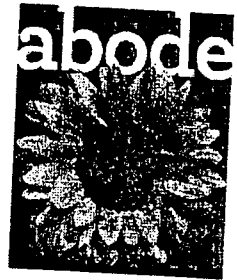
Your comment will be displayed after it has been reviewed by our editors. Please refer to our [comments policy](#) if you have any questions, or email editor@free-times.com.

FREE TIMES site search by Google

 VERIFIED

Copyright © 2011, Portico Publications
Copyright Info | Portico Corporate

Powered by PLANet w3 CMS Content Management System
PLANet Systems Group 2011



Attorneys for James Brown companion subpoena information about 'explosive' diaries

[print](#)

by By Sue Summer
For The Newberry Observer
05.14.12 - 12:01 pm

On Friday night former James Brown trustee, Adele Pope of Newberry, was served with a subpoena related to the diaries of Brown's former companion, Tommie Rae Hynie.

Pope is being asked to turn over all written communications related to the Hynie diaries, including any communications with this reporter, any "blogger, website or media outlet."

The Observer has requested a copy of the diaries from Attorney General (AG) Alan Wilson under the Freedom of Information Act (FOIA), but the request was refused in March.

In a telephone interview in November, 2011, a longtime friend of music icon James Brown characterized the Hynie diaries as "explosive."

After Brown's death in 2006, Hynie claimed to be Brown's wife and sued his estate for a share of his \$100 million music empire. The two had exchanged vows in 2001, but Hynie was married to another man at the time. When Brown discovered her marriage, he sued Hynie for an annulment. The Aiken County case was settled when Hynie signed an agreement that she would never claim to be Brown's common-law wife.

Brown's will and trust contain clauses that say anyone who challenges his estate plan receives nothing—but those clauses were not enforced by former Attorney General (AG) Henry McMaster. Instead, McMaster worked a settlement deal that gave away over half of Brown's music empire to those he specifically disinherited, including Hynie and about half of his alleged children.

Under Brown's estate plan, the six named children received his household and personal effects, and certain grandchildren under age 35 were given education funds of up to \$285,000 each. The bulk of Brown's music empire was to provide scholarships for needy and deserving students in South Carolina and Georgia through the "I Feel Good" Trust.

The McMaster settlement deal was appealed to the S.C. Supreme Court by Pope and co-trustee, Robert Buchanan of Aiken. During the hearing on Nov. 1, 2011, assistant AG "Sonny" Jones was questioned sharply by the court regarding the AG's investigation into Hynie's claim to be Brown's wife.

A longtime friend of Brown's, during a telephone interview, suggested that the diaries could be key in disallowing Hynie's claim and returning about \$25 million to the Brown trust for needy and deserving children.

744

Ex 75

5/15/2012

The diaries had been available to all parties early in the case, but Judge Doyet Early ordered the original returned to Hynie's attorney, Robert Rosen, and copies delivered to the Clerk of Court—until a hearing was held.

Judge Early's order was issued in February of 2008—four years ago—but no further hearing has been held.

Pope, who served as Brown trustee from late 2007 to 2009, is an attorney who has represented herself in a number of the Aiken County proceedings before Judge Early. On May 11 and May 12, Pope sent letters to the S.C. Attorney General, urging Wilson to consent to the release of all documents related to Hynie's claim to be Brown's spouse. Pope also requested that Wilson release documents related to a \$4.7 million at-death appraisal of Brown's music empire.

The current trustee, Russell Bauknight of Columbia, obtained the appraisal but has refused to deliver copies—and he has refused to name the appraiser.

Brown's music empire was earning \$4-5 million a year in royalties before his death.

Pope declined to comment but provided the Observer with copies of the subpoena and her letters to the Attorney General.

In her May 12 letter to AG Wilson, Pope asserts that the AG's office holds or controls "all documents necessary to tell the truth" about Hynie's claimed status and the value of Brown's music empire. She then asks Wilson to make the documents public "so the truth will be known."

Judge Early has scheduled a hearing on whether to release the Hynie diaries for May 22 in Lexington County.

Copies of the letters and subpoena are posted on the Facebook page: James Brown "I Feel Good" Trust (FOIA Concerns).

© newberryobserver.com 2012

AG Wilson and James Brown companion stop deposition, print but not bombshell

by Sue Summer
For The Observer
07.26.12 - 12:01 am

On July 19, S.C. Attorney General (AG) Alan Wilson and Tommie Rae Hynie, former companion of entertainment legend James Brown, obtained an emergency court order—issued orally—to stop a deposition from former Brown trustee Albert “Buddy” Dallas.

The order did not, however, stop James Brown’s friend and attorney of 20+ years from delivering a bombshell in sworn testimony: Hynie and James Brown were not married.

In a sworn statement taken on Friday, Dallas recounted an early-morning phone call in 2006 with Brown and Hynie, confirming that the two were not married and that Hynie was merely a guest in Brown’s home.

According to Dallas, the conversation took place in the summer of 2006, shortly before Brown and Hynie separated for the last time. Hynie returned from the West Coast only once, in October 2006 when the James Brown auditorium was named for Brown. Dallas said Hynie was in the audience with a video-camera, but not with Brown.

After Brown’s death on Christmas Day of 2006, Hynie claimed to be his wife and sued for a spousal share of his worldwide music empire. Some of Brown’s claimed children also contested his will.

Under Brown’s will, certain children received his personal and household goods, and some grandchildren were given education trusts of up to \$285,000. Brown’s music empire was left to the “I Feel Good” education charity for needy and underprivileged children to be educated at institutions in Georgia and South Carolina.

However, a 2009 proposed settlement deal forged by former AG Henry McMaster—who was charged with protecting the needy children’s trust—took over half of Brown’s music empire away from the charity and awarded it to Hynie and the Brown children who had contested his will.

The McMaster deal was appealed by former Brown trustees, Newberry resident Adele Pope and Aiken attorney Robert Buchanan, who were directed by Brown’s estate documents to “vigorously” defend his estate plan.

In 2010, after the appeal was filed, McMaster and others sued Pope and Buchanan for tens of millions of dollars, alleging they had mishandled Brown’s trust when they served as trustees from late 2007 to early 2009.

746

81

Attorney Kenneth Wingate of Columbia—who represents the AG, current trustee Russell Bauknight, Hynie and some Brown children in the McMaster lawsuit—named Dallas and his co-trustee David Cannon as his witnesses 18 months ago, even though Cannon was under indictment at the time for taking more than \$12 million from Brown.

In June of 2008, McMaster wrote Pope and Buchanan that the original trustees, including Dallas, were “close to Mr. Brown” and may have information “which would otherwise not be available.” He further claimed “it is my duty to ensure that we do not ignore them.”

Wilson and Hynie now appear to disagree with McMaster. In a move to silence Dallas, they filed an emergency motion late Wednesday afternoon to stop his deposition on Friday.

The AG’s staff may have already known what Dallas would say about Wilson’s co-plaintiff Hynie in the lawsuit against Pope. Before the McMaster deal gave Hynie one-quarter of Brown’s worldwide music empire, several affidavits were filed in the James Brown case. Dallas’s affidavit from June of 2007 states: “Ms. Hynie and Mr. Brown were not married.” Original trustee Alfred Bradley, now deceased, also confirmed Hynie and Brown were not married.

Before 10 a.m. on Thursday, Pope’s counsel, Adam Silvernail of Columbia, had responded to the Wilson/Hynie motion related to the Dallas deposition. In filings and correspondence, Silvernail stated that the Wilson/Hynie request for early mediation should not stop a voluntary deposition of Wilson’s own witness—and that to-date, Judge Casey Manning had issued no order for mediation in the case against Pope, nor in her counterclaims against AG Wilson, his trustee Bauknight, Hynie and others.

Silvernail asserted that the “emergency” motion continued a pattern of discovery abuse by Wingate’s clients, and he requested a hearing on the record.

According to communications exchanged on July 19, only minutes after Pope’s filing, Wingate’s firm reported to Silvernail that: Judge Manning had contacted Wingate attorney Mark Gende; Manning had ruled orally that the Dallas deposition not take place; and Manning had directed Wingate to notify Pope’s counsel of his oral order. Based on Gende’s representation of Manning’s ruling, the Dallas deposition was downgraded to a sworn statement.

Dallas gave sworn testimony in support of Brown’s estate plan, and he said he does not understand why all discovery has been halted in all Brown cases.

“At no time has this been about me, but at all times it has been about Mr. Brown’s wishes as expressed in his will and trust. I never sought the job (of trustee). Mr. Brown requested me to serve because he knew I would not knowingly fail him: I never did for 24 years,” Dallas said.

AG Wilson and Hynie’s fears about their own witness turned out to be well-founded. Dallas reported that Hynie was not Brown’s wife, and that Brown was

hurt when he learned Hynie was already married to another man at the time they held a marriage ceremony in 2001.

Dallas testified that Hynie begged James Brown to marry her after she obtained a 2004 annulment from her first husband, but he refused. Although Hynie and Brown continued to be together until their final separation in 2006, Dallas said Brown was never monogamous. He had women guests in his room, and Hynie maintained a room as Brown's guest in another part of the house.

The Hynie marriage myth was not the only grenade Dallas tossed into AG Wilson's lawsuit against Pope. Dallas confirmed there had been at least one \$100 million offer to purchase Brown's assets in 2007—the same assets current trustee Bauknight asserts were worth only \$4.7 million when Brown died.

Pope and Robert Buchanan—now dismissed as a party to the Wingate/McMaster lawsuit—have vigorously asserted that Brown's worldwide music empire was worth about \$85 million when Brown died. They also have filed several documents stating that the McMaster settlement deal destroyed Brown's "I Feel Good" foundation and that Bauknight's less-than \$4.7 million valuation is outrageous.

Dallas agreed.

Dallas resigned as Brown's trustee in November 2007 amid a swirl of allegations that he was involved in the takings of David Cannon, his co-trustee—and that the two were seeking a "kickback" on the sale of Brown's music empire.

In Dallas' sworn statement of July 20, he explained the "kickback" allegation. Dallas said his understanding of the Internal Revenue Code was that the "I Feel Good" foundation could not operate a business, and the assets had to be sold within 60 months after Brown's death. The trustees were simply following that mandate.

Dallas said the term kickback—which he admitted was unfortunate—actually described a "royalty legacy" to be paid by the purchasers to the "I Feel Good" trust, not to Dallas and Cannon.

Dallas described the royalty legacy as a five percent (5%) payment from Brown's worldwide operations that the "I Feel Good" Trust would continue to receive in perpetuity, in addition to the \$100 million purchase price.

"I was very pleased to have negotiated that, and I explained that to Judge Early and all others present Nov. 20, 2007. I have always believed that the royalty payments could amount to more than the corpus of the trust," Dallas said.

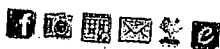
"If a 'kickback' ever had been offered, I would have reported it to the proper authorities," Dallas said. He added it is regrettable that in the context of litigation, every word is seized as some kind of leverage—and sadly, the truth is lost.

"It seems there has been an effort to punish everyone charged with carrying out the provisions of Mr. Brown's will," Dallas said.

The Dallas law office has been burglarized twice since Brown's death, most recently in 2011, and Dallas issued a plea for the break-ins to stop. "Please, there is no more reason to burglarize my office. I sure don't have any money here, and all James Brown documents have been turned over to the Court."

© newberryobserver.com 2012

8/1/12



Articles

newberryobserver.com

NEWBERRY ELECTRIC
COOPERATIVE, INC.
Your Touchstone Energy Partner

Pictured to the right are the WIRE Off
bears recently donated to the Newb
for children in emergency sit

Home	News	Sports	Obits	Opinion	Local Features	Calendar	Entertainment	Classifieds

Subscription Forms

James Brown son pleads 'protect the needy children'

by Sue Summer
For The Observer

5 days ago | | | |

In another bombshell twist to the James Brown estate story, Brown's son Daryl has sent an impassioned plea to Attorney General (AG) Alan Wilson, asking Wilson to protect the intended beneficiaries of his father's "I Feel Good" education charity.

"The Attorney General was supposed to protect the needy children, not give away what my father intended for them," Daryl wrote, according to a copy of his letter to AG Wilson received at The Newberry Observer on July 25.

Under James Brown's will, six named children were to be given his household and personal effects, and education trusts of up to \$285,000 were set up for certain grandchildren.

Brown's music empire was left to the "I Feel Good" education charity for needy and underprivileged students at institutions in South Carolina and Georgia.

The will was contested by the children named in the will and by Brown's companion, Tommie Rae Hynie.

The estate plan said anyone who contested the will would receive nothing, but in 2009 former AG Henry McMaster worked a settlement deal that took away over half what Brown intended for charity and gave it to the children and companion who had contested the will.

Daryl was among the children who sued, but he regrets that decision.

He wrote in the letter, "At first I just went along with my family, and this was a mistake."

Daryl wrote that his father's will in Aiken County has never been overturned, and he asks of Wilson, "What gives your office the authority to change my father's will? Is it because my father had only an 8th grade education and you think that you have the right to think for him? Is it because my father is a black American, and black Americans do not have the right to have their wills enforced...Mr. Wilson, why has your office not performed their responsibilities and protect the needy children that my father wanted to educate?"

Not one child has received one dollar in the over five years since his father's death, while lawyers have already been paid millions—with more to come. Lawyers for the Brown children and Hynie are trying to get 50 percent of any monies they receive, Daryl said.

Daryl said his father is "rolling over in his crypt" and pleaded with AG Wilson to protect the trust. "It's not too late."

750



Articles

The Supreme Court judges can correct what will amount to a lynching of all the dreams of a black man to make a difference in the lives of many children by giving them a way out, not a hand out," Daryl wrote.

Daryl also confirmed that Hynle was not Brown's wife and questioned whether her child was his father's. He said his father was not under undue influence when he made his estate plan, that no one told James Brown what to do.

"My youngest daughter and nephew will graduate next year. They have received no assurance that their tuition will be paid. Despite pleas to Brown trustee Bauknicht of Columbia, and the South Carolina Attorney General," Daryl wrote.

In conclusion, Daryl pleaded with AG Wilson to give his father's estate plan the same respect that he would have given Brown's close friend, Sen. Strom Thurmond.

Daryl wrote, "I am concerned about my safety, but I feel I must speak out for what is right, no matter what."

Although not signed, the letter's authenticity was confirmed in a telephone call with Daryl Brown and is posted on the Facebook page, James Brown "I Feel Good" Trust (FOIA Concerns).

Share This Article |

similar stories

James Brown Trustee Claims son, grandson conspired with companion | 2 months ago

At request of AG, judge keeps gag order on diaries | 21 days ago

Brown grandson fires lawyers in trust lawsuit | 8 months ago

Court hears arguments, finger-pointing, at hearing on James Brown restitution | 2 days 16 hrs ago

Attorney claims nobody influenced Brown to give \$100 million music empire to needy children | 8 months ago

Comments (0)

Post a Comment

No Comments Yet

Home

About Us
Contact Us
Subscribe

News

Online Forms
Submit a Story

Sports

Opinion

Editorials
Send a Letter

Local Features

Contests
Online Features
Online Forms

Calendar

Subscription Forms

New Delivery
Gift Subscription
Vacation Stop/Restart
Change of Address
Delivery Issues
Upgrade

751

Rolling Stone

Years After Death, Battle for James Brown's Estate Rages On

He left needy kids \$100 million – so why haven't they seen a penny?

by: Matt Birkbeck



James Brown with his fourth wife, Tomi Rae Hynie, in 2006
Gianfranco Calcagno

During his brilliant, troubled life, James Brown always called his own shots. So it wasn't a surprise that Brown set the terms of his legacy after his death. And the centerpiece of that vision was to give virtually his entire fortune, valued then at roughly \$100 million, to a trust to help educate underprivileged children in South Carolina and Georgia.

But nearly five years after his Christmas Day death in 2006, not one needy child has received a penny. That's because Brown's seven children and fourth wife, Tomi Rae Hynie, contested the will in a South Carolina court less than a month after he died. The litigation spiraled into a bitter battle with some two dozen attorneys representing various factions – and became so unwieldy that then-state Attorney General Henry McMaster made a deal in 2009 that affirmed Brown's will but split the estate between the

trust and his family, with the legal expenses borne by the trust.

The settlement was denounced by Brown's advocates, including his longtime attorney Buddy Dallas. "How do you argue against an irrevocable will that provides for needy children? Is that even an argument?" he says. (The attorney for Brown's children responds that the basis of his clients' claim was that the singer had received bad advice and didn't know what he was signing.)

Brown's own legendary childhood – abandoned to an aunt who ran a brothel in Augusta, Georgia, working the streets for pennies and dropping out of school in the seventh grade – contributed to a dysfunctional life replete with drug abuse, failed relationships and multiple arrests. But Brown also credited it with instilling a work ethic that he saw as the foundation for his self-made success.

The singer got the idea for the trust while visiting hospitals and playing benefits to raise money for sick children in the late 1980s. "He spent a lot of time with one girl with spina bifida," says music producer Jacques Hollander, who accompanied Brown to the hospitals. "After, he said, 'I'm going to give them everything I have and touch their lives.'"

Brown was never close to his children – by the end, they had to make an appointment to see him – and was adamant that they wouldn't benefit from his fortune when he died. That was made clear to Dallas at a 1988 business meeting to discuss the trust when he asked Brown, "What about your own children?" Both Dallas and Hollander say Brown pointed his finger in Dallas' face and screamed, "Don't you ever tell me what to do with my money! They will not ride on my back when I'm gone, Mr. Dallas! Do you hear me?"

Despite the 2009 settlement, no money has been paid to Brown's family or the children's trust, and won't be until several outstanding appeals are concluded. As those cases await resolution, Brown's estate continues to shed millions in legal fees. The current court-appointed trustee, accountant Russell Bauknight, declined to say how much money is left, citing his "fiduciary duty" to protect the estate's privacy.

In the meantime, the respect that Brown demanded in life has all but vanished in death. The battle over his fortune has spilled into another ugly dispute, this one over where the Godfather will spend his eternity. Brown wanted to be buried at his South Carolina home, which would become a Graceland-like museum; his children, who control his remains, have them in a temporary crypt on daughter Deanna's property – waiting, like his children's trust, for a final resolution.

□ Related

- [The 100 Greatest Artists of All Time: James Brown](#)
- [Being James Brown: Rolling Stone's 2006 Cover Story](#)
- [The Essential James Brown Playlist](#)
- [James Brown: 1933-2006](#)

This story is from the August 4, 2011 issue of Rolling Stone.

ADVERTISEMENT

Stay Connected

Sign up to get Rolling Stone's daily newsletter.

Submit Query

BOOKS

'I taught them everything they know, but not everything I know.' —James Brown

James Brown Said It Loud

The One

By R.J. Smith

Gotham, 455 pages, \$27.50

BY PRESTON LAUTERBACH

IT SEEMS like a home run, right? The life of James Brown—golden material, a huge fan base, a killer soundtrack. And R.J. Smith's "The One" is the first comprehensive biography published since Brown's death in 2006, so there's no competition.

But there are obstacles. For to nail Brown's story is to master the nuances of Georgialina and Affrilachia, of queer black tent-show culture, the cape in shamanistic ritual, the 1960s indie record business, Black Power, Nixon-era race relations and some weird stuff, too, like how it feels to surge on angel dust at age 57.

So the challenge is as steep as the enticement sweet—to get one last hit out of James Brown.

Brown said that he was born dead in Barnwell, S.C., in 1933. Not metaphorically dead but dead: no breathing. His aunt blew life into his silent body, however, and there it began. He grew up in Augusta, Ga., which, though in a different state from his birthplace, occupies

He greased DJs to play his records, fired his bands before they mutinied and insisted on touring a war zone in Vietnam.

the same cultural region, Georgialina.



Speaking of hair, that and teeth are the things you'd accentuate if drawing James Brown's caricature. It's no accident—"hair and teeth" was the man's mantra. "A man got those two things, he got it all," he said. Nothing about him was accidental. It was all a manifestation of his powers of observation and control. He distilled the qualities that all attention-getters share and made them his own. Brown didn't invent rhythm. He just made it sound that way.

About the title, "The One"—it is a terrific, encompassing, pithy tag. The One is James Brown, and it is more than James Brown. It's the rhythm you hear in songs like "Cold Sweat" and "Sex Machine," that hard first beat. "On the One," he would shout to cue the band. But the idea extends into philosophical, psychological realms. "Stepping up proud only happens on the aggressive 'One' not the passive Two," he said. "In the end it's not about music—it's about life."

Taking the first step, throwing the first punch. Brown embodied the One. He greased DJs to play his records, fired his bands before they mutinied, insisted on touring a war zone in Vietnam and took iconoclastic stances, like supporting Richard Nixon in the 1972 election. Brown, like Nixon, advocated black economic self-help through entrepreneurship, and was wary of welfare. To address the inevitable black backlash against his success, Brown composed the enduring anthem of the post-King civil rights movement, "(Say It Loud) I'm Black and I'm Proud."

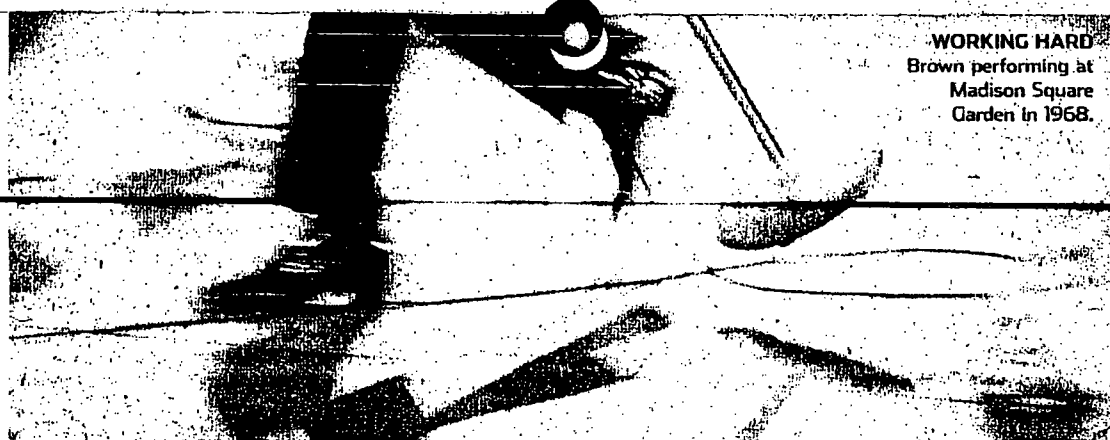
Such a versatile, energetic figure requires an equally omnivorous writer. Mr. Smith devotes every bit as much perspiration and talent to the different research and writing demands of Brown's political facets, business ventures and difficult personal life.

Known for his exceptionally brutal racism, Georgia nevertheless hosted its share of black enclaves, including the one where Brown grew up, in the Augusta ghetto known as the Terry.

Always a public figure, Brown by age 15 had shined shoes on the Terry's prime corner and boxed his way into the Augusta paper. He idolized boxer Beau Jack, one of the many surprising influences that Mr. Smith unearthed, and he absorbed Holy Roller rhythm, black capitalism and style from Augusta's preacher of prosperity, Sweet Daddy Grace.

Brown lived in his Aunt Honey's brothel—though, as Mr. Smith notes, for Brown "home was where you went when there was absolutely nowhere else to go"—and hustled to meet basic needs. The petty crimes caught up to him May 7, 1949, when the Augusta police saw him breaking into a car downtown and cornered him in an alley carrying a few stolen suits of clothes. But the boy born dead got saved in jail. His first singing group spun out of associations made during a youth-camp incarceration. He also learned discipline there, and if any one thing other than talent made James Brown, that thing would have to be discipline.

This happened in Toccoa, in mountainous, upper Georgia. Affrilachia, to its black residents. Brown stayed on there after his release on June 14, 1952. It's another unexpected ingredient of the James Brown spell. Affrilachians fashioned homespun instruments and



WORKING HARD
Brown performing at Madison Square Garden in 1968.

Walter Ivers/Globe Photos/ZUMA PRESS.COM

plucked banjo. In Affrilachian style, Brown's group—The Flames—improvised instruments and bought a set of uniforms on installment.

Mr. Smith glides thrillingly through James's early gigs at small-town juke joints, white frat parties and mixed venues with blacks having to sit in the crowd's nest. The author's narrative style echoes the outlook of a lifer side-man who has seen too much to be awed but has too much fun to grow jaded. "Mostly, image is what the Flames had. ... Rolling into town in vehicles without air-conditioning, even on hot summer days, Brown insisted they keep the windows up so that fans *thought* they were cool." Brown learned the value of dancing, sinking into the splits to grab

the coins the audience threw. He ran moonshine on the side and once even ad-libbed brake fluid on a dangerous winding road: peeing in a jug, pouring it in the brake line and getting on downhill.

In 1955, fate booked Little Richard for a one-nighter at Bill's Rendezvous in Toccoa. Richard saw the local boys jam and advised Brown and company to contact Clint Brantley, his manager in Macon, Ga.

Brantley's first task was for Brown to impersonate Little Richard. Richard was still booked around a circuit of black dancehalls like Bill's Rendezvous when "Tutti Frutti" hit. Having to pretend he was somebody else spurred Brown's individuality. Especially when

the crowds realized that he wasn't Little Richard. He turned backflips, sweated off pounds and pushed himself to the brink of collapse to make them forget who they'd come to see. The emcee began introducing him as "The Hardest Working Man in Show Business." The breakthrough hit in his own name, "Please, Please, Please," came in April 1956 and reached the Top Five.

Little of which I'd have known without Mr. Smith's book. He nails Brown's influences and continuous artistic evolution, from imitating the whiskey-voiced styles of bluesy shouter Wynonie Harris and styling his hair up in a curly Little Richard pompadour to becoming the founder of funk and the forefather of hip-hop.

to Brown's entertainment career, he proves to be as careful a thoughtful in hard journalist mode as is entertaining and fun while riding shotgun to the Apollo. He takes us so far into Brown's worldview that Brown's support of Nixon even makes sense.

Of course, Brown was more than music, politics and black capitalism. He was a bedeviling, abusive drug addict, and while his strands of both genius and madness are fully traced in "The One," they never quite tie together as well as Brown's overlapping messages of black empowerment in song and action.

Even as the years, the splits and the dust exacted their tolls, he remained bold, eccentric and capable of the sublime. Mr. Smith begins the final years of his tale with Brown at Elvis Presley's casket. Brown cries: "I'm not number two no more."

As "The One" shows, he needn't have sold himself short. One of Brown's final shows took place at an Olympic swimming facility in Georgia—not his home state but the country in Eastern Europe. The audience was gathered on the other side of the pool from the band. As the group closed with "Sex Machine," Brown seized this moment of artistic climax—he jumped in.

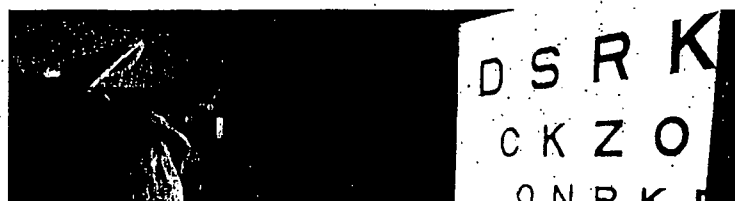
Mr. Lauterbach's "The Chitlin' Circuit and the Road to Rock 'n' Roll," was chosen as one of the *Journal's* 10 best nonfiction books of 2011. He is writing a book about Beale Street in Memphis.

Epigenetics and Gene Therapy

Continued from page C5

moving white blood cells from leukemia patients, for example, inserting working genes, and then returning the cells to their bodies. Gene therapy seemed as if it was on the verge of becoming standard medical practice. "Within the next decade, there will be an exponential

It occurred to a number of gene-therapy researchers that they could try to treat genetic vision disorders with a very low risk of triggering horrendous side effects of the sort that had claimed Gelsinger's life. If they injected genes into the eye, they would be unlikely to produce a devastating immune reaction, and



the power of epigenetics in the same way they got giddy about gene therapy in the 1990s. No longer is our destiny written in our DNA: It can be completely overwritten with epigenetics. The excitement is moving far ahead of what the science warrants—or can ever deliver. Last June, an article on the Huffington

Wills, Trusts & Estates Prof Blog

A Member of the Law Professor Blogs Network

Blog Editor

Gerry W. Beyer

Governor Preston E. Smith Regents

Professor of Law

Texas Tech Univ. School of Law

• Web Profile

• Website

• Email

News Readers & Feeds

FeedBurner Subscription Service



Enter your Email:

Subscribe me!

Powered by FeedBlitz

[View Recent Posts from Network Blog Feeds](#)

Resources

About Wills, Trusts & Estates Prof Blog

• Email Editor Comments & Content

Find Wills, Trusts & Estates Prof

• Google Scholar

• Law Schools

• SSRN

Academic Resources

• Teaching Materials

Graduate Estate Planning Programs

• Univ of Miami

• Univ of Missouri at Kansas City

• Georgetown University

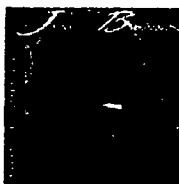
Estate Planning Organizations

• Amer. College of Trust and Estate

« **Remains of Hitler's Deputy Exhumed, Cremated, and Scattered at Sea** | [Main](#) | **South African Man Wakes Up In Morgue** »

July 26, 2011

Legal Battles Over James Brown's Estate Continue



Before his death in 2006, James Brown created a trust valued at almost \$100 million for the benefit of underprivileged children. In 2009, after years of legal

battles between his fourth wife and seven children, the Attorney General created a deal that affirmed Brown's will but split his estate between his family and the trust (the trust bore the legal expenses).

As a result of pending appeals, however, neither Brown's family nor the trust have received any money. The trust's current court-appointed trustee declined to state how much money remained in the trust, citing his fiduciary duty.

See Mat Birkbeck, *Years After Death, Battle for James Brown's Estate Rages On*, Rolling Stone, Jul. 20, 2011.

Special thanks to Karen Boxx (Associate Professor of Law, University of Washington School of Law) for bringing this article to my attention.

July 26, 2011 in [Estate Administration](#), [Music](#), [Trusts](#) | [Permalink](#)

TrackBack

TrackBack URL for this entry:

<http://www.typepad.com/services/trackback/6a00d8341bfae553ef014e8a1e7e51970d>

756

Ex: 94

Wills, Trusts & Estates Prof Blog

A Member of the Law Professor Blogs Network

Blog Editor

Gerry W. Beyer

Governor Preston E. Smith Regents
Professor of Law

Texas Tech Univ. School of Law

- Web Profile
- Website
- Email

News Readers & Feeds

FeedBurner Subscription Service



Enter your Email:

[Subscribe me!](#)

Powered by FeedBlitz

[View Recent Posts from Network Blog Feeds](#)

Resources

About Wills, Trusts &
Estates Prof Blog

- Email Editor Comments & Content

Find Wills, Trusts & Estates
Prof

- Google Scholar
- Law Schools
- SSRN

Academic Resources

- Teaching Materials

Graduate Estate Planning
Programs

- Univ. of Miami
- Univ. of Missouri at Kansas City
- Georgetown University

Estate Planning

Organizations

- Amer. College of Trust and Estate Counsel (ACTEC)
- ABA Real Estate, Probate, and Trust

« Would it have been better for an organ donee to have died? | Main | So tell me how you really feel? »

August 31, 2008

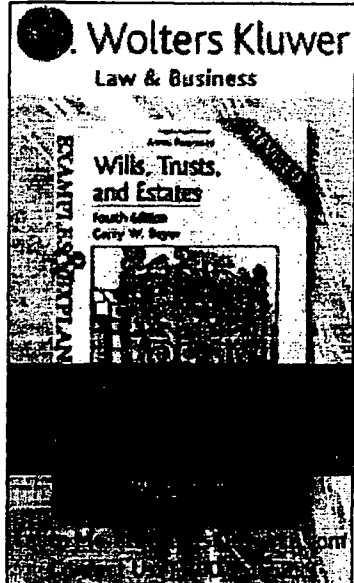
The James Brown Auction -- What Happened?



Earlier on this blog, I reported that on July 17, 2008, Christie's was preparing to auction off a large portion of James Brown's estate. Now, a report of that sale from Guy

Trebay, *More Tag Sale Than Tribute*, NY Times, July 20, 2008:

- 328 items were auctioned.
- The results were considered "disappointing."
- The auction raised only \$857,688 when projections were around \$2 million.
- Some people were upset that the break up of the estate would prevent the formation of a comprehensive collection or museum in the future (*compare* Graceland for Elvis).
- Some items were in pristine condition despite being over 35 years old.
- The highest price paid for an item was \$47,500 for a black satin cape with bead-work and Brown's name embroidered inside the collar.



Search This Blog



Archives

Recent Posts

CLE on Practical Approaches to Advance Care Planning

The Estate Tax Window Is Closing

Regulation of Will Writers Will Increase In The United Kingdom

Florida Homestead Law Explained

Wills, Trusts & Estates Prof Blog

A Member of the Law Professor Blogs Network

Blog Editor

Gerry W. Beyer

Governor Preston E. Smith Regents

Professor of Law

Texas Tech Univ. School of Law

• Web Profile

• Website

• Email

News Readers & Feeds

FeedBurner Subscription Service



Enter your Email:

Subscribe me!

Powered by FeedBlitz

View Recent Posts from Network Blog Feeds

Resources

About Wills, Trusts & Estates Prof Blog

• Email Editor Comments & Content

Find Wills, Trusts & Estates Prof

• Google Scholar

• Law Schools

• SSRN

Academic Resources

• Teaching Materials

Graduate Estate Planning Programs

• Univ of Miami

• Univ of Missouri at Kansas City

• Georgetown University

Estate Planning Organizations

• Amer. College of Trust and Estate Counsel (ACTEC)

• ABA Real Estate, Probate, and Trust

« Women Live Longer Than Men, and Should Plan Accordingly | Main | Tupac's Holographic Image Raises Issues That Relate to Your Client »

April 24, 2012

South Carolina and the FOIA



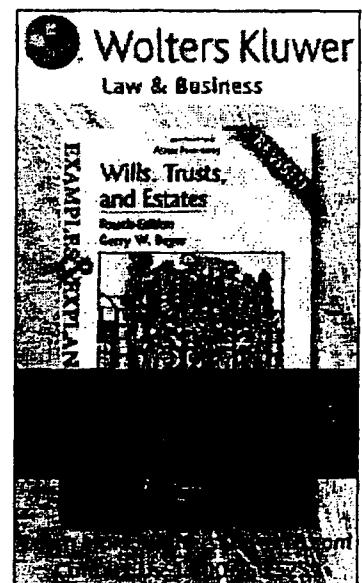
Typically, the Attorney General (AG) is charged with enforcing the Freedom of Information Act (FOIA), which requires

all public officials to release public documents within 15 days of an FOIA request. The public official has to comply with the request, regardless of whether it is made by the press or the public.

The Attorney General Wilson, however, has been fighting for eight months to dodge every FOIA request from former James Brown trustee Adele Pope. Pope has asked for a copy of the Legacy trust that was formed when the former AG took over Brown's \$100 million empire in a settlement deal with six of Brown's children and his companion. She also asked for documents that explained why the legacy trust valued Brown's music empire at less than \$4.7 million upon his death on December 25, 2006.

The AG has made varying arguments to avoid the release of the Brown documents at issue. Pope filed FOIA lawsuits in August in Newberry County, which should be ready for a final hearing because the questions involved in that case could be answered without a jury.

These denials are also raising questions about how strong the FOIA is in South Carolina. The Center for Public Integrity and Global Integrity compiled a report on "corruption risk" and South Carolina was ranked fifth in the nation. There is no agency



Search This Blog

Archives

Recent Posts

CLE on Practical Approaches to Advance Care Planning

The Estate Tax Window Is Closing

Regulation of Will Writers Will Increase In The United Kingdom

Florida Homestead Law Explained

Section

Other Blogs

- Bay Area Wills, Trusts & Probate Report
- California Estate and Business Law Blog
- California Estate Planning Practice Blog
- California Estate, Trust & Elder / Dependent Adult Litigation
- California Tax Attorney Blog
- Digital Estate Planning Blog
- Death and Taxes: The Blog
- Estate Planning, Business, & Tax Law Blog (Arizona)
- Florida Elder Law and Estate Planning Blog
- Florida Estate Planning Lawyer Blog
- The Florida Probate Litigation Blog
- The Gay Estate
- GeriLaw
- Heritage Law Blog (Massachusetts)
- Massachusetts Estate Planning and Elder Law
- Minnesota Estate Planning and Probate Blog
- The New York Probate Litigation Blog
- New York Trusts & Estates Law Blog
- NFA Gun Trust Lawyer Blog
- North Carolina Estate Planning Blog
- North Carolina Legacy Planning Blog
- Ohio Estate and Special Needs Planning
- Ohio Estate Planning, Trust & Probate Law
- The Ohio Trust and Estate Blog
- PA Elder, Estate & Fiduciary Law Blog
- Phinney Estate Law (Washington)
- Planner's Thoughts (California)
- The Probate Lawyer Family Feud Blog
- Rule of Law (British Columbia)
- San Diego Wills and Trusts Lawyer Blog
- South Florida Estate Planning Law Blog
- Texas Probate
- Texas Probate Litigation Blog
- Trust and Wealth Management Marketing
- Unique Family (Minnesota)
- Virginia Estate Planning and Elder

to ensure compliance with the FOIA and no appeals process. Courts cannot even fully fulfill FOIA's promise when the agency that is supposed to be enforcing the law is the agency trying to dodge the law.

See AG Wilson Continues Battle to Conceal James Brown Documents and Deny FOIA Requests (SC), Estate of Denial, Mar. 27, 2012.

Special thanks to Jim Hillhouse (Professional Legal Marketing (PLM, Inc.)) for bringing this article to my attention.

April 24, 2012 in [New Cases](#) | [Permalink](#)

TrackBack

TrackBack URL for this entry:

<http://www.typepad.com/services/trackback/6a00d8341bfae553ef016304b44db0970d>

Listed below are links to weblogs that reference South Carolina and the FOIA:

Comments

Post a comment

Verify your Comment

Previewing your Comment

Posted by: |

This is only a preview. Your comment has not yet been posted.



Your comment could not be posted. Error type:

Your comment has been saved. Comments are moderated and will not appear until approved by the author. [Post another comment](#)

The letters and numbers you entered did not match the image. Please try again.

As a final step before posting your comment, enter the letters and numbers you see in the image below. This prevents automated programs from posting comments.

Having trouble reading this image? [View an alternate.](#)

Topical Archive

- About This Blog
- Appointments and Honors
- Articles
- Books
- Books - Fiction
- Books - For Practitioners
- Books - For the Classroom
- Conferences & CLE
- Current Affairs
- Current Events
- Death Event Planning
- Disability Planning - Health Care
- Disability Planning - Property Management
- Elder Law
- Estate Administration
- Estate Planning - Generally
- Estate Tax
- Faculty Positions -- Permanent
- Faculty Positions -- Visiting
- Film
- Food and Drink
- Games
- Generation-Skipping Transfer Tax
- Gift Tax
- Guardianship
- Humor
- Income Tax
- Intestate Succession
- Malpractice
- Music
- New Cases
- New Legislation
- Non-Probate Assets

Wills, Trusts & Estates Prof Blog

A Member of the Law Professor Blogs Network

Blog Editor

Gerry W. Beyer

Governor Preston E. Smith Regents
Professor of Law

Texas Tech Univ. School of Law

- Web Profile
- Website
- Email

News Readers & Feeds

FeedBurner Subscription Service



Enter your Email:

Subscribe me!

Powered by FeedBlitz

[View Recent Posts from Network Blog Feeds](#)

Resources

About Wills, Trusts & Estates Prof Blog

- Email Editor Comments & Content

Find Wills, Trusts & Estates Profs

- Google Scholar
- Law Schools
- SSRN

Academic Resources

- Teaching Materials

Graduate Estate Planning Programs

- Univ. of Miami
- Univ. of Missouri at Kansas City
- Georgetown University

Estate Planning Organizations

- Amer. College of Trust and Estate

« Top SSRN Downloads | Main | Article on The Slayer Rule »

August 20, 2012

The Continued Dispute Over James Brown's Estate



As I have previously discussed, the state has conducted itself in a peculiar manner in resolving the dispute over the Estate of James Brown by refusing to cooperate

with a formal request based upon the Freedom of Information Act. Reports have also reported that it appears that the State of the South Carolina may have misappropriated funds from Brown's estate by declaring certain disinherited or excluded parties as heirs of the estate, contrary to the wishes of the late "Godfather of Soul." The main person who was named was Tommie Rae Hynie, who claimed to be Brown's common law after his death in 2006.

The troubling matter about this dispute is that many news sources do not seem to be concerned with the lack of government accountability in this matter, even though there could be a clear violation of estate and government abuse. What's worse is that these news sources might be intentionally distancing themselves from the story. There are a few legal blogs and reporters who are still reporting on this story, including *The Newberry Observer's Sue Summer*.

See As James Brown Estate Saga Gains Spotlight, South Carolina Fights to Keep Public in Dark, EstateofDenial, Aug. 18, 2012.

760

Ex:98

Counsel (ACTEC)

- ABA Real Estate, Probate, and Trust Section

Other Blogs

- Bay Area Wills, Trusts & Probate Report
- California Estate and Business Law Blog
- California Estate Planning Practice Blog
- California Estate, Trust & Elder / Dependent Adult Litigation
- California Tax Attorney Blog
- Digital Estate Planning Blog
- Death and Taxes: The Blog
- Estate Planning, Business, & Tax Law Blog (Arizona)
- Florida Elder Law and Estate Planning Blog
- Florida Estate Planning Lawyer Blog
- The Florida Probate Litigation Blog
- The Gay Estate
- GeriLaw
- Heritage Law Blog (Massachusetts)
- Massachusetts Estate Planning and Elder Law
- Minnesota Estate Planning and Probate Blog
- The New York Probate Litigation Blog
- New York Trusts & Estates Law Blog
- NFA Gun Trust Lawyer Blog
- North Carolina Estate Planning Blog
- North Carolina Legacy Planning Blog
- Ohio Estate and Special Needs Planning
- Ohio Estate Planning, Trust & Probate Law
- The Ohio Trust and Estate Blog
- PA Elder, Estate & Fiduciary Law Blog
- Phinney Estate Law (Washington)
- Planner's Thoughts (California)
- The Probate Lawyer Family Feud Blog
- Rule of Law (British Columbia)
- San Diego Wills and Trusts Lawyer Blog
- South Florida Estate Planning Law Blog
- Texas Probate

Special thanks to Jim Hillhouse (Professional Legal Marketing (PLM, Inc.)) for bringing this article to my attention.

August 20, 2012 in Current Events, Estate Administration, Estate Planning - Generally | [Permalink](#)

TrackBack

TrackBack URL for this entry:

<http://www.typepad.com/services/trackback/6a00d8341bfae553ef017c315c1a35970b>

Listed below are links to weblogs that reference **The Continued Dispute Over James Brown's Estate** :

Comments

Post a comment

Verify your Comment

Previewing your Comment

Posted by: |

This is only a preview. Your comment has not yet been posted.



Your comment could not be posted. Error type:

Your comment has been saved. Comments are moderated and will not appear until approved by the author. **Post another comment**

The letters and numbers you entered did not match the image. Please try again.

As a final step before posting your comment, enter the letters and numbers you see in the image below. This prevents automated programs from posting comments.

Having trouble reading this image? **View an alternate.**



Name:

761

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, and others,
Plaintiffs.

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

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

)

) RETURN OF ADELE J. POPE

) TO MOTION FOR DIRECTION

) FROM COURT CONCERNING

) POTENTIAL PREJUDICIAL

) TRIAL PUBLICITY

)

)

)

2012 AUG 28 PM 3:49
JEANETTE H. BRIDGE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

Defendant Adele J. Pope submits this Return to the Motion for Direction from the Court Concerning Potential Prejudicial Trial Publicity made on behalf of Plaintiffs by Sweedney, Wingate and Barrow, P.A., ("Wingate") on August 23, 2012.

For each reason stated herein Pope asserts that the Court's consideration of this issue is premature. She asserts that the issue may be appropriate after Plaintiffs have been deposed, discovery completed, and dispositive motions heard by the Court.

Publicity is Inevitable Because of the Public Issues in this Case.

This case ("Case 4900") and other cases which have arisen since the death of entertainer James Brown on December 25, 2006 have generated thousands of articles, television reports and internet postings, articles and comments. This flood of publicity - some related to Case 4900 -- is expected to continue because of the personalities and the unique facts and circumstances surrounding the intervention and takeover of the James Brown assets by the S.C. Attorney General, including:

1. James Brown's \$100 Million worldwide music empire is now being run by PR/Trustee Russell Bauknight, who serves at the pleasure of AG Alan Wilson, and who has told the IRS and our Supreme Court that Brown's music empire was worth less than \$4.7 Million when Brown died.

2. If not taken over by McMaster and 52 1/2% given by McMaster to disinherited claimed relatives, Brown's music empire would have gone to The James Brown "I Feel Good" Trust – Brown's private foundation dedicated solely to providing scholarships for needy and deserving students.
3. Brown's \$285,000 education fund for each of Plaintiffs Sydney, Carrington, Janise, Lindsey and Jason was decimated by AG McMaster and their parents – Plaintiffs Daryl, Deanna and Yamma.
4. Defendant Pope alleges that McMaster worked with a Nexsen Pruet attorney and the attorney for Brown's companion Tommie Rae Hynie to form and give Brown's name to the "Legacy Trust," McMaster's vehicle for using his public office to take control of Brown's music empire and create a political patronage fund for the benefit of McMaster and a NP partner expected to be the next Attorney General.
5. Bauknight, Hynie and AG Wilson assert that Pope fraudulently overstated Brown's music empire to the IRS at \$85 Million, while Pope asserts the fraud was committed by Bauknight with his less-than \$4.7 Million value.
6. Pope asserts that Sweeney, Wingate & Barrow, P.A. ("Wingate") cannot legally be sole counsel to the State/AG in this tort suit for money damages to benefit Wingate's private clients – including nonresidents and minors.
7. Pope asserts that Bauknight lacks legal authority to assert that he is acting on behalf of the Attorney General of South Carolina in this lawsuit.
8. Pope asserts Attorney General McMaster brought this lawsuit for the improper purpose of destroying her career so she and Bob Buchanan would abandon their appeal of McMaster's takeover of James Brown's private property.
9. Bauknight and Attorney General Wilson, through Nexsen Pruet, have told the S.C. Supreme Court that the elective share claim of Brown's companion Tommie Rae Hynie was a "slam dunk," while 8 parties to this suit and numerous witnesses have stated she was not Brown's spouse.
10. The Attorney General has refused requests under the S. C. Freedom of Information Act for public documents related to James Brown including:
 - A. A signed copy of Plaintiff Legacy Trust;
 - B. The McMaster/Wingate Litigation Retention Agreement;
 - C. Public documents showing the AG's knowledge of the less than \$4.7 Million valuation of Brown's worldwide music empire; and

D. The AG's copy of the Hynie "diary".

11. Wingate has actively blocked AG Wilson's FOIA compliance and sought sanctions against Pope in a FOIA case.

12. AG Wilson and Bauknight support keeping in place 4-year-old gag orders (the Hynie "diary" Gag Orders) which gag Pope, Sr. Assistant AG Sonny Jones and others from discussing the Hynie "diary" contents which were available to McMaster when he agreed to give Hynie about \$20 Million of Brown's assets.

13. Wingate – purporting to speak for AG Wilson – has recently violated the shield law by sending a subpoena to a journalist demanding that she reveal her sources and notes.

14. AG Wilson and Bauknight did not seek any restitution from David Cannon when he pled guilty to some of the \$12+ million he took from Brown, and have named him as their witness in Case 4900.

Brown's Will and Trust were posted on the web shortly after his death, and remain there. Within the first month after Brown's death, Hynie's lead counsel had issued a press release about the team he put together to represent Hynie. The press release, posted with Hynie's initial filings, remains available on the web.

In January 2007 Hynie appeared on the national Larry King Live television show. Hynie brought with her the marriage license she obtained by concealing her marriage as "evidence" she was Brown's spouse.

Brown's celebrity lawyer Debra Opri appeared with King just after Hynie. Opri, speaking for Brown's "family," confirmed the validity of Brown's estate plan and that Hynie was not Brown's spouse.

The publicity has continued unabated for 5 ½ years, and is likely to continue.

Publicity Self-Generated or fueled by Plaintiffs and their Counsel.

The Court is asked to take judicial notice of the websites, blogs, posts and other self-

generated publicity of Plaintiffs and their counsel, to include the following:

1. Henry McMaster - Public Statements and press releases generated by McMaster on the functions of the Office of the AG; ethics in government, returning "pay-to-play" contributions; transparency in government; and what he asserts he did to help the "I Feel Good" Foundation. In a 2008 WIS TV interview McMaster falsely accused Buchanan/Pope of going "far past the stop sign of conflict of interest."
2. Nexsen Pruet (NP) - See public statements of Leighton Lord and NP on his behalf asserting in 2010 his respect for McMaster and intention to continue his work as Attorney General. Also see October 31, 2011 AP interview with NP attorney David Black, repeated in 440+ media outlets, in which Black states that the return of Buchanan and Pope as Brown's fiduciaries would be "similar to throwing a grenade into the James Brown music empire."
3. AG Alan Wilson - See Home Page of Office of Attorney General Wilson, paid for by taxpayers of South Carolina. See introduction to guide to FOIA and numerous media articles, reports and interview about Wilson's position on FOIA, ethics and transparency in government.
4. Daryl Brown - Daryl Brown has, within the year 2012, given a taped interview to a journalist and written a widely publicized letter to Attorney General Wilson stating that he and his siblings made a mistake by agreeing with AG McMaster to destroy the "I Feel Good" foundation, his father's dream, or to call Hynie Brown's "wife" when she was not.
5. Venisha Brown - has been arrested on felony charges at least three times since the death of James Brown; is believed to be currently incarcerated; and is believe to have been incarcerated when Henry McMaster proposed to give her nearly \$5 Million from the "I Feel Good" Foundation, rather than the 1/6 of his personal and household effects Brown gave her in his Will.
6. Yamma Brown Lumar - Charged with attempted murder of her husband shortly after Brown's death [charges dropped]. Gives frequent interviews and is seen on James Brown Children's Family Foundation site.
7. Deanna Brown Thomas - Augusta radio personality who has given numerous interviews about Brown's charitable intentions, the \$100 Million value and "greedy trustees."
8. Tommie Rae Hynie - Gave radio interview to Gene Petriello about "diary" after the Hynie "diary" Gag Orders were issued. After this suit was filed and Hynie had gone into default on the counterclaims, including that

she was not Brown's spouse, Hynie gave an interview in which she "bared her soul" and asserted she was Brown's widow.

The public importance of both James Brown and the Office of the Attorney General make it unlikely that publicity about the allegations of fraud and impropriety which are the subject of Case 4900 can be controlled. Since – to the extent not resolved in the scheduled pre-deposition mediation – much of this case will be decided by the Court, the extensive publicity may not matter.

The most obvious attempts to influence the outcome in a tribunal to date have been by Plaintiffs or their counsel, including Hynie's plea to Judge Early on national television and NF lawyer David Black's interview with the AP the day before the Supreme Court oral arguments on November 1, 2011.

While there may be a need to consider pretrial publicity issues when the Court is approaching a jury trial, at this point no Plaintiff has been deposed and no scheduling order is even in place. Consideration of trial publicity is premature.

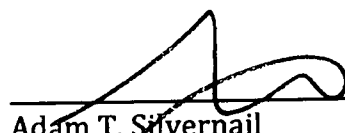
Motion to Vacate Denial of Injunction as to Wingate and Bauknight

Defendant Pope respectfully submits that the Motion of Plaintiffs dated August 23, 2012 and accompanying documents, along with Wingate's recent subpoena to a journalist and filings related to the Hynie "diary" Gag Orders should be considered by this Court in addressing Pope's motion to vacate or alter the Court's July 5, 2012 Order denying injunctions as to Wingate and Bauknight.

This Return is based on the original motion and attachments; the Affidavit of Adele J. Pope filed herewith; and the websites, blogs and posts and other referenced media of which the Court is asked to take judicial notice.

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



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1218 Taylor Street
Post Office Box 1898
Columbia, SC 29202-1898

August 28, 2012

Attorneys for Defendant

RUSSELL L. BAUKNIGHT, ET AL. V. ADELE J. POPE AND ROBERT L. BUCHANAN, JR.

DOCKET NUMBER 2010-CP-40-4900

PROOF OF ADR

1. Alternative Dispute Resolution (ADR) was conducted in the form of: **Mediation.**
2. The neutral was: **Karl A. Folkens.**
3. The ADR was conducted on **October 12, 2012.**
4. As a result of ADR, this case should be considered (please check one):

FILED
2012 OCT 22 AM 10:13
CLERK OF COURT
C.C.P. & G.S.

☐ Fully Settled by Consent Judgment or a Voluntary Dismissal to be filed by the parties.

☐ Partially Settled, with agreement of the parties on the following issues:

☒ At an impasse.

☐ In need of further ADR. I ☐ am / ☐ am not willing to mediate this case further. I recommend that ADR resume as of:

☐ Continued to (Date):

5. Plaintiffs ☒ were/ ☐ were not present.
Defendants ☒ were/ ☐ were not present.

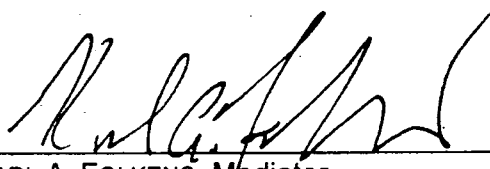
6. Other participants were:

☒ Lawyers for Plaintiffs: Mark V. Gende, Esq., Kenneth B. Wingate, Esq., Fred L. Kingsmore, Jr., Esq., Aaron J. Hayes, Esq., J. David Black, Esq. & Louis Levenson, Esq., S. Alan Medlin, Esq., Matthew D. Bodman, Esq. & David B. Bell, Esq.
☒ Lawyers for Defendants: Adam T. Silvernail, Esq. & Daryl L. Williams, Esq.
☒ Others: John W. McIntosh, Esq., C. H. Jones, Jr., Esq. & Mary Frances Jowers, Esq., representatives from the office of the Attorney General of South Carolina; Matt Williams, Defendant's counsel's law clerk; Dahlia Brown, Defendant Terry Brown's wife; Tonya Brown, family member of James Brown; Dr. Yamma Brown & Deanna Brown Thomas, daughters of James Brown; Shawn Thomas, son-in-law of James Brown

7. Choice of the mediator was by:
☒ Stipulation

8. The total number of hours spent in ADR was: **12.25** hours, plus travel time and expense.
9. Further comments of the neutral: *None.*

768


KARL A. FOLKENS, Mediator
P. O. Box 6139, Florence, SC 29502-6139
(843) 665-0100; FAX (843) 665-0500

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; 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 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.; 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 L. and CARRINGTON L.; 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

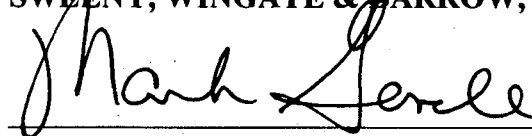
SUPPLEMENT TO PLAINTIFFS'
MOTION TO SET ASIDE THE ENTRY
OF DEFAULT

2012 DEC 17 PM 4:29
JANET L. H. HARRIS
C.C.P. & G.S.

Plaintiffs hereby submit the following supplement to Plaintiffs' Motion to Set Aside the Entry of Default stemming from Defendant Pope's counterclaims against Plaintiffs. As additional evidence of their meritorious defenses against the counterclaims, Plaintiffs submit the sworn testimony of Albert "Buddy" Dallas, Esq. (attached hereto as **Exhibit A**), wherein he finds fault with the management of the Estate of James Brown, resulting in millions of dollars of damages. Plaintiffs direct the Court's attention to pp. 35:3-21, 35:19-21, and 36:5-6. James Brown died on December 25, 2006, and Ms. Pope was appointed special administrator on March 7, 2007, less than three months after Brown's death. Therefore, Ms. Pope was actively involved in the Estate during the 12-month period—and beyond—to which Mr. Dallas attributes the millions in losses.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

December 17, 2012

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND 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)
~~III~~; 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 III~~; 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,)

vs.)

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

Defendants.)

SWORN STATEMENT OF

ALBERT H. DALLAS, ESQ.

771

EXHIBIT

A

SWORN STATEMENT OF

ALBERT H. DALLAS, ESQ.

July 20, 2012

9:55 a.m.

304 Black Street
Thomson, Georgia

Jan Alderfer Russell, CCR-B-2438, RPR

772

1 business, and his response was, "Well, that's tough."
2 As you know, Ms. Pope can be a hard taskmaster.

3 Q. Well, you mentioned Mr. Buchanan's
4 service. As to Ms. Pope's service as personal
5 representative and trustee, are you aware of anything
6 or do you have any criticism of her performance?

7 A. My observation is that we missed a lot of
8 opportunity during the first 12 months after
9 Mr. Brown's death. I think that is attributable to a
10 simple lack of understanding that the James Brown
11 operation required daily management. And to the
12 extent that Mrs. Pope was too cautious, the attorneys
13 for the children, Mr. Levenson, and for Tomi Rae,
14 Mr. Medlin and Mr. Rosen, was equally intrusive and
15 obtrusive in what was in the best interest of the
16 estate and trust. I said to Mr. Rosen and to
17 Mr. Levenson in Aiken, South Carolina at one of the
18 hearings, please don't cause us to lose the aura
19 associated with the passing of Mr. Brown, less we
20 will miss many millions of dollars that literally
21 will be like picking it up off of the street.

22 The euphoria of Mr. Brown's passing -- for
23 example, the most recent example would be Whitney
24 Houston. Her estate will generate more millions this
25 year than probably she accumulated in the prior ten

1 years. Because everybody is nostalgic and
2 sentimental and remember when a particular song was a
3 part of their life and almost out of homage or
4 respect, people buy recordings.

5 For the most part, we missed that with
6 Mr. Brown. We just missed it. And I couldn't get
7 anybody to understand it. I even said, everything
8 will be accounted for, just back off for awhile, just
9 back off. And particularly when we started dealing
10 with a potential sale for the 100 million. I don't
11 know that it would have been 100 million. There is
12 always adjustments. There's always allowances that
13 have to be made in a final negotiation, but it would
14 have been somewhere approaching that number. Of
15 course there was about 15 million owed to TIAA-CREF
16 on the bond issue. Of course after that you're still
17 talking 80, \$85 million. Maybe we were only talking
18 \$75 million. Elvis, the year prior, sold for 115
19 million. And Mr. Brown is a world artist. As much
20 as we love Elvis, he was a national artist.
21 Mr. Brown was an international artist.

22 But it requires -- it's a business that
23 requires day-to-day management and day-to-day
24 promotion. Mr. Brown never ever failed to tell me,
25 when I would caution him about getting his name in

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No. 2010-CP-40-4900
	)	[Formerly Newberry County Case No.
	)	2011-Cp-36-379]
Adele J. Pope,	)	
	)	
Plaintiff,	)	PLAINTIFF'S RETURN AND OPPOSITION
	)	TO MOTION FOR JUDGMENT ON
v.	)	THE PLEADINGS
	)	
Alan Wilson, in his capacity as	)	
Attorney General of South	)	
Carolina,	)	
Defendant.	)	
	)	

TO: DEFENDANT AND PURPORTED INTERVENORS, NAMELY 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; 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 CHILDREN, SYDNEY L. AND CARRINGTON L.; TONYA BROWN; VENISHA BROWN; LARRY BROWN; AND TERRY BROWN AND/OR THEIR COUNSEL.

Plaintiff opposes the Motion for Judgment on the Pleadings (the "Motion") for the reasons set out below:

The Motion is Baseless and Filed in Bad Faith

1. This motion is a continuation of the South Carolina Attorney General's attempts to delay this case and deny Plaintiff her rights under the Freedom of Information Act, which attempts have successfully prevented this matter from being heard for more than 15 months since it was filed in August 2011.

2. The Attorney General ("AG") asks that the Court summarily dispose of Plaintiff's

suit, brought pursuant to the South Carolina Freedom of Information Act ("FOIA"). Despite seeking this drastic relief, the AG tells the Court that the documents sought herein are "exempt from disclosure under FOIA because they are subject to the rules regarding discovery in the Rules of Civil procedure." [Motion, ¶1]

3. The AG cites no law and no rule in support of this assertion, and the undersigned has been unable to find a single case which supports it. Instead, there is a wealth of Federal law which holds that FOIA and discovery are separate procedures which may proceed separately or in tandem.

4. Because it has been cited and argued *in this case*, the AG is well aware of *North v. Walsh*, 881 F.2d 1088 (D.C. Cir. 1989), which included an exhaustive and thoroughly supported evaluation of an argument similar to that which the AG attempts to advance here:

An attempt to interject FOIA "does not extend the scope of discovery under Rule 16" when done as part of criminal discovery. *DeLorean*, 717 F.2d at 480; accord *Murdock*, 548 F.2d at 602. Discovery limitations, civil or criminal, however, do not apply when FOIA requests are presented in a discrete civil action. **The plaintiff's rights in a FOIA action do not depend on his or her identity;** " '[t]he Act's sole concern is with what must be made public or not made public.' " *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, --- U.S. ----, 109 S.Ct. 1468, 1481, 103 L.Ed.2d 774 (1989) (citation omitted); see *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 n. 23, 98 S.Ct. 2311, 2327 n. 23, 57 L.Ed.2d 159 (1978) (stating that person's rights under FOIA are neither diminished nor enhanced by his "litigation-generated need" for agency documents); accord *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 143 n. 10, 95 S.Ct. 1504, 1513 n. 10, 44 L.Ed.2d 29 (1975); see also *United States v. Buckley*, 586 F.2d 498, 506 (5th Cir.1978) (stating that "FOIA provides an

independent basis for obtaining information potentially useful in a criminal trial"), cert. denied, 440 U.S. 982, 99 S.Ct. 1792, 60 L.Ed.2d 242 (1979); *Comstock Int'l (U.S.A.), Inc. v. Export-Import Bank of the United States*, 464 F.Supp. 804, 805 n. 2 (D.D.C.1979) (noting that FOIA plaintiff presumably sought documents for use in an arbitration proceeding, but holding that "a party's rights under the FOIA are neither enhanced nor diminished by its status as a private litigant"); see generally Toran, *Information Disclosure in Civil Actions: The Freedom of Information Act and the Federal Discovery Rules*, 49 GEO.WASH.L.REV. 843, 861 (1981) ("[A] party's desire to use information obtained under the FOIA in subsequent litigation is not a basis for denying an otherwise legitimate FOIA request. Indeed, there are situations in which FOIA will permit access to information that would not be available through discovery.") (footnote omitted); Tomlinson, *Use of the Freedom of Information Act for Discovery Purposes*, 43 MD.L.REV. 119, 121 (1984) (same).

North v. Walsh, 881 F.2d 1088 (D.C. Cir. 1989) [emphasis supplied]

5. In addition, the Court in *Hoover v. United States Dept. Of the Interior*, 611 F.2d 1132 (5th Cir. 1980), specifically held that a FOIA plaintiff's status as a defendant in civil litigation filed by the government *does not affect his rights under FOIA*:

The appellant landowner's right under the FOIA, where he is in effect asserting the rights of the public to obtain such appraisals, is inherently different than his particularized status as the landowner in the condemnation proceeding. He is entitled to vindicate his public rights in the instant FOIA suit in accordance with the requirements of the FOIA. *Id.*

The AG Seeks to Violate Plaintiff's Right to Equal Protection

6. The AG's argument seeks to deprive Plaintiff of her Constitutional right to equal protection of the laws.

7. The documents sought herein are public and are subject to disclosure to any citizen under FOIA. The State, however, asks the Court to find that FOIA bars *Plaintiff* from receiving the documents due to her status as a defendant in a tort case.

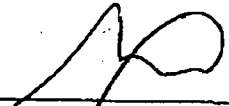
8. The AG asks the Court to find that a class of citizens (those who have been sued by the State) have no rights under FOIA. To do so would violate Plaintiff's right to equal protection under the Fourteenth Amendment to the United States Constitution.

9. Plaintiff is aware that another resident of Newberry County has recently filed suit against the AG under FOIA.¹ That individual seeks numerous documents, including the fee contract which is the subject of this action. Based on the AG's argument in the Motion, the Newberry plaintiff would be entitled to the same documents sought by Plaintiff herein. To arbitrarily treat Plaintiff differently from other individuals making similar FOIA requests is to violate her right to equal protection.

This return is based on the Complaint, prior affidavits and other filings herein; the *South Carolina Rules of Civil Procedure*; the South Carolina Freedom of Information Act; other applicable statutory and case law; and such additional documents as Plaintiff shall file herein prior to the hearing.

¹ That case is captioned *Susan D. Summer vs. Alan Wilson, in his Official Capacity as Attorney General of South Carolina*, Newberry County Case No. 2012-CP-36-688 (filed December 18, 2012).

Respectfully Submitted,



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 1898
1901 Hampton Street
Columbia, South Carolina 29202-1898
Tel: 803/779-1770
Fax: 803/403-8092
Email: adam@silvernaillawfirm.com

January 11, 2013

Attorney for Plaintiff

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 B. [REDACTED]; 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 L. [REDACTED] and Carrington L. [REDACTED]; 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. [REDACTED]; 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 L. [REDACTED] and CARRINGTON L. [REDACTED]; 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

PLAINTIFFS' MOTION TO COMPEL
DOCUMENT REVIEW UNDER
APPROPRIATE CONDITIONS

JANETTE W. MOORE
C.C.P. & G.S.

2013 FEB 27 AM 11:42

RICHLAND COUNTY
FILED

**TO: ADAM SILVERNAIL, ESQUIRE AND DARYL L. WILLIAMS, ESQUIRE,
ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-
NAMED:**

YOU WILL PLEASE TAKE NOTICE that the undersigned intends to move, and does hereby so move, for an Order from the Court compelling Defendant Pope to allow document review at her residence appropriate conditions. This Motion is made pursuant to Rule 37 of the South Carolina Rules of Civil Procedure, and is based upon the facts set forth in greater detail below.

Upon information and belief, Defendant Pope has retained a significant amount of documentation related to the James Brown Estate at her residence. Defendant Pope has repeatedly requested that Plaintiffs visit her residence to review these documents as a part of the discovery of this case. Obviously, Plaintiffs had no objection to doing so, and have attempted to work with Defendant Pope to schedule an appropriate time to conduct this review. However, Defendant Pope insists that she and/or her counsel be present in the room as Plaintiffs' counsel review the documents.

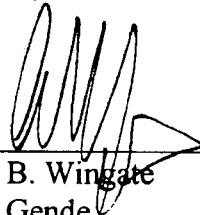
Plaintiffs have informed Defendant Pope that such an arrangement will not adequately protect Plaintiffs' work product and attorney-client privilege. Specifically, Plaintiffs' counsel must have the ability to take notes concerning these documents, to confer amongst themselves, and to take any other actions as may be appropriate under the circumstances. It goes without saying that these efforts would be hindered by Defendant Pope and/or her counsel being present at the time of the review. In an attempt to avoid Court intervention in a simple discovery matter, Plaintiffs have suggested that the parties use a third-party neutral to preside over the document review (see letter of counsel attached hereto as Exhibit A). Defendant Pope and her counsel

have not responded to this proposal. Therefore, Plaintiffs are forced to file this Motion to Compel Document Review Under Appropriate Conditions.

In sum, Plaintiffs request that the Court enter an Order compelling Defendant Pope to produce the requested documentation for Plaintiffs' counsel's review outside of her or her counsel's presence. In the alternative, Plaintiffs request that the Court order the document review to be conducted in the presence of a third-party neutral, and outside of the presence of Defendant Pope and/or her counsel. Also in the alternative, Plaintiffs request that the Court provide guidance to how they should proceed in this situation. This Motion may be further supplemented by a Memorandum of Law, by Affidavits, or by any other such information as may be fit and proper.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

February 25, 2013

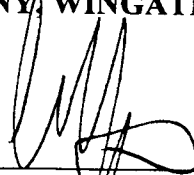
**TO: ADAM SILVERNAIL, ESQUIRE AND DARYL L. WILLIAMS, ESQUIRE,
ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-
NAMED:**

YOU WILL PLEASE TAKE NOTICE that the undersigned intends to move, and does hereby so move, for an Order quashing the deposition notice Deanna Brown Thomas, which notices her deposition for Friday, March 8, 2013 (deposition notice attached hereto as Exhibit A). This Motion is made pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure, and is based upon the uncertainty created in Case 4900 by the recent Supreme Court decision in Case 1647.

Of course, Plaintiffs' do not oppose Defendant Pope's ability to depose a party-plaintiff to Case 4900, but request that the Court hold a status conference before any further depositions or discovery takes place in this matter. This Motion may be further supplemented by a Memorandum of Law, by Affidavits, or by any other such information as may be fit and proper.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
Mark V. Gendron
Aaron J. Hayes
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

March 4, 2013

784

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; 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 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 BROWN; 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 L. and CARRINGTON L.; 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-40-4200

RICHLAND COUNTY
FILED
2013 MAR -4 PM 4:07
JAMES L. JACOBSON
CLERK C.S.

**PLAINTIFFS' MOTION FOR A
PROTECTIVE ORDER CONCERNING
DEPOSITION OF PLAINTIFF DEANNA
BROWN THOMAS**

7389

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 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 B. [REDACTED]; 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
L. [REDACTED], Carrington L. [REDACTED], 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 B. [REDACTED]; 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
L. [REDACTED], CARRINGTON L. [REDACTED], and
TONYA BROWN; VENISHA BROWN;
LARRY BROWN; and TERRY BROWN,

Plaintiffs.

v.

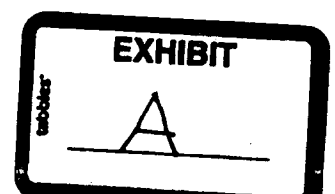
Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

) Case No. 2010-CP-40-4900

AMENDED
NOTICE OF DEPOSITION OF
DEANNA J. BROWN THOMAS



**TO: COUNSEL FOR DEANNA J. BROWN THOMAS AND OTHER PLAINTIFFS, THROUGH
THEIR COUNSEL SWEENEY WINGATE & BARROW:**

PLEASE TAKE NOTICE that the undersigned counsel for Defendant Adele J. Pope will take the deposition upon oral examination of Deanna J. Brown Thomas at 10:00 a.m. on March 8, 2013, at the law offices of Sweeney, Wingate & Barrow, P.A., 1515 Lady Street, Columbia, South Carolina.

This Notice has been amended at the request of Plaintiff Deanna Brown Thomas to change the date of her deposition from March 22, 2013 to March 8, 2013.

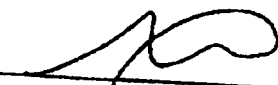
The deposition will continue from day to day until completed.

You are invited to attend and take such part as may be fit and proper.

Daryl L. Williams
Jeter & Williams, P.A.
1204 Main Street
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
1901 Hampton Street
Post Office Box 1898
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernaillawfirm.com

February 25, 2013

By: 
Attorneys for Defendant Adele J. Pope

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 Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina and others

and
HENRY DARGAN MCMASTER, in his
capacity as Attorney General of the State of
South Carolina; and others,

Plaintiffs,

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

)

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

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

MOTION FOR SUMMARY

JUDGMENT as to Russell

L. Bauknight, as Trustee of the

the James Brown 2000 Irrevocable Trust

and Personal Representative of the

Estate of James Brown, and the

Attorney General of the State of

South Carolina and Russell L.

Bauknight as its purported Agent

RECEIVED
C.C.P. & G.S.

2013 MAR 15 PM 3:06

FILED

TO: RUSSELL L. BAUKNIGHT, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JAMES BROWN AND TRUSTEE OF THE JAMES BROWN 2000 TRUST; THE ATTORNEY GENERAL OF SOUTH CAROLINA; AND RUSSELL L. BAUKNIGHT AS AGENT FOR THE ATTORNEY GENERAL OF SOUTH CAROLINA ("Agent") AND THEIR COUNSEL SWEENEY, WINGATE AND BARROW, P.C. ("Wingate")

YOU WILL PLEASE TAKE NOTICE that ten days after service hereof, or as soon thereafter as she may be heard, Defendant Adele J. Pope will move before the Honorable L. Casey Manning at the Richland County Courthouse, for an Order granting her Summary Judgement as to the above Plaintiffs as follows:

1. Judgment in favor of Pope as to all claims of said Plaintiffs in the Complaint;
2. Judgment in favor of Pope as to all Counterclaims against said Plaintiffs;

3. A joint and several award of actual damages against said Plaintiffs in the amount of \$3.7 Million representing only actual damages caused by the Estate and 2000 Trust, acting through Bauknight, and the State/AG acting through its former AG and Sr. Assistant C. Havird Jones to damage the Estate/2000 Trust, Buchanan and Pope.

4. Attorneys' fees and costs in the amount of \$315,500 in this action.

The grounds of this motion are that the undisputed material facts of this Case

show:

1. Each fact contained in the Motions for Summary Judgment as to Terry Brown and the Plaintiff Grandchildren of James Brown, which are incorporated herein.

2. The Office of the Attorney General, and the Estate of James Brown and 2000 Trust, through Bauknight have damaged the Estate/2000 Trust, Robert L. Buchanan, Jr., and Pope in actual damages of at least the amount set out above, including by:

A. Failing to support the 2000 Trust in the Frivolous Forlando Brown Federal suit.

B. Refusing to pay Buchanan and Pope as directed by the January 8, 2008 Order in Case 122, causing Pope and Buchanan to suffer and the Estate/2000 Trust to incur additional interest.

C. Colluding with felon David Cannon and his counsel, and failing to seek any restitution or recovery from Cannon;

D. Slandering Buchanan and Pope, including falsely accusing them of a federal felony;

E. Fabricating and generating a less-than \$4.7 Million value for the worldwide music empire of James Brown, then using it to deprive Buchanan and Pope of their return as PR/Trustees.

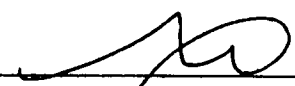
F. Commencing and continuing this case for the improper purpose of forcing Buchanan and Pope to abandon their appeal in Case 1647.

G. Colluding with and aiding the companion of James Brown, and making false representations about her civil status.

This motion is based on the depositions of Robert L. Buchanan, Jr., Daryl J. Brown and Larry Brown and the Exhibits thereto; the affidavits of Adele J. Pope on file herein; the South Carolina Rules of Civil Procedure, especially Rule 56; and such additional affidavits and documents matters as shall properly come before the Court prior to the hearing on this matter.

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



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1901 Hampton Street
Post Office Box 1898
Columbia, South Carolina 29202-1898
Telephone: (803) 779-1770
Facsimile: (803) 403-8092
adam@silvernaillawfirm

March 11, 2013

Attorneys for Defendant Adele J. Pope

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
)

) FIFTH JUDICIAL CIRCUIT

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. ;)
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,)
)
)

Plaintiffs,)
)
)

vs.)
)
)

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

Defendants.

Civil Action No.: 2010-CP-40-4900

ATTORNEY GENERAL ALAN
WILSON'S MOTION TO BE
DROPPED AS A PARTY

2013 MAR 25 PM 4:10
JEROME
CLERK
CLERK

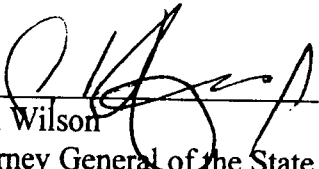
PLEASE TAKE NOTICE THAT Attorney General Alan Wilson ("Attorney General") through undersigned counsel, will move before the Court of Common Pleas for Richland County within ten (10) days of the date hereof or thereafter at such other time and place as the Court determines, for an Order pursuant to Rule 21, SCRCF, dropping the Attorney General as a party to this action. Rule 21 states that "[p]arties may be dropped or added by order of the court of motion of any party or of its own initiative at any stage of the action and on such terms as are just."

This Motion is based upon the May 18, 2010, from Attorney General McMaster to Russell Bauknight, attached as Exhibit A; the recent South Carolina Supreme Court decision in Wilson et al. v. Dallas et al., 2013 WL 697042 (filed February 27, 2013); the Attorney General's Petition for Rehearing in that case, along with the Attorney General's Motion to Supplement the Record, both attached as Exhibit B; and S.C. Code §62-7-405(c). In the Attorney General's Petition for Rehearing, the Attorney General advised the Supreme Court that he would be shortly moving to have himself removed as a party to this case and that any further action in the case to protect the charitable beneficiaries would be pursued by the Trustee. See Petition for Rehearing, page 26-27.

This Motion shall be made pursuant to statutory and case law of the State of South Carolina and other grounds which may be presented to the Court.

Rule 11 Certification: I certify that consultation with the other parties would serve no useful purpose based upon the decision by the Supreme Court in Wilson v. Dallas and the four rehearing requests that have been filed in that case.

Respectfully Submitted,



Alan Wilson

Attorney General of the State of South Carolina

John W. McIntosh

Chief Deputy Attorney General

Robert D. Cook

Deputy Attorney General

C. Havird Jones, Jr.

Assistant Deputy Attorney General

Mary Frances Jowers

Assistant Attorney General

Post Office Box 11549

Columbia, South Carolina 29211

(803) 734-3680

March 25, 2013
Columbia, South Carolina

EXHIBIT A



HENRY McMASTER
ATTORNEY GENERAL

May 18, 2010

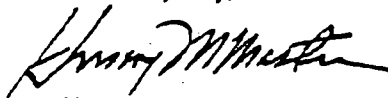
Mr. Russell Bauknight
Bauknight, Pietras & Stormer, P.A.
1517 Gervais Street
Post Office Box 1330
Columbia, South Carolina 29202

Re: James Brown Litigation

Dear Mr. Bauknight:

I have met with Ken Wingate and Everett Kendall of Sweeney Wingate & Barrow of Columbia, South Carolina, regarding the action to be filed against Adele J. Pope and Robert L. Buchanan, Jr., in the Richland County Probate Court in connection with the James Brown Estate and Trust. I am writing to confirm our understanding that you will be retaining Mr. Wingate and Mr. Kendall to file this action on behalf of the beneficiaries of the James Brown Estate and Trust, including the charitable interests. As you know, by law this office has a duty to protect charitable trusts. Also, per your conversation with Senior Assistant Attorney General C.H. Jones, Jr., in connection with the charitable trust portion of this matter, you have agreed to use the terms and conditions as outlined in the attached "Agreement for Legal Services" which references and incorporates the Attorney General's standard Litigation Retention Agreement. Of course, this office has no authority over your agreement with Messrs. Wingate and Kendall concerning the other portions of this matter.

Yours very truly,



Henry McMaster

Enclosures

HMcM/mfj

) IN THE COURT OF COMMON PLEAS

Case No.: 2010-CP-40-4900

) RETURN AND OPPOSITION
) TO REQUEST FOR STAY AND
) REQUEST FOR EXPEDITED
) HEARING, SCHEDULING ORDER
) AND RELATED RELIEF

Plaintiffs.

Adele J. Pope,

Defendant.

Defendant Adele J. Pope responds to the letter motion of Sweeney, Wingate & Barrow, P.A. ("Wingate"), dated March 27, 2013, a copy of which is attached hereto as Exhibit A (the "Letter Motion"), as follows:

2013 APR -1 PM 3:33

1. The motion fails to comply with the Rules of Civil Procedure, and seeks extraordinary relief available only by proper application and support.

2 Wingate has no authority to make the Letter Motion on behalf of at least 11 of the Plaintiffs because either: they have terminated Wingate; they never engaged Wingate; or Wingate is otherwise prohibited from speaking for them, including:

- a. (1) Alan Wilson as Attorney General of South Carolina, who notified Wingate *in writing and prior to the service of the Letter Motion* that Wingate does not represent the AG's Office;
- b. (2) Plaintiff Russell L. Bauknight as purported Agent for the AG;
- c. (3) Plaintiff Trustee of the James Brown Legacy Trust, because Wingate is estopped to take in the Letter Motion a position fundamentally different from the position taken by the Legacy Trust *at this time* through its attorneys Lewis & Babcock in a FOIA case;
- d. Minor Plaintiffs (4) Sydney L., (5) Carrington L. and (6) Janise B. because Wingate is acting contrary to their interests by trying to dismantle the \$285,000 education trusts James Brown created for them and has refused repeated requests over 3 years to secure a GAL for them;
- e. Minor Plaintiff (7) James B. because Wingate has refused for three years, despite repeated requests, to make James B's GAL part of this case;
- f. Plaintiff (8) Terry Brown because Terry's entire interest in James Brown's Estate was assigned to his son Forlando on January 3, 2011; Wingate concealed the Assignment despite valid discovery requests for almost 2 years; Wingate has repeatedly refused to allow Terry to be deposed; Terry's counsel David Bell, Esq. for himself and counsel Matt Bodman, Esq. has confirmed in writing since the February 27 that he supports the February 27 decision; and it has been confirmed that Terry did not even know Wingate filed Case 4900 in Terry's name or sought to intervene for Terry in a FOIA or seek sanctions against Pope;
- g. Plaintiff (9) Daryl Brown confirmed at his deposition that he did not even know Wingate filed this Case 4900 or the motion to intervene in the FOIA case for him; and he and Plaintiff (10) Lindsey Delores Brown signed a document, filed with the deposition saying Louis Levenson, Esq. is their only lawyer.

- h. Incarcerated Plaintiff (11) Venisha Brown because Wingate cannot speak for her and has refused repeated requests for more than a year for a GAL.

3. The statement that "Plaintiffs still have active and substantial claims against Ms. Pope" is incorrect; unauthorized by many Plaintiffs; and unsupported by the evidence in this case, including the depositions of Robert Buchanan, Jr., Larry Brown, Daryl Brown and Tonya Brown.

4. Wingate announced more than a year ago that he could not represent the remainder the Plaintiffs if he did not represent the AG, putting all Plaintiffs on notice on February 27, 2013, if not earlier, that they needed to seek new counsel.

5. A stay would be unjust and irreparably harm Defendant/Counterclaim Plaintiff Pope in the following, and other, ways:

- a. By continuing to destroy her law practice and reputation;
- b. By continuing her inability to obtain professional negligence insurance, which was cancelled as a result of this suit;
- c. By requiring her continued defense of a suit by Cincinnati over coverage, when, in fact, she is owed damages by Plaintiffs – not her to them.
- d. By preventing Pope's recovery of the \$4+ Million actual damage she and Bob Buchanan incurred as a result of Plaintiffs' (1) abuse of process; (2) intentional interference with contract rights; (3) fraud under Section 62-1-106 of the S.C. Probate Code; and (4) civil conspiracy;. [See pending motions for Summary Judgment.]
- e. By preventing Pope from being allowed to clear her name where Attorney General Wilson and Bauknight, asserting the authority and power of the State of South Carolina, have falsely accused Pope and Buchanan of the federal felony of overstating the value of James Brown's assets to the IRS by \$79 Million for the improper purpose of obtaining a large commission.
- f. By the continued violation of Pope's rights under the South Carolina Freedom of Information Act ("FOIA").

g. By preventing Pope from demonstrating that the following false statements have been made to the Court:

- (1) That Tommie Rae's elective share claim was a "slam dunk;"
- (2) That James Brown's worldwide music empire and \$12+ Million claims against felon David Cannon & others were worth less than \$4.7 Million when Brown died;
- (3) That the Brown Estate's and 2000 Trust have no corpus to speak of;
- (4) That nobody wanted to buy the James Brown music empire.

6. The requested stay would be unjust and fail to serve judicial economy by preventing a final determination within a few months of the following:

- a. That Tommie Rae was not Brown's spouse at death; is not an heir of James Brown under State Law or the Federal Copyright Act; and Buchanan and Pope never owed her any duty;
- b. That Buchanan and Pope owed James B. no duty because he is the presumed son of Javed Ahmed and refused to take the \$300 DNA test paid for by the Estate;
- c. That the \$100 Million 2007 offer to sell Brown's music empire Plaintiffs accuse Buchanan and Pope of not accepting was made to their predecessor PR/Trustees before their appointment, and Plaintiffs' contest to Brown's noble Estate Plan precluded acceptance in 2008 of two additional \$90 - \$100 Million offers for Brown's worldwide music empire.
- d. That Buchanan and Pope never owed any duty to Plaintiff Tonya.

7. Justice would not be served by staying this Case, which is almost three years old and - but for approximately five Plaintiff depositions - ready for trial if not concluded by summary judgment.

8. The requested stay would allow Plaintiff Tommie Rae and others to continue their egregious and unprecedented discovery abuse, including:

- a. The evasion by Plaintiffs Tommie Rae and other Plaintiffs of

depositions first noticed two years ago and continuously requested since;

b. The concealing by Plaintiff PR/Trustee of AG McMaster's December 31, 2010 - January 4, 2011 amendment to the Legacy Trust.

c. The refusal of all Plaintiffs to produce documents made public by the August 10, 2007 Order in Case 122 and by other means.

d. The refusal of James B. and others to produce their copies of the fabricated less-than \$4.7 Million value of Brown's music empire.

9. Neither justice nor judicial economy would be served by the Court's staying its hearing on Summary Judgment Motions as more than half of the Plaintiffs.

10. The undisputed facts related to Plaintiffs Sydney L., Carrington L., Janise B., Lindsey and Jason are that Buchanan and Pope, by their pursuit of the Case 1647 appeal:

a. Restored the \$285,000 education trusts of Sydney L., Carrington L., Janise B., Lindsey Delores Brown and Jason Brown-Lewis which their own parents and AG McMaster attempted to take from them;

b. None of the five asked the Supreme Court to reconsider its February 27, 2013 decision; and

c. Wingate and Bauknight, by refusing to obtain a GAL for the minors for almost three years, have damaged them.

b. None has – or ever had – “active and substantial claims against Ms. Pope.”

11. Justice and judicial economy will be served if the Court takes the following action:

a. Conduct an expedited hearing, if necessary, and issue Pope's proposed Scheduling Order;

b. Disregard or deny all attempts to delay or stay this or the FOIA cases;

c. Schedule expedited hearings on the merits in the FOIA cases;

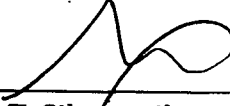
d. Dismiss the Complaint of any Plaintiff who refuses to appear at deposition as scheduled;

e. Hear and grant Pope's motions for summary judgment.

This Return and Opposition is supported by all affidavits filed by Pope in this and the FOIA cases; the depositions referenced herein; and such memoranda and additional supporting documents as she may file prior to the hearing on this matter.

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



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1901 Hampton Street
Post Office Box 1898
Columbia, South Carolina 29202-1898
Telephone: (803) 779-1770
Facsimile: (803) 403-8092
adam@silvernaillawfirm

March 29, 2013

Attorneys for Defendant Adele J. Pope

EXHIBIT A
S·W·B

SWEENY WINGATE & BARROW P.A.

March 27, 2013

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x121
mvg@swblaw.com

VIA EMAIL AND U.S. MAIL

Honorable L. Casey Manning, Jr.
Circuit Court Judge
Richland Judicial Center
1701 Main Street, Room 214 (2nd Floor)
Post Office Box 192
Columbia, SC 29202-0192

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

Dear Judge Manning:

This letter is in response to your recent request for a written status report on Case 4900 and the related FOIA matters.

As to Case 4900, it is the Plaintiffs' position that the recent South Carolina Supreme Court ruling concerning the James Brown Estate Settlement Agreement and the removal of Ms. Adele Pope as Personal Representative and Trustee has created significant uncertainty among the Plaintiffs' group.

This uncertainty does not alter the fact that the Plaintiffs still have active and substantial claims against Ms. Pope, but does raise issues as to the capacity in which the Plaintiffs will continue Case 4900 and whether Sweeny, Wingate & Barrow, P.A. will be able to continue their representation as a group. These significant matters will not be resolved at the earliest until the cycle of Petitions for Rehearing in the Supreme Court are either denied or heard and decided and remittitur issues and possibly not until the will contests are re-litigated in Aiken County.

Therefore, the Plaintiffs would respectfully request that all matters in Case 4900 be stayed until these important issues are resolved.

As to the FOIA issues, the Plaintiffs' position is that each of the groups of documents at issue, the Sweeny, Wingate & Barrow, P.A. Fee Agreement and the Legacy Trusts documents,

800

March 27, 2013

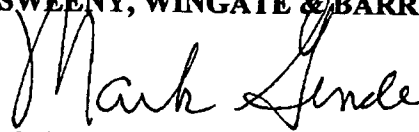
Page 2 of 2

are subject to pending discovery disputes in Case 4900. We do not believe that any decision can be made in the FOIA matters until the discoverability of these documents has first been determined in Case 4900, because if these documents are deemed privileged or otherwise protected then they are exempt from discovery under FOIA. As we have stated many times, it is our position that the Defendant is seeking to use FOIA simply as a means to do an end run around of the Rules of Civil Procedure governing Case 4900.

Should the Court have any questions concerning this update, I am available to answer those questions at the Court's convenience.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in dark ink, appearing to read "Mark V. Gende", is written over the printed name.

Mark V. Gende

MVG/lda

cc: J. Emory Smith, Jr., Esquire
Adam T. Silvermail, Esquire
Daryl L. Williams, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of
the James Brown 2000 Irrevocable Trust, etc.
and others,

and

HENRY DARGAN MCMASTER, in his
capacity as Attorney General of the State of
South Carolina; and others,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

)

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

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

STATUS REPORT

OF

DEFENDANT ADELE J. POPE

2013 APR - 1 PM 3:33

By direction of the Honorable L. Casey Manning on March 18, 2013 Defendant Adele J. Pope submits this report of the status of this case in light of the S. C. Supreme Court decision issued February 27, 2013 in Aiken County Case 2008-CP-02-1647 and subsequent events.

Summary of Status and Relief Requested

This report may be summarized as follows:

1. Attorney General Wilson's recent confirmation that the AG's Office is not represented by Plaintiffs' counsel herein and that the AG intends to seek to withdraw from this case substantially reduces its complexity.
2. A Scheduling Order requiring attendance by all parties at noticed depositions is essential to the progress of this nearly-3-year-old case.
3. An attached proposed Scheduling Order would resolve more than twenty-five pending discovery motions and responses, allowing this case to be ready for trial by early 2014.
4. Long anticipated changes in parties or counsel should not delay discovery or trial of this case.

These matters are discussed in more detail below.

History of Case

This case was filed on May 19, 2010. A jury trial was demanded.

Plaintiffs sued Buchanan and Pope alleging (1) breach of trust and (2) breach of fiduciary during their service as PRs under the Will of entertainer James Brown and trustees of his 2000 Irrevocable Trust between November 20, 2007 and May 26, 2009.

Defendants answered and counterclaimed alleging (1) abuse of process; (2) Interference with contracts; (3) Fraud under Section 62-1-106; and (4) Civil Conspiracy.

Discovery has languished for two years.

The S. C. Supreme Court's decision of February 27, 2013 affects certain aspects of this case, including a 2011 Newberry case brought under the South Carolina Freedom of Information Act ("FOIA") and consolidated with this case in 2012.

A Scheduling Order Should be Issued

All parties have requested that this Court issue a Scheduling Order. Plaintiffs' proposed order, however, did not address the primary issue delaying this case: the refusal of Tommie Rae, Terry, Venisha, Deanna and Yamma to appear at depositions noticed and scheduled over the past two years.

The proposed Scheduling Order attached hereto as Exhibit A and presented separately to the Court with this report should:

- a. Resolve more than 25 pending discovery motions;
- b. Set a reasonable time for all Party depositions to be completed;
- c. Make document discovery, consisting primarily of already-public documents, easy.
- d. Have this case ready for trial by early 2014.

The FOIA Case Should be Severed and Heard

In its February 27 opinion the Supreme Court recommended that Defendant Pope's FOIA cases against the AG, including a case consolidated with this case in 2012, be considered "in the first instance."

The AG's recent announcement that counsel of record in this case does not represent the AG, and that the AG will seek to withdraw from this case, makes consolidation improvident.

Pope's two FOIA were transferred to Richland County from Newberry County over her objection.

This Court should *sua sponte* sever the consolidated FOIA Case so that both FOIA cases can be heard as soon as possible.

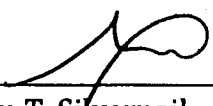
Changes in Parties or Counsel Should Not Delay Discovery or Trial

The February 27 Supreme Court decision prompted AG Wilson's announcements discussed above. Like other litigants, however, the AG must appear with new counsel and move to take the action he proposes. He must also face or resolve his pending motions and those pending against him, including Summary Judgment.

All parties including the AG have been on notice for more than a year that there might the AG might no longer be a party and that this could result in changes of counsel. These changes should not delay discovery or trial.

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



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1901 Hampton Street
Post Office Box 1898
Columbia, South Carolina 29202-1898
Telephone: (803) 779-1770 m
Facsimile: (803) 403-8092
adam@silvernaillawfirm

March 25, 2013

Attorneys for Defendant Adele J. Pope

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON
)
) 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 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 children, Sydney
L., Carrington L., 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 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 children, SYDNEY
L., CARRINGTON L., and
TONYA BROWN; VENISHA BROWN;
LARRY BROWN; and TERRY BROWN,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

SCHEDULING ORDER

Based on the representation of all parties that a Scheduling Order is needed in this 3-
year old complex case, this Court orders as follows:

Depositions

1. Parties who have not been deposed shall appear upon 10 days' notice as follows:
 - a. On or before May 31, 2013: Tommie Rae Brown; Terry Brown; Deanna B. Thomas and Adele Pope;
 - b. Within 30 days thereafter (before June 30, 2013): Yamma Brown; Lindsey Brown; Venisha Brown;
 - c. Within 30 days thereafter (before July 31, 2013): Russell Bauknight; Jason Brown, and Guardians *ad Litem* (GALs) for all minor parties.
2. Plaintiffs' counsel shall present orders for appointment of GALs for all minors and the incarcerated Plaintiff before their depositions.
3. Counsel for Venisha Brown shall forthwith present this Order to the Warden where she is incarcerated, and notify the Court and counsel of any additional requirements necessary to schedule her deposition.
4. Except for personal emergencies, all Parties shall appear at depositions as noticed.
5. If a Party fails to appear at deposition, his or her counsel must provide deposing counsel with 2 alternate dates within 2 weeks of the scheduled deposition when he or she will appear.
6. Non-party depositions shall be completed by October 31, 2013.

Document Production

7. Counsel for Plaintiffs¹ may view all nonprivileged documents of Defendant Pope on 3 consecutive days in April 2013, to be designated by Pope within 10 days of this Order.
8. Counsel for Defendant may view all nonprivileged documents of Plaintiffs on 3

¹ Counsel may be accompanied by one or more clients.

consecutive days in May 2013, to be designated by Plaintiff Bauknight within 10 days of this Order.

Expert Witnesses

9. Plaintiffs shall produce all expert witness names, addresses and opinions on or before August 1, 2013.

10. Defendant shall produce all expert witness names, addresses and opinions within 120 days of receipt of the last opinion of Plaintiffs' experts.

11. A party desiring to depose an expert shall do so within 120 days of receipt of such expert's opinions.

Admonition to Parties to Cooperate with Discovery

12. The purpose of this Order is to direct the completion of discovery in a prompt and orderly manner so that this case, if not settled, may proceed to trial.

13. Each party is directed to comply with the schedule set out herein, and to cooperate fully with discovery.

14. On or before October 1, 2013, counsel for Plaintiffs and Defendant shall hold a discovery conference and report to this Court:

- a. The failure of any Party to comply with discovery which cannot be resolved in good faith;
- b. A privilege list by each Party of all documents NOT produced at the request of the opposing party and the legal basis for refusal to produce.
- c. A complete list of all unresolved discovery motions, with date of filing.

15. Any party who fails to cooperate fully with discovery as set out in this Order shall be subject to sanction by this Court.

Dispositive Motions

16. All dispositive motions shall be filed within 30 days after the conclusion of the party and expert witness depositions.

Trial

17. Trial shall take place on or after February 1, 2014

Addition and Withdrawal of Parties and/or Counsel

18. All parties have been on notice for more than a year that one or more parties or counsel may withdraw, be added, or terminated. No change in counsel or parties shall delay the schedule as set out herein.

Severance of Freedom of Information Act ("FOIA") Case

19. The Attorney General of South Carolina ("AG") has given notice that he is not represented by Plaintiffs' counsel of record in this case and that the AG intends to seek to withdraw from the case.

20. As a result of the AG's said notice, this Court finds that the FOIA case in which the AG is Defendant should be immediately severed from this case, to proceed to hearing in the first instance.

AND IT IS SO ORDERED.

L. Casey Manning, Presiding Judge

Columbia, South Carolina
March , 2013

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; 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 ~~Lamar~~ and Carrington ~~Lamar~~; 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; 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 ~~Lamar~~ and CARRINGTON ~~Lamar~~; 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-40-49

**MOTION TO BE RELIEVED AS
COUNSEL**
(As To The Attorney General Only)

JEANETTE W. MCBRIDE
C.C.P. & G.S.

2013 MAY 10 PM 2:51

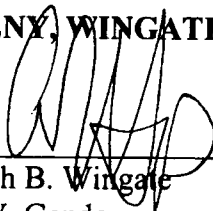
RICHLAND COUNTY
FILED

**TO: ADAM T. SILVERNAIL, ESQUIRE AND DARYL L. WILLIAMS, ESQUIRE,
ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-
NAMED:**

YOU WILL PLEASE TAKE NOTICE that the undersigned intends to move, and does hereby so move, for an Order from the Court relieving Sweeny, Wingate & Barrow, P.A. as Counsel of Record for the Attorney General of the State of South Carolina in this matter. This Motion is made pursuant to Sweeny, Wingate & Barrow's understanding that the Attorney General no longer wishes to utilize its services as counsel in this case.

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

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

May 10, 2013

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 B[REDACTED]; 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 L[REDACTED] and Carrington L[REDACTED]; 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[REDACTED]; 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 L[REDACTED] and CARRINGTON L[REDACTED]; 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

2014 APR 23 AM 9:42
JEREMY
CLERK
CLERK

MOTION TO STAY

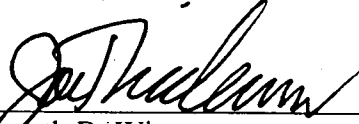
YOU WILL PLEASE TAKE NOTICE the undersigned, as attorneys for the Plaintiffs, will move before the presiding Judge of the Richland County Circuit Court, at the Richland County Courthouse on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for an Order granting a stay of the case.

The grounds for the motion are that, subsequent to the South Carolina Supreme Court's decision in Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013), substantial uncertainty remains with respect to the composition of the plaintiffs' group, the potential for conflicts among the group members, and the capacity in which Sweeny, Wingate & Barrow, PA will be able to continue representing the group. These issues will not be resolved until the various Aiken County will contests that were revived by Wilson v. Dallas are resolved with finality.

Plaintiffs request that the Court stay this matter until such time as the various Aiken County will contests are resolved with finality.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
Mark V. Gende
Joseph O. Thickens
Sweeny, Wingate, & Barrow, P.A.
Post Office Box 12129
Columbia SC 29211
(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

April 22, 2014

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 Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina and others

and

HENRY DARGAN MCMASTER, in his
capacity as Attorney General of the State of
South Carolina; and others,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

)

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

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

MOTION OF ADELE J. POPE
FOR SUMMARY JUDGMENT,
DAMAGES AND OFFSET AS TO
TONYA BROWN, DARYL BROWN,
VENISHA BROWN AND RUSSELL
L. BAUKNIGHT AS THEIR AGENT

2015 MAY 29 PM 1:01
JEANETTE W. NEGRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

TO: VENISHA BROWN, DARYL BROWN, and TONYA BROWN, and RUSSELL L. BAUKNIGHT,
AS AGENT for each of said PLAINTIFF/COUNTERCLAIM DEFENDANTS ("Bauknight"), and
their counsel:

YOU WILL PLEASE TAKE NOTICE that ten days after service hereof, or as soon
thereafter as she may be heard, Defendant/Counterclaim Plaintiff Adele J. Pope ("Adele")
will move for an Order granting summary judgment in her favor as to all claims by and
counterclaims of VENISHA BROWN ("VENISHA"), DARYL BROWN ("DARYL"), TONYA
BROWN, a/k/a Tonya Brown Fegan ("TONYA"), and RUSSELL L. BAUKNIGHT AS THEIR
AGENT ("BAUKNIGHT"), as follows:

1. Summary Judgment in favor of ADELE as to all claims of VENISHA, TONYA and
DARYL against ADELE in the complaint, and Summary Judgment, joint and

several, against said parties on all of ADELE's counterclaims, with attorneys' fees;

2. Actual Damages in the Amount of no less than \$4.3 million, with prejudgment interest on all liquidated amounts, and interest on the judgment until paid in full;
3. Punitive Damages against BAUKNIGHT, Individually, as agent for VENISHA, TONYA and DARYL, in an amount to be determined by the jury.
4. Equitable Offset against the entire interest and/or entitlement of VENISHA, TONYA, DARYL and BAUKNIGHT in the Estate of James Brown, the James Brown 2000 Trust, the James Brown Legacy Trust ("Legacy Trust"), and/or any other James Brown Entity, to be paid from the first monies available.
5. Offset of and/or against the Federal Copyright Act Termination Rights, and proceeds and products of said Termination Rights, of VENISHA, TONYA, DARYL and/or Plaintiff Legacy Trust, and/or BAUKNIGHT as its trustee and/or successor in interest, as to *Please, Please, Please* and/or any other copyrights whose Termination Rights become subject to vesting prior to judgment.

The grounds of this motion are that under Rule 56 SCRPC considering the undisputed facts, the admissions of the parties, and the disputed facts viewed in the light most favorable to the non-moving parties, ADELE is entitled to judgment as a matter of law as to the complaint and her counterclaims against VENISHA, TONYA and DARYL for Abuse of Process, Civil Conspiracy, Fraud under S.C. Code Ann. §62-1-106, Intentional Interference with Contract and Attorneys' fees. Those admissions and facts include:

- a. James Brown died December 25, 2006 leaving a worldwide music empire.
- b. Brown owned both "Royalties," copyrights to approximately 892 songs, and "Publicity Rights," the right to exploit his image and persona.
- c. Within weeks the Honorable Doyet A. Early, III ("Jg. Early") had been advised by Tommie Rae Hynie ("Hynie") that Brown copyrights alone might be worth \$100 million. [A Royal Bank of Scotland (RBS) professional had valued them at \$42 million in 2006.]
- d. The copyrights of songwriter Harlan Howard, who died in 2002, had recently been valued by the IRS in his estate tax proceeding without an official appraisal at 8 x annual royalties. The 8 was the number of years a song was estimated

to endure.

e. Considering the \$800,000.00 of royalties taken by Brown's trustee David Cannon in 2006, Brown's royalties exceeded \$3 million dollars each year from 2000 until his death.

f. In addition Brown's road show revenues from 2003 - 2006 were approximately \$18 million. Rodney Peeples, Esq., advised the Court that Brown's annual shows in Europe grossed a million dollars a week.

g. Songwriter Howard had no publicity rights of value. By contrast, according to his trustee Albert "Buddy" Dallas, Brown's image worldwide was almost as well-known as the Pope's.

h. Brown's death certificate shows that his last spouse was Adrienne Rodriguez, who died in 1996.

i. In both his 2000 estate plan and 1999 backup estate plan, Brown left his entire music empire to The James Brown "I Feel Good" Trust, to be used exclusively for scholarships for needy students.

j. Brown left a voice tape, made prior to the execution of the 1999 will, confirming his desire to give back to support education.

k. DARYL worked with James Brown; had discussed his estate plan with him; and knew that Brown's intention to create a trust for the education of needy students was Brown's often stated and well-known desire.

l. VENISHA was present with Hynie when Brown's estate plan was executed in 2000, and she and TONYA had also spoken with Brown about his estate plan.

m. From Brown's death until August 10, 2010, VENISHA, DARYL and TONYA repeatedly confirmed that Hynie was not Brown's spouse.

n. With knowledge of the above facts, on or about January 9, 2007 VENISHA, DARYL and TONYA contracted with Louis Levenson, Esq. ("Levenson"). With others, they agreed to pay Levenson \$150,000 plus 30% of what he could get them of James Brown's assets.

o. Levenson served as agent and attorney for VENISHA and TONYA from January 2007 until at least 2014. Levenson served as attorney of record and agent for DARYL for the same period, although DARYL asserted at various times that he had terminated Levenson.

- p. On January 26, 2007 VENISHA, DARYL and TONYA, with others, filed suit to restrain and remove Brown's original original trustees, Cannon, Dallas and Al Bradley. The Petition was transferred to the Aiken County Circuit Court and became Aiken Case 2007-CP-02-0122 ("Case 122")
- q. On March 7, 2007, nominated by VENISHA, DARYL, TONYA, and others, ADELE, became a non-fiduciary special administrator (SA) of Brown's estate, with Robert Buchanan, Jr. ("BOB").
- r. In March 2007 Tom Wells discovered Hynie's handwritten notes discarded in Brown's Beech Island home. The Hynie notes confirmed that Brown refused to marry Hynie after he learned she had concealed her marriage to another when they had a 2001 ceremony.
- s. By Order of Jg. Early dated August 10, 2007 Hynie's notes and eighty boxes of other Brown Historical Documents were made public, giving all access to 30 years of Brown financial, business and personal records.
- t. In the fall of 2007 it became public that in 1999 Cannon had cashed the "\$5 Million check to nobody." By February 2008, Brown's Estate and 2000 Trust had sued the Cannon trustees to recover \$13+ million missing since 1999.
- u. On November 14, 2007 BOB and ADELE asked Jg. Early to approve valuing Brown's Copyrights and Publicity Rights on the Estate Tax Return as follows:

VALUE = $(12 \frac{1}{2} - 14) \times$ annual royalties PLUS annual road show revenues.
- v. Neither Attorney General Henry McMaster nor anyone else objected to the valuation formula.
- w. In an Inventory & Appraisement (I&A) filed November 15, 2007 Brown's Personal Representatives, Dallas and Bradley valued Brown's assets at \$100 million, less a debt to the NY teachers ("TIAA") of about \$15 million.
- x. The I&A valued Brown's Publicity Rights at about \$46 million, and his tangible personal property ("TPP") at \$2 million.
- y. The TIAA debt was reduced to \$11 million by 2009 and paid in full in 2011.
- z. By Order of Jg. Early dated November 20, 2007, BOB and ADELE were appointed PR/Trustees under Brown's Will and the 2000 Trust. All of their acts were joint.
- a. On December 26, 2007 VENISHA, DARYL and TONYA filed suit to set aside

Brown's estate plan and establish an Administration in Intestacy.

aa. By Order of Jg. Early dated January 8, 2008, without objection of VENISHA, DARYL or TONYA, ADELE was awarded \$217,000 in SA fees and ongoing payments as PR/Trustee. The amounts bear interest at the legal rate if not paid within 60 days. On May 26, 2009 Adele was due \$47,972 in SA fees and \$1,473,550 toward her fees for service as PR/Trustee. Interest has accrued at 8 3/4% on that amount for six years.

ab. In the January 8 Order, and orders dated February 20, March 7, April 1, and April 8, 2008 in Case 122, Jg. Early praised the service of Buchanan and Pope, finding their actions since March 7, 2007 to be both appropriate and ethical. Those order are binding on DARYL, VENISHA and TONYA.

ac. Throughout 2008 Levenson called to the attention of the Court the improper acts of David Bell, Esq., ("Bell"), including filing six false grievances and making the false claim that the Levenson contract contained a forgery.

ad. By Order dated April 8, 2008 Cannon, Dallas and Bradley were ordered to pay the attorneys' fees and costs of Case 122.

ah. In early 2008 Christie's appraised Brown's household goods (excluding his fleet of automobiles, band uniforms and certain music items) at about \$1.4 Million. A professional appraisal appraised the Beech Island estate and other real estate at about \$1.2 Million.

ai. Under authority of the Feb. 20 Order, DARYL, TONYA and VENISHA bought Brown's father's house.

aj. In the spring of 2008 ADELE spent a day with TONYA and others to give them an opportunity to ask to hold items back from the Christie's sale of about 350 of the thousands of items owned by Brown. TONYA, DARYL and VENISHA did not timely ask that any item be withheld.

ak. On or about March 12, 2008 DARYL, VENISHA and TONYA filed documents seeking to delay or stop the Christie's sale. They did not request that the GRAMMY© or any other specific item be withheld.

al. In his Order dated April 1, 2008 Jg. Early found that DARYL, VENISHA and TONYA had interfered with the Christie's sale in violation of his February 20, 2008 Order, but that they had not yet caused any damage. He directed that BOB and ADELE sign the Chritie's contract, with the GRAMMY © listed.

ap. On July 9, 2008 Dallas and Bradley asked the S. C. Court of Appeals

to stop the Christie's sale. AG McMaster, Christies, BOB and ADELE asked that the sale proceed. The catalogue with the GRAMMY © was filed with the Court of Appeals.

aq. On July 14, 2008, the Honorable Jasper Cureton directed that the Christie's sale scheduled for July 17 go forward.

ar. The Christie's sale of about 350 items grossed over \$770,000.00.

aq. Levenson, and Yamma Brown attended the sale, and Levenson was present when BOB and ADELE decided to withdraw the GRAMMY© from the sale without penalty.

ar. Under Jg. Early's orders the GRAMMY and thousands of other items were placed in museums for safekeeping pending the outcome of the Will contests.

au. BOB and ADELE also properly packed and shipped by secure storage more than 45 boxes of music and music memorabilia to a secure sound storage facility in Nashville, Tenn.

av. On July 28, 2008 BOB and ADELE filed a motion in Case 122 to charge Dallas and others with the legal fees incurred from interference with the Christie's sale. The motion is still pending.

aw. On August 10, 2008 TONYA, DARYL and VENISHA agreed to a settlement with the AG and others which dismembered the "I Feel Good" Foundation.

ay. TONYA, DARYL and VENISHA claimed the "Settling Parties" were Brown's sole heirs; stipulated that Hynie was Brown's wife; stopped the Estate's official DNA-testing program for non-presumed heirs; and agreed to work together to defeat the interest of all hers and others who opposed the settlement.

az. DARYL, TONYA and VENISHA knew at the time:

1. Hynie was not Brown's spouse;
2. James B. had refused the Estate's official DNA protocol;
3. Jeanette Mitchell, Nicole Parris and La Rhonda Pettit were DNA-proven children of Brown, acknowledged by the Estate in 2007.
4. Michael Deon Brown, imprisoned, was seeking DNA testing.
5. Lisa Brown was acknowledged as Brown's daughter in his first divorce.

6. DARYL claims Brown has at least 3 children in Europe. They, and others, were being identified in Case 2008-CP-02-0872, commenced by TONYA, DARYL and VENISHA, with others, on December 23, 2007.

bc. On September 24, 2008 BOB and ADELE filed the Estate Tax Return, valuing the music empire at \$84 Million.

bd. On May 26, 2009, over objection of BOB and ADELE, the settlement was approved by Jg. Early. BOB and ADELE appealed.

bf. In March 2009 BOB and ADELE wrote AG McMaster raising concerns that, because Terry had been given a right of first refusal to buy the music empire (the "ROFR"), the settling parties would try to devalue the assets.

bk. In June BOB and ADELE turned over 145 boxes of public documents to RUSSELL. Their accounting claimed \$99 million of assets were delivered to RUSSELL. A protective claim showed that as of May 26, 2009 each was owed the amount set out above under the January 8, 2008 Order, and certain additional fees and costs. For their entire service, estimated to take several additional years, BOB asked for PR/Trustee commissions of approximately \$2.1 million and ADELE approximately \$2.8 million.

bm. On August 30, 2009 Hynie's attorney Alan Medlin, Esq. wrote the AG, Levenson and others and said, in part:

Attached please find a case hot off the press dealing with tax valuation issues of the second greatest country music songwriter (after Hank Williams)...[Harlan Howard]

It is a treasure trove of information for us, including (1) the method of valuation for songwriter royalties includes an average of some prior years royalty stream multiplied by a multiple (somewhere between 5 and 8 seems reasonable based on the opinion); (2) names of some experts; (3) the Service accepted the multiple of 8. Based on the info in the opinion, Bobadele has [sic] grossly overvalued the estate for 706 purposes. The opinion deals only with royalties and not image and likeness, which apparently was inapplicable to the decedent songwriter. Of course, among ourselves, we are not sure we have the right to image and likeness under SC law, so any separate valuation of that should be discounted accordingly.

bn. On March 22, 2010 Medlin told BOB's attorney Elizabeth Gray, Esq., that AG Sonny Jones had engaged Ken Wingate and would sue if BOB and ADELE did not drop the appeal. BAUKNIGHT's attorney also advised James Richardson, Esq., that a

suit would be filed if the appeal were not dropped.

bp. On May 18 and 19, 2010 Levenson, Bell, BAUKNIGHT and counsel for Hynie signed the contract with Sweeney, Wingate and Barrow, P.C. ("SWB"); authorized the complaint; and filed this suit. (Case 4900"). Sweeney, Wingate & Barrow is the sole counsel for all Plaintiff/Counterclaim Defendants.

bq. The filing of the complaint caused BOB and ADELE to lose their professional liability insurance and to be sued by their carrier. The filing and continuation of the suit have rendered ADELE virtually unable, for five years, to serve as an expert witness, counselor, or mediator, or to obtain professional liability insurance, causing a loss of no less than \$300,000 per year.

cb. On or about May 6, 2011, DARYL, VENISHA and TONYA and RUSSELL, with the AG, asked the S.C. Supreme Court to supplement the record on appeal (ROA) in what became *Wilson v. Dallas* to value Brown's TPP at \$0.5 million and the music empire at \$4.7 million. The Supreme Court declined the motion.

cc. Since 2011 DARYL, VENISHA, TONYA and RUSSELL, with knowledge of its falsity, have claimed to the Supreme Court that ADELE is seeking a \$5 million commission for service to a \$5 million estate. They have also claimed Hynie is Brown's spouse.

cd. The purposes of the South Carolina Probate Code, S.C. Code Ann. § 62-1-101, *et seq.*, include "to discover and make effective the intent of a decedent in the distribution of his property," and the false representations to the Courts made by DARYL, VENISHA, TONYA and RUSSELL as their agent have been with the intention that the Courts rely on the statements and not carry out James Brown's wishes. The Courts have relied on the statements, and ADELE and BOB have been damaged thereby.

ce. Article V of Brown's Will, which provides education trusts for seven of Brown's grandchildren, including two daughter of DARYL, provides in relevant part:

ARTICLE V

Continuance of The Brown Family Education Trust and The James Brown "I Feel Good" Trust. Upon the death of the Grantor, the Trustee shall divide the remaining Trust Estate...into Two (2) separate shares... The two shares shall be equal, subject only to the generation-skipping limitation imposed on **The Brown... Trust** by the maximum available generation-skipping transfer exemption as computed by the following formula. **The Brown ...Trust** shall be a fraction of the Trust Estate... the numerator of which shall be an amount equal to the Grantor's available generation-skipping transfer exemption as

hereafter defined and the denominator shall be an amount equal to the value of the Trust Estate. **For purposes of establishing such fraction the values as finally determined in the Grantor's federal estate tax proceedings shall be used.** The Grantor recognizes that the numerator..may be zero.,**The Grantor also recognizes that the numerator of such fraction may be equal to or greater than the denominator, in which case the entire Trust Estate shall be distributed to The Brown Family Education Trust.**

cf. Under the above formula, with Brown's assets at \$100 million, the trust share of each of 7 grandchildren is about \$285,000. Under the value claimed by DARYL, VENISHA, TONYA and BAUKNIGHT, the seven would be entitled to more than a third of the assets Brown gave to the 2000 Trust, depriving the "I Feel Good" Foundation of 1/3 or more of its assets for up to 20 years.

cg. Since 2010 DARYL has fired Levenson; "kissed and made up;" and fired Levenson a second time. He is now represented by David B. Bell, Esq. ("Bell") in certain matters.

cq. Before this suit was filed, DARYL did not sign the 40% contingency fee contract, and did not review the complaint. He simply went along with whatever Levenson did. The same is true of TONYA.

cs. Since 2011 DARYL, TONYA, VENISHA and BAUKNIGHT as their agent have intentionally interfered with ADELE's FOIA rights; attempted to intervene in FOIA cases; and attempted to conceal public documents, including the Wingate 40% Litigation Retention Agreement; and the \$4.7 million appraisal.

ct. DARYL, TONYA and VENISHA have made other false and misleading statements to multiple courts.

cu. On March 26, 2014 Bell appeared in certain James Brown cases as attorney for TONYA. At the same time Bell was, through representation of multiple claimed heirs, attempting to siphon off Termination Rights agreements which properly belonged to the Estate/"I Feel Good" Trust, without meaningful opposition from David Sojourner, Esq., who is appointed as Limited Special Administrator at BAUKNIGHT's request.

cv. Both DARYL and TONYA have withdrawn their challenges to the Will of James Brown and confirmed its validity. TONYA, however, recently attempted to withdraw her withdrawal.

cw. On May 22, 2015, TONYA admitted to the S.C. Supreme Court that, but for the appeal of BOB and ADELE, she would never have been declared an heir.

Supporting Documents

This Motion is supported by the Affidavit of Adele J. Pope filed herewith, the depositions of TONYA and DARYL and the complete record of *Wilson v. Dallas*, 743 S.E.2d 746 (2013), and pending Appellate Case Nos. 2013-001649 and 2014-000250, of which the Court is asked to take mandatory judicial notice under Rule 201 SCRE. It is also supported by such additional affidavits and documents as shall be properly provided to the Court prior to the hearing on this matter.

Respectfully submitted,



Adam T. Silvernail, Esquire
Moses & Brackett
1333 Main Street, Suite 260
Columbia, South Carolina 29201
Telephone: (803) 461-2328
Facsimile: (803) 461-2309
asilvernail@mkb-law.com

May 28, 2015

Attorneys for Defendant Adele J. Pope

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; 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 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.; 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 L. and CARRINGTON L.; 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

**PLAINTIFFS' MOTION FOR
EXCEPTION TO PHYSICAL
PRESENCE RULE AT MEDIATION
(Expedited Hearing Requested)**

RICHLAND COUNTY
FILED
2015 AUG -6 PM 12:16
JANETTE
COURT CLERK

TO: ADAM SILVERNAIL, ESQUIRE, DARYL WILLIAMS, ESQUIRE, ATTORNEYS
FOR DEFENDANT

YOU WILL PLEASE TAKE NOTICE that Plaintiffs in the above-referenced action intend to move, and hereby so move, for an Order from the Court allowing the mediation of this matter to proceed with certain Plaintiffs absent. This Motion is made pursuant to the provisions of Rule 6(b) of the Court-Annexed Alternative Dispute Resolution Rules. By Order signed and filed on January 20, 2015, this Court in conjunction with Judge Early in Aiken County Case 1337 ordered the parties to conduct mediation. Though the Order was temporarily stayed by the Supreme Court, mediation is again tentatively scheduled for October 22, 2015.

For travel, distance, family, and/or other reasons, several of the adult Plaintiffs may not be able to physically attend the mediation of this matter. Furthermore, none of the minor Plaintiffs will be able to attend (nor should they be required to attend) the mediation due to school schedules. However, all Plaintiffs will be represented by personal counsel who will be physically present at the mediation with full authority to act on behalf of their clients.

Plaintiffs represent that none of these issues will impede the ability to negotiate toward a full settlement of this case, if one can be reached. Therefore, Plaintiffs hereby request that the Court order the mediation conducted pursuant to the January 20, 2015 Order to proceed with certain of the individual Plaintiffs absent. **The Court's waiver of the physical presence requirement would be consistent with its previous order in this case, attached as Exhibit A, which ordered identical relief.**

Plaintiffs have attempted to resolve this issue through the consent of Defendant Pope and the Mediator. The Mediator is agreeable to the excusal of the personal attendance requirement, but Pope objects.

Plaintiffs reserve the right to supplement this Motion with a Memorandum of Law, Affidavits, or any other information that may be proper.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in black ink, appearing to read 'K. Wingate', is written over a horizontal line.

Kenneth B. Wingate

Mark V. Gende

Joseph O. Thickens

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

August 4, 2015

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Adele J. Pope,

Plaintiff,

v.

Alan Wilson, in his capacity as
Attorney General of South Carolina,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2010-CP-40-4900

**Plaintiff's Return and Opposition to
Motion of Sweeney, Wingate & Barrow
to Stay and Request for Expedited
Hearing on Summary Judgment**

2014 APR 29 PM 3:56

Plaintiff Adele J. Pope responds to and opposes the motion of Sweeney, Wingate & Barrow, P.A. ("Wingate"), dated April 22, 2014,¹ and requests that the Court hear her pending motion for summary judgment as to all claims at its earliest convenience, as follows:

1. Plaintiff incorporates by reference her Return and Opposition to Motion to Stay filed in *Bauknight vs. Pope* today, along with the affidavit filed therewith.
2. Plaintiff respectfully asks that this matter proceed to a hearing as soon as possible, as these claims under the FOIA have been pending for more than 30 months. The Attorney General has indicated his willingness to appear at a hearing as soon as one is scheduled, and Wingate should not be allowed to delay this action and deny Plaintiff's rights under the FOIA.
3. Although the AG sought and obtained consolidation of this action with *Bauknight vs. Pope*, he has now asked to be removed from that case. In light of his request, Plaintiff

¹ The Motion is captioned *Bauknight, et al, vs. Pope*, but this FOIA action has been consolidated with that matter at the request of the AG. Further, Wingate has sought - purportedly on behalf of over a dozen clients - to intervene in this action.

asks that this matter be immediately severed and a hearing held on her pending motion for summary judgment.

4. Further delay in this long-pending case will serve only to deny Plaintiff her FOIA rights and will cause her irreparable harm. Because the AG is the only proper defendant in this action, and he consents to a hearing, there is no reasonable basis for further delay in this matter.

Plaintiff respectfully asks that the Court deny the request for stay and set her pending motion for summary judgment for hearing at the Court's earliest convenience. This Return and Opposition is based on the Affidavit of Adele J. Pope filed herewith, the entire record in this matter, and such additional affidavits and/or memoranda as shall be filed prior to a decision on this matter.

Respectfully submitted,



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1901 Hampton Street
Post Office Box 1898
Columbia, South Carolina 29202-1898
Telephone: (803) 779-1770
Facsimile: (803) 403-8092
adam@silvernaillawfirm

April 29, 2014

Attorney for Plaintiff

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 B.; 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
L., Carrington L., 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 B.; 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
L., CARRINGTON L., and
TONYA BROWN; VENISHA BROWN;
LARRY BROWN; and TERRY BROWN,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

DEFENDANT ADELE J. POPE'S MOTION
TO ALTER, AMEND AND/OR VACATE
ORDER GRANTING PLAINTIFFS'
MOTION TO SET ASIDE DEFAULT

2015 OCT 20 PM 4:15
CLERK OF COURT
JANET M. HARRIS

TO: PLAINTIFFS AND/OR THEIR COUNSEL.

Please take notice that Defendant Adele J. Pope, through her undersigned counsel,

moves the Court for an Order altering, amending and/or vacating this Court's October 12, 2015 Order Granting Plaintiffs' Motion to Set Aside Default. The grounds of this motion are set forth below.

BACKGROUND

1. This action was commenced by the filing of a Summons and Complaint in the Richland County Probate Court on May 19, 2010 and subsequent service on Defendants Robert L. Buchanan, Jr. and Adele J. Pope. This matter was subsequently removed to the Circuit Court.
2. Defendants filed and served their Answer and Counterclaim on September 30, 2010.
3. Plaintiffs did not file a response to the counterclaims, and Defendants filed an Affidavit of Default on November 10, 2010.
4. Thereafter, Plaintiffs filed a Motion for Relief from Default on November 16, 2010, with an attached Affidavit of Kenneth B. Wingate, Esquire, and a proposed Reply to Counterclaims.
5. Plaintiffs' counsel acknowledged having received the Answer and Counterclaim, but explained that he "did not recognize it as a counterclaim." (Affidavit of Kenneth B. Wingate)
6. Defendants opposed Plaintiffs' motion to be relieved from default and filed memoranda asserting that Plaintiffs had failed to show "good cause" for relief as required by Rule 55(c).
7. After the December 17, 2012 hearing on the motion, certain Plaintiffs announced their termination of Wingate as their counsel herein, and Wingate moved to be relieved as counsel for the South Carolina Attorney General.¹

ARGUMENT

- I. **Wingate Lacks Authority to Seek Relief from Default for Certain Plaintiffs**
8. As an initial matter, the Court erred in failing to consider and/or find that Wingate lacks authority to speak for certain Plaintiffs herein. Specifically, Wingate has moved to be relieved as counsel for the AG on the basis that the AG has terminated

¹ The AG has also asserted in other litigation that he is not a party to this action, although he has filed a "motion to be dropped as a party" herein. Defendant Pope opposes this motion, and it has not been heard or decided.

Wingate's services. No other counsel has yet filed a notice of appearance for the AG, however, and Wingate's motion to be relieved as counsel has not been heard.

9. Further, Plaintiff Daryl Brown has announced his termination of Wingate as his counsel, although no other counsel has made an appearance on his behalf in this case. Terry Brown, through an assignee, has also announced his termination of Wingate.
10. Plaintiff James Brown Legacy Trust has announced through its counsel Lewis, Babcock & Griffin, LLP, in other litigation its position that it no longer exists. The AG has also taken the position that the Legacy Trust does not exist "at this time." Neither Wingate nor other counsel for the Legacy Trust has sought to remove it from this case, and the Legacy Trust remains subject to Pope's counterclaims herein. What is clear is that Wingate lacks authority to seek relief for the Legacy Trust at this time.

II. No "Good Cause" has Been Shown which would Entitle any Plaintiff to Relief from Default.

11. In addition, the Court erred in failing to consider and/or find that relief from default is not justified under the applicable law, because Plaintiffs have failed to show "good cause."
12. Pursuant to Rule 55(c), SCRCP, the Court may, for good cause shown, set aside an entry of default. In the case of Wham v. Shearson Lehman Bros., Inc., 298 SC 462, 381 S.E. 2d 499 (Ct. App. 1989), the Court held that in determining whether one should be relieved from the entry of default, a court shall consider the following factors: (1) the timing of the Motion for Relief; (2) whether one has a meritorious defense; and (3) the degree of prejudice to the non-moving party if the relief is granted. The law in this regard remained essentially unchanged until the South Carolina Supreme Court ruled in the case of Sundown v. Intedger Industries, 382 SC 601, 681 SE 2d 885 (2009). In that case, the Court found that a "satisfactory explanation" must be given for the default before the above analysis would occur.
13. The Court erred in finding "good cause" where the only explanation put forth by Plaintiffs for the default was the Affidavit of Kenneth B. Wingate, which sets forth two paragraphs which appear intended to support Plaintiffs' a good cause for failing to timely respond to the Counterclaim after being properly served.
14. The Court erred in failing to consider and/or find that the document which Wingate failed to recognize as a counterclaim, in fact, bears the title "**ANSWER AND COUNTERCLAIM OF ROBERT L. BUCHANAN, JR. AND ADELE J. POPE**" in boldface, capital letters. There is no deficiency in the presentation of the counterclaim which could justify Wingate's oversight, and he does not allege any such deficiency.

15. The Court erred in failing to consider and/or find that errors on the part of an attorney will not be the basis for finding good cause to set aside an entry of default. Mr. Wingate states in his affidavit that he had received the counterclaim and marked it for placement in his files on this action.

III. The AG can be held in default; he has not shown “good cause” for relief; and Wingate lacks authority to speak for him.

16. The Court erred failing to consider and/or find that the AG can be held in default and, further, that he has not demonstrated “good cause” to be relieved from default. Plaintiffs have argued that the AG cannot be held in default at all, and they base this argument on Rule 55(e), SCRPC. This argument is misplaced, as is shown by a plain reading of the Rule. Rule 55(e) states:

(e) Judgment Against the State and Certain Other Parties. No judgment by default shall be entered against the State of South Carolina or an officer or agency thereof, against minors, incompetents, or parties to a suit for divorce or annulment of marriage or against a party upon whom service of summons was made by publication, and who did not subsequently make appearance in the action, or in any in rem action, unless the claimant establishes his claim to relief by evidence satisfactory to the Court. [emphasis supplied]

17. This Rule does not, as Plaintiffs assert, preliminarily absolve the AG of default. Rather, it requires presentation of evidence in support of the claim against the State prior to a default judgment being entered. At this stage, where only the entry of default is at issue, Rule 55(e) does not absolve the AG of default herein. Indeed, the identical Federal Rule has been interpreted to allow for the entry of default and a default judgment, where plaintiff could show a meritorious claim. See Bostic v. Harris, 484 F.Supp. 686 (S.D.W.Va. 1979).

18. In any event, Wingate’s clear lack of authority to seek this relief on behalf of the state should have precluded the Court’s allowing the AG to be relieved from default.

CONCLUSION

For the reasons set forth above, Plaintiff asks this Court to alter, amend or vacate its October 12, 2015 Order Granting Plaintiffs’ Motion to Set Aside Default. This motion is based on applicable statutes and caselaw, as well as the entire record herein and any memoranda filed prior to the hearing on this motion.

Respectfully submitted,



Adam T. Silvernail
Moses & Brackett, PC
1333 Main Street, Suite 260
Post Office Box 100261
Columbia, South Carolina 29202
803/461-2328
asilvernail@mkb-law.com

Attorney for Defendant Adele J. Pope

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

CIRCUIT COURT

RUSSELL L. BAUKNIGHT, ET AL. V. ADELE J. POPE.
Docket No. 2010-CP-40-4900

And

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

CIRCUIT COURT

ADELE J. POPE, V. ESTATE OF JAMES BROWN, DECEASED, ET AL.
Docket No. ~~2013-CP-02-1337~~

2010 40 4900

PROOF OF ADR

NOV 10 PM 3:08

1. Alternative Dispute Resolution (ADR) was conducted in the form of: **Mediation.**
2. The neutral was: **Karl A. Folkens.**
3. The ADR was conducted on **October 22, 2015.**
4. As a result of ADR, this case should be considered (please check one):

☐ Fully Settled by Consent Judgment or a Voluntary Dismissal to be filed by the parties.
☐ Partially Settled, with agreement of the parties on the following issues:

☒ At an impasse.

☐ In need of further ADR. I ☐ am / ☐ am not willing to mediate this case further.
I recommend that ADR resume as of:

☐ Continued to (Date):
5. Parties present: *Russell L. Bauknight, Deanna Brown Thomas and Adele J. Pope were personally present. All other parties on all sides in both actions were present through representatives (except for Robert L. Buchanan, Jr., designated as an "interested party" in Case 1337 caption).*
6. Other participants were:

☒ Lawyers: *Mark V. Gende, Esq.; Kenneth B. Wingate, Esq.; John W. McIntosh, Esq.; J. Emory Smith, Jr.; Esq.; Mary Frances Jowers, Esq.; C.H. "Sonny" Jones, Jr.; Esq.; Fred L. Kingsmore, Jr., Esq.; J. David Black, Esq.; William Barr, Esq.; Louis Levenson, Esq.; S. Alan Medlin, Esq.; Matthew D. Bodman, Esq.; David B. Bell, Esq.; Scott Keniley, Esq.; John A. Donsbach, Esq.; W.H. Bundy, Jr., Esq.; Adam T. Silvernail, Esq.; Daryl L. Williams, Esq. and Adele J. Pope, Esq. (pro se in Case 1337)*

☒ Representative for insurance carrier: *Warren C. Powel, Jr., Esq. for ALPS*

☐ Experts:

X Others: *Shawn Thomas, husband of Deanna Brown Thomas*

7. Choice of the mediator was by:

 Stipulation

 X Court Order

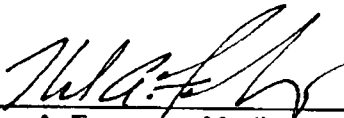
8. The total number of hours spent in ADR was: **5.25** hours, plus preliminary work of 11.25 hours and travel.

9. Further comments of the neutral: *Pursuant to the Courts' Order Compelling Mediation dated January 6 & 19, 2015, I group parties into four equal groups as follows:*

- a. *Estate of James Brown*
- b. *Attorney General Alan Wilson*
- c. *Adele J. Pope*
- d. *All other parties, with their interests prorated in proportion to their eventual total distributions as determined by the Estate's Personal Representative.*

October 30, 2015

MA12-234



KARL A. FOLKENS, Mediator
P. O. Box 6139
Florence, SC 29502-6139
(843) 665-0100
FAX (843) 665-0500

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; 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 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 BROWN; 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 L. and CARRINGTON L.; 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-40-000

PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER AND/OR TO
QUASH DEPOSITION NOTICE OF J.
RICHARDSON, ESQ. SERVED BY
DEFENDANT POPE

EXPEDITED HEARING REQUESTED

RICHLAND COUNTY
FILED
2016 FEB 18 PM 4:32
JANETTE W. MCNEIL
C.C.P. & G.S.

TO: W. H. BUNDY, JR., ESQUIRE, ATTORNEY FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-NAMED:

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs in the above-referenced action will move before the Court, and do hereby so move, for a Protective Order and/or an Order quashing the subpoena and video *de bene esse* deposition notice of James B. Richardson, Esquire issued by Defendant Pope on or about February 17, 2016 (Exhibit A).

The grounds for this motion are:

1. The Court has heard a motion to stay all proceedings in this case, and the Judge's Order concerning that motion is pending;
2. The Court has informed all parties that during the pendency of the motion to stay no hearings on outstanding matters will be set in this case (Exhibit B);
3. Therefore, it is improper for defendants to attempt to set a deposition at this time.
4. Additionally, the deposition was noticed by Mrs. Pope unilaterally and without any consultation with opposing counsel.
5. Furthermore, upon information and belief, James B. Richardson, Esq., is an appellant attorney who has represented and/or counseled Mrs. Pope in one or more of her various appeals involving issues related to the Estate of James Brown. Plaintiffs fail to see how Mr. Richardson can thus be a witness due to his attorney-client relationship with Mrs. Pope. Plaintiffs also believe any non-privileged testimony Mr. Richardson may offer is irrelevant and that his deposition has been noticed by Mrs. Pope for purposes other than legitimate discovery in Case 4900.

This motion may be supported by a memorandum of law and rests on all applicable statutory and case law.

Plaintiffs seek all costs associated with bringing this motion and for sanctions pursuant to Rule 11 and any other applicable rule or Court Order.

Plaintiffs seek an expedited hearing as soon as the Court is able but in any case prior to March 3, 2016 or, in the alternative, for an immediate order prohibiting Mrs. Pope from taking the deposition until after the Court is able to hear and decide this motion.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

Joseph O. Thickens

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

February 18, 2016

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; 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 L. Brown and Carrington L. Brown; 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; 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 L. BROWN and CARRINGTON L. BROWN; 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

**PLAINTIFFS' MOTION TO STRIKE
THE AFFIDAVIT OF DEFENDANT
ADELE POPE DATED
FEBRUARY 19, 2016**

RICHLAND COUNTY
FILED
2016 MAR -1 AM 10:46
JANETTE H. HOGGINS
C.C.P. & G.S.

**TO: W. H. BUNDY, JR., ESQUIRE, ATTORNEY FOR DEFENDANT POPE, AND TO
THE DEFENDANT ABOVE-NAMED:**

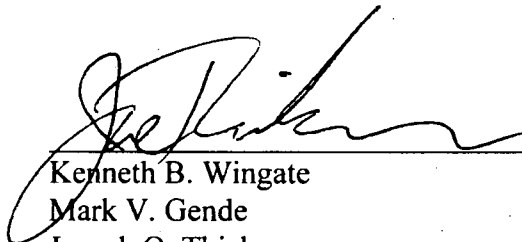
YOU WILL PLEASE TAKE NOTICE that Plaintiffs in the above-referenced action plan to move before the Court, and do hereby so move, for an Order striking the Affidavit of Adele J. Pope dated February 19, 2016 (attached hereto as Exhibit A).

This Motion is made pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure, and is based upon the Affidavit's inclusion of material that this "redundant, immaterial, impertinent, or scandalous", as well as the Affidavit's inclusion of material that is wholly irrelevant and inadmissible in this case. Further, the Affidavit contains statements that are not based on personal knowledge.

This Motion may be further supplemented by Affidavits, a Memorandum of Law, or any other information as may be proper.

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

Joseph O. Thickens

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina
February 26, 2016

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, 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

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

) MOTION OF DEFENDANT TO
) ALTER AND/OR AMEND
) ORDER DATED MARCH 3, 2016

2016 MAR -8 PM 2:16
FILED
RICHLAND COUNTY
CLERK OF COURT
J. MICHELLE W. MCBRIDE
C.C.P. & G.S.

TO: RUSSELL L. BAUKNIGHT (BAUKNIGHT), AS TRUSTEE OF THE JAMES BROWN 2000 IRREVOCABLE TRUST (2000 TRUST), THE JAMES BROWN LEGACY TRUST (LEGACY TRUST), AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JAMES BROWN, AND ON BEHALF OF ALAN WILSON, IN HIS CAPACITY AS ATTORNEY GENERAL OF SOUTH CAROLINA (AG WILSON) AND ALL OTHER PLAINTIFF/COUNTERCLAIM DEFENDANTS HEREIN (PLAINTIFFS), and Sweeney, Wingate and Barrow, P.C. (SWB), their counsel.

YOU WILL PLEASE TAKE NOTICE that ten days after the service hereof, or as soon thereafter as she may be heard, Defendant/Counterclaim Plaintiff Adele J. Pope (Pope) will move, pursuant to Rule 59(e) of the *South Carolina Rules of Civil Procedure*, before the Honorable L. Casey Manning (Jg. Manning) for an Order altering, amending or vacating the injunction imposed by his Order Granting Motion of Plaintiff to Stay dated March 3, 2016 (the "March 3 Injunction"), and received by Defendant/Counterclaim Plaintiff on March 3, 2016, a copy of which is attached hereto as Exhibit A.

The grounds of this motion are:

1. The court overlooked or misapprehended that the March 3 Injunction continues a pattern of violation by the Attorney General of South Carolina and other Plaintiffs of the Due Process, First Amendment and Freedom of Information Act (FOIA) rights of Robert Buchanan, Jr. (Buchanan) and Pope.

2. The court overlooked or misapprehended that March 3 Injunction, as more specifically stated below, assists AG Wilson, his Legacy Trust and other Plaintiffs in damaging James Brown's "I Feel Good" charity, as well as Pope.

3. The court overlooked, or misapprehended that the March 3 Injunction supports and extends the State's and other Plaintiffs' damage to Buchanan and Pope as demonstrated by the following, and other, facts:

- On August 10, 2008 Tommie Rae Hynie (Hynie), AG Henry McMaster and certain former clients of Louis Levenson, Esquire (Levenson) conducted a secret mediation at which AG McMaster contracted to:

1. Stipulate Hynie was Brown's spouse and give her 25% of Brown's assets;
2. Give Levenson's clients 25% of Brown's assets;
3. Stop DNA testing, and declare Hynie's son a child of Brown;
4. Defeat the claim of any heir, devisee or others not part of the deal.
5. Designate parties to the contract as Brown's heirs.
6. Replace Buchanan and Pope with a trustee of their choice.
7. Put all James Brown assets in the Settlement Entity/Legacy Trust controlled by the AG, who could replace the trustee at will.

- In March 2010 Plaintiffs' agents advised they had hired the law firm of Ken Wingate (SWB), and would sue if the appeal of McMaster's agreement was not dropped.
- In April 2010 Buchanan and Pope, through *pro bono publico* lead counsel, James B. Richardson, Jr. offered AG McMaster everything he was seeking to take from the "I Feel Good" Trust **provided** the minors had GALs and **the Appellate Court agreed, with the Plaintiffs' position, that AG McMaster could substitute his judgment for the judgment of James Brown's fiduciaries.**
- On May 19, 2010, Plaintiffs sued Buchanan and Pope.

- The Complaint in Case 4900 contained false and scurrilous claims against Buchanan and Pope that AG McMaster and Hynie knew to be false.
- From September 2011 until *today*, the 2-page witness list is the **only** document produced by AG Master, AG Wilson or Hynie in Case 4900 document discovery, and they have thwarted and interfered with Pope's FOIA rights, Due Process rights, First Amendment rights, and all discovery in this case.
- In April 2013 AG Wilson and Hynie asked Jg. Manning to stay Case 4900 and the FOIA cases until Jg. Early concluded his Aiken County James Brown cases.
- Since April 2013 AG Wilson, his Legacy Trust and other Plaintiffs have fought all discovery and prevented all hearings in Case 4900.

Dissipation of Termination Rights Funds

4. The Court overlooked or misapprehended that one or more Plaintiffs have received funds since 2013 which are under threat of dissipation, including, but not limited to, royalties from termination rights owned by Plaintiff Legacy Trust.

Violation of Pope's FOIA Rights

5. The Court overlooked or misapprehended that the March 3 Injunction continues the 4 ½ year violation of Pope's FOIA rights by the Attorney General and other Plaintiffs.

Violation of Pope's First Amendment Rights

6. The Court overlooked or misapprehended that the March 3 Injunction continues the violation of Pope's First Amendment rights related to handwritten admissions of Plaintiff Hynie.

Violation of Pope's Due Process

7. The Court overlooked or misapprehended that since April 2013, the State/AG Wilson and other Plaintiffs have deprived Pope of her Due Process Rights under the Fifth and Fourteenth Amendments to the U.S. Constitution by depriving her of the right to

defend herself against the scurrilous claims made herein and prosecute her counterclaims through proper discovery and trial.

8. The Court overlooked that the March 3 Injunction deprives Pope of a level playing field in which to undo the damage caused by AG McMaster, AG Wilson, the AG's Legacy Trust and other Plaintiffs.

In the alternative, Pope moves for an articulation or directive by the Court establishing actions necessary to lift the March 3 Injunction, and directing Plaintiffs to provide a status report every thirty (30) days as to what continues to justify a stay, and what actions are being taken to alleviate impediments to discovery.

This motion is supported by the Affidavit of Adele J. Pope filed herewith; the Affidavits of Adele J. Pope on file herein; the sworn statement of James B. Richardson, Jr., to be filed herein; and such additional evidence¹ as shall be presented at the hearing on this matter.

¹ In reconsidering the March 3 Injunction, Pope asks the Court to take mandatory judicial notice under Rule 201 SCRE of the full record in Aiken County Cases related to the Estate of entertainer James Brown under the jurisdiction of the Honorable Doyet A. Early, III (Jg. Early). Plaintiff further asks the Court to take mandatory judicial notice of the public postings of AG Wilson, Hynie and other Plaintiffs and their designated witnesses in this case, including the admissions of Plaintiff Yamma Brown in her 2014 book *Cold Sweat*; of Plaintiff Daryl Brown in his 2014 book *My Father the Godfather*, on national television and on his blog; and of public statements of Plaintiffs' witnesses David G. Cannon and Albert H. "Buddy" Dallas, including the sworn statement of Dallas in Case 4900.

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; 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 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.; 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 L. and CARRINGTON L.; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

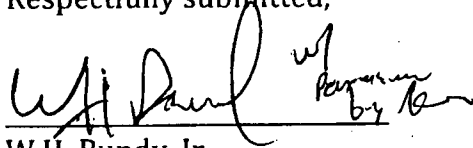
FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

Motion to Consolidate Cases 4900 and 1337 for Purposes of Discovery Only

FILED
2016 APR 13 PM 12:10
CLERK OF COURT
FIFTH CIRCUIT

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

Moses & Brackett, P.C.

1333 Main Street, Suite 260

Columbia, South Carolina 29201

Telephone: (803) 461-2328

Facsimile: (803) 461-2309

asilvernail@mkblaw.com

March 7, 2016

Attorneys for Defendant Adele J. Pope

To: Defendant Pope

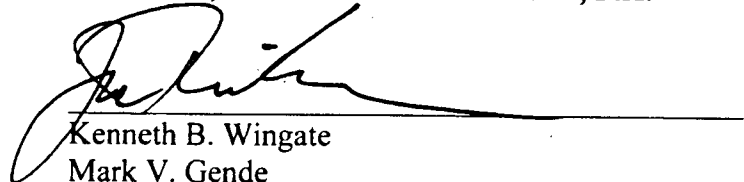
YOU WILL PLEASE TAKE NOTICE the undersigned, as attorneys for the Plaintiffs, will move before the presiding Judge of the Richland County Circuit Court, at the Richland County Courthouse on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for an Order consolidating discovery in Richland County Case 2010-CP-40-4900 ("Case 4900") and Aiken County Case 2013-CP-02-1337 ("Case 1337").

The grounds for the motion are that consolidation is desirable pursuant to Rule 42, SCRCF because discovery in both cases will be substantially similar as both cases arise out of the same facts and occurrence, involve overlapping parties, and will result in potentially offsetting damages verdicts; the consolidation of the cases will permit more efficient administration and serve the interests of judicial economy; and consolidation will serve the convenience of the witnesses.

This Motion may be further supplemented by a Memorandum of Law, by Affidavits, or by any other such information as may be fit and proper.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

Joseph O. Thickens

Sweeney, Wingate, & Barrow, P.A.

Post Office Box 12129

Columbia SC 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

April 11, 2016

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 B. [REDACTED], 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 L. [REDACTED] and Carrington L. [REDACTED]; 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. [REDACTED], 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 L. [REDACTED] and CARRINGTON L. [REDACTED]; 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

2010 APR 27 PM 12:04

MOTION TO POSTPONE DEPOSITION
OF TOMMIE RAE BROWN

TO: BILL BUNDY, ESQUIRE, ADAM T. SILVERNAIL, ESQUIRE AND DARYL L. WILLIAMS, ESQUIRE, ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-NAMED:

PLEASE TAKE NOTICE THAT, the undersigned attorneys for the Plaintiffs, will move before a presiding judge for the Richland County Court of Common Pleas on the tenth (10th) day after service thereof, or as soon thereafter as may be heard, for an Order pursuant to Rule 26(c), SCRPC holding the deposition of Tommie Rae Brown in abeyance to protect the parties from undue burden and expense.

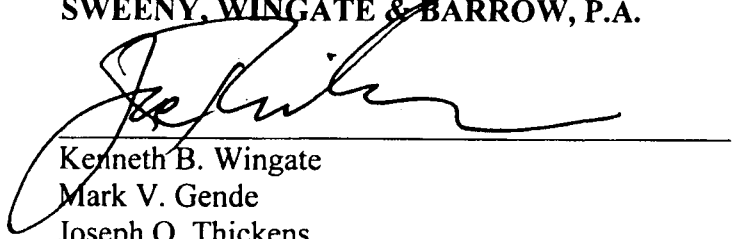
Without consulting counsel, Pope noticed the deposition of Tommie Rae for May 5, 2016. Exhibit A. Plaintiffs respectfully request that the Court issue an order providing that the depositions of Tommie Rae must be taken after her son, James [REDACTED], finishes his current school year, which ends on June 10, 2016. Tommie Rae and James B. [REDACTED] live in Los Angeles, California. Tommie Rae is solely responsible for James, and it would cause undue burden and expense to either cause him to miss school close to the end of term or to make alternate arrangements for his care while his mother travels across the country for her deposition.

This Motion may be further supplemented by a Memorandum of Law, by Affidavits, or by any other such information as may be fit and proper.

[signature page follows]

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in dark ink, appearing to read 'Ken Wingate', is written over a horizontal line.

Kenneth B. Wingate

Mark V. Gende

Joseph O. Thickens

Sweeney, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

April 25, 2016

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Adele J. Pope,

Plaintiff,

v.

Alan Wilson, in his capacity as
Attorney General of South Carolina,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2010-CP-40-4900

PLAINTIFF'S RETURN AND
OPPOSITION TO MOTION OF
SWEENEY, WINGATE AND
BARROW, P.C., TO CONSOLIDATE

RICHLAND COUNTY
FILED
2016 JUN -7 AM 11:03
JEANETTE WONG
C.C.P. & C.S.

Plaintiff Adele J. Pope ("FOIA Plaintiff") submits this return and opposition to the motion of Sweeney, Wingate and Barrow, P.C. ("Wingate") to consolidate, which motion was filed on behalf of all Plaintiffs in the matter captioned *Bauknight, et al, vs. Pope*, Richland County Case 2010-CP-40-4900 ("Case 4900"). The grounds for FOIA Plaintiff's opposition are set forth below.

1. FOIA Plaintiff herein supports the Motion to Strike of Adele J. Pope, as *pro se* Plaintiff in Aiken Case 2013-CP-02-1337 ("Case 1337") and believes both that motion and the long-pending motion of Wingate to be relieved as counsel for the AG (who appears to nonetheless be a movant in Wingate's motion to consolidate Case 4900 with Case 1337) should be disposed of prior to addressing the motion to consolidate.
2. FOIA Plaintiff filed this action for declaratory and injunctive relief under the South Carolina Freedom of Information Act (the "FOIA") in Newberry County on August 10, 2011.
3. On motion of Alan Wilson, in his capacity as Attorney General of South Carolina ("AG"), this case was transferred to Richland County and consolidated with Case 4900.
4. In 2011, Wingate filed a motion to intervene in this FOIA case on behalf of more

than a dozen private individuals, for the express purpose of preventing release of a document sought by FOIA Plaintiff from the AG.

5. On April 11, 2016, Wingate filed a motion on behalf of the AG and other Case 4900 Plaintiffs to consolidate Case 4900 (presumably including this already-consolidated FOIA action) with Case 1337.

6. After more than four (4) years of delay caused in part by the attempted intervention, Wingate notified the Court on April 18, 2016 that he would be withdrawing his motion to intervene on behalf of the private Case 4900 Plaintiffs.

7. Consolidation of Case 4900 and this FOIA action with Case 1337 will be inefficient and cause further delay in this nearly five-year-old FOIA action, which has only two parties and two attorneys involved. Further, consolidation would again place Wingate's private clients into this FOIA matter, which is against the spirit of the FOIA and in violation of FOIA Plaintiff's rights under the FOIA.

8. The FOIA provides that it is intended to provide a speedy and inexpensive method for members of the public to obtain public documents from public bodies. See Order of the Honorable Eugene C. Griffith, Jr., dated September 17, 2014, in *Summer vs. Wilson*, Case No. 2012-CP-36-0688 and related Appellate Case No. 2014-002222. Because consolidation will cause further expense and delay, FOIA Plaintiff opposes consolidation of Case 4900 with Case 1337.

Conclusion

For the reasons set forth above, FOIA Plaintiff asks that this Court strike Wingate's motion to consolidate Case 4900 with Case 1337 or, in the alternative deny it and allow this FOIA action to proceed to final disposition as soon as possible. This return is based on the South Carolina Rules of Civil Procedure, especially Rule 42; the FOIA and other applicable

statutes and case law; and the entire record herein.

Respectfully submitted,



Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
Telephone: (803) 779-1770
adam@silvernaillawfirm

June 6, 2016

Attorney for Plaintiff

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; 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 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.; 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 L. and CARRINGTON L.; 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-484200

RICHLAND COUNTY
FILED
2016 JUN 15 PM 12:36
JEANIE W. HENRIOT
C.P. & G.S.

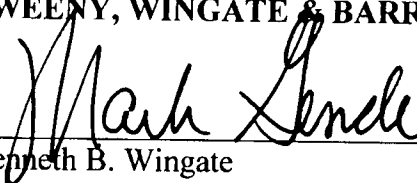
**NOTICE WITHDRAWING MOTION
TO BE RELIEVED AS COUNSEL**

TO: BILL BUNDY, ESQUIRE, ADAM T. SILVERNAIL, ESQUIRE AND DARYL L. WILLIAMS, ESQUIRE, ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-NAMED:

PLEASE TAKE NOTICE THAT the undersigned, on behalf of Sweeny, Wingate & Barrow, P.A., hereby withdraws the May 10, 2013 Motion to be Relieved as Counsel for the Attorney General of the State of South Carolina in the above-captioned matter.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate

Mark V. Gende

Joseph O. Thickens

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

June 7, 2016

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Russell L. Bauknicht, et al,

Plaintiffs,

v.

Adele Pope,

Defendant,

IN THE COURT OF COMMON PLEAS

No. 2010-CP-40-4900

**MOTION FOR PROTECTIVE ORDER
AS TO DEPOSITION OF
ATTORNEY GENERAL**

2016 JUL 20 PM 3 15
JEANNETTE W. M. BRIDGE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

Pursuant to Rules 26(c) Attorney General Alan Wilson moves for a protective order as to the taking of his deposition pursuant to the Second Amended Notice of Deposition (copy attached) or at any other time in this case, on the following grounds:

1. The deposition should not be taken before this Court rules on the Attorney General's Motion to be removed as a party to this case. The Attorney General also will be out of State on August 12, 2016, when the deposition is noticed.
2. Regardless of whether that Motion is granted, the Attorney General's testimony by deposition should not be compelled because he is a high ranking State Constitutional officer. The burden is on the Defendant who noticed the deposition to show that the information sought is essential, that it is not obtainable elsewhere, and that the deposition of the Attorney General would not interfere with his government responsibilities. Defendant cannot make such a showing.
3. Alan Wilson was not Attorney General when this suit was initiated and during much of its history and therefore lacks personal knowledge of all or most of the matters at

issue in the suit.

4. All or most of any questions he might be asked would be subject to attorney client and work product privileges.
5. Questioning of the Attorney General with objections thereto would likely take more than a day of his time. Depositions of two lawyers on his staff in a related proceeding took nearly four days. Such a time consuming deposition would interfere with the Attorney General's handling of the important duties of his Office.
6. His deposition would be an undue burden for all of the above reasons.

For the above reasons and other good cause to be shown by a memorandum in support of this Motion, the Attorney General respectfully requests that this Motion be granted.

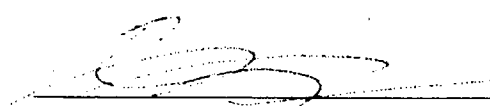
Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

J. EMORY SMITH, JR.
Deputy Solicitor General
S.C. Bar No. 5262

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3680

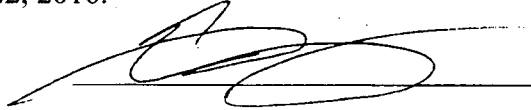
BY: 

JULY 18, 2016

ATTORNEYS FOR ALAN WILSON

Rule 11, SCRCP, Certification:

Undersigned counsel has consulted with opposing counsel, Walter H. Bundy, Esquire, in good faith. Mr. Bundy does not consent to this motion, but he does agree not to take the deposition on August 12 and agrees to defer the deposition until after this motion is decided if the motion is heard on August 22, 2016.

A handwritten signature in black ink, appearing to be "J. Emory Smith Jr.", written over a horizontal line.

July 18, 2016

J. EMORY SMITH JR.

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH CIRCUIT

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

1

) **SECOND AMENDED**
) **NOTICE OF DEPOSITION OF**
) **ALAN WILSON**

3

1

)

)

1

15

)

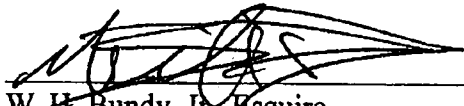
)

)

5

859

SMITH, BUNDY, BYBEE & BARNETT, P.C.



W. H. Bundy, Jr., Esquire

M. Brent McDonald, Esquire

Post Office Box 1542

Mt. Pleasant, South Carolina 29465-1542

Telephone: 843-881-1623

whbesq@s3blaw.com

bmcDonald@s3blaw.com

and

Adam T. Silvernail

Law Office of Adam T. Silvernail, LLC

1905 Marion Street

Columbia, South Carolina 29201

Telephone: 803-779-1770

adam@silvernaillawfirm.com

Attorneys for Adele J. Pope.

Mt. Pleasant, South Carolina

June 23, 2016

CERTIFICATE OF SERVICE

I, Sarah Foster Rock, an employee of Smith, Bundy, Bybee & Barnett, P.C., hereby certify that true and correct copies of the Second Amended Notice of Deposition of Alan Wilson were served on all parties via E-Mail and U. S. Mail, postage paid, this 23rd day of June, 2016, as follows:

Kenneth B. Wingate, Esquire

Mark V. Gende, Esquire

Sweeny, Wingate & Barrow, P.A.

P.O. Box 12129

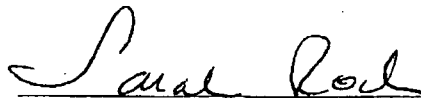
)

Columbia, SC 29211

Attorneys for Plaintiffs

kbw@swblaw.com;

mvg@swblaw.com;



Sarah Foster Rock

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
)

) FIFTH JUDICIAL CIRCUIT

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. 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)

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,)

)
)
) Plaintiffs,)
)

vs.)
)
)

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

Defendants.

Civil Action No.: 2010-CP-40-4900

RICHLAND COUNTY
FILED
2016 AUG 11 PM 3:24
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

**Notice of Special Appearance and
Motion to be Dropped as a Party**

To: Clerk of Court and all Counsel of Record

As the court may recall, by way of an order dated October 4, 2007, the Attorney General was allowed to intervene in the "James Brown Case" pursuant to his *parens patriae*, statutory, and case law authority, to protect the interests of any charitable beneficiaries and any assets that may have been impressed with a charitable trust. See attached *Exhibit A*, Order Granting Motion to Intervene, dated October 4, 2007.

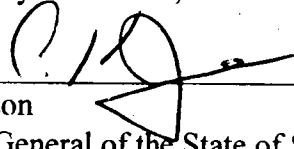
As the Court may further recall, the Attorney General was allowed to assume a monitoring role in these matters pursuant to the Supreme Court's opinion in *Wilson v. Dallas*, and the approval of Russell Bauknight. See attached *Exhibit B*, Order Withdrawing Attorney General, dated October 30, 2013.

Consistent with the Attorney General's position in the above matters, the undersigned Office of the Attorney General hereby enters a special appearance in this matter as counsel of record for Alan Wilson, in his capacity as Attorney General of the State of South Carolina, in the above-captioned matter. The undersigned enters this special appearance for the purpose of arguing and handling all matters related to Attorney General Alan Wilson's Motion to be Dropped as a Party dated March 25, 2013, attached to this Notice as *Exhibit C*.

The Attorney General is filing this Notice of Appearance in an abundance of caution. While the Notice may not be necessary, the Notice is being filed to avoid any dispute regarding who can argue and handle the Motion to be Dropped as a Party. In addition, the Motion to be Dropped as a Party is being served again upon all counsel.

Rule 11 Certification: I certify that consultation with opposing counsel would serve
no useful purpose.

Respectfully Submitted,



Alan Wilson
Attorney General of the State of South Carolina
John W. McIntosh
Chief Deputy Attorney General
Robert D. Cook
Solicitor General
C. Havird Jones, Jr.
Senior Assistant Deputy Attorney General
Mary Frances Jowers
Assistant Deputy Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3680

August 11, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

FILED

10-11-07

IN RE:

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

C/A No. 2007-CP-02-122

Deputy Clerk

OCT 11 2007

**ORDER GRANTING MOTION TO INTERVENE ON BEHALF OF
SOUTH CAROLINA ATTORNEY GENERAL HENRY D. McMASTER AND
GEORGIA ATTORNEY GENERAL THURBERT E. BAKER**

This matter came to be heard before the Court on September 24, 2007, pursuant to Rule 24, SCRCP, by way of a Motion for Intervention by the Attorney General of South Carolina to enforce the due application of those funds given or appropriated to any charitable trust created by the Last Will of James Brown dated August 1, 2000, and the Irrevocable Trust Agreement of James Brown dated August 1, 2000, or any other assets of the Estate of James Brown that may be impressed with a charitable trust. The South Carolina Attorney General also made this motion on behalf of Georgia Attorney General Thurbert E. Baker pending that office's submission of the appropriate *pro hac vice* paperwork as required by Rule 404, SCRCP. Appearing on behalf of the Attorney General of South Carolina was C. H. Jones, Jr., Senior Assistant Attorney General, and appearing on behalf of the Attorney General of Georgia was Grace Evans Lewis, Senior Assistant Attorney General. There was no objection from any of the parties as to the granting of this motion.

Therefore, pursuant to its *parens patriae*, statutory (see S.C. Code §1-7-130 and §62-7-405 and Georgia Code §53-12-115), common law and case authority (see *Epworth Children's Home v. W. F. Beasley, et al.*, 365 S.C. 157, 616 S.E.2d 710 (2005); *Furman Univ. v. McLeod*, 238 S.C. 475, 482, 120 S.E.2d 865, 868 (1961); and *W. C. Watson v. W. F. Wall, et al.*, 229 S.C.

500, 93 S.E.2d 918 (1956)), the Motion of the South Carolina Attorney General and the Georgia Attorney General to intervene in this matter to represent and protect the interests of the beneficiaries of any charitable trust created by the Last Will of James Brown dated August 1, 2000, and the Irrevocable Trust Agreement of James Brown dated August 1, 2000, or any other assets of the Estate of James Brown that may be impressed with a charitable trust is, therefore, GRANTED.

AND IT IS SO ORDERED this 4th day of October, 2007.



DOYET A. EARLY, III
Resident Judge, Second Judicial Circuit

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	SECOND JUDICIAL CIRCUIT
IN RE:	)	C/A No.: 2007-CP-02-122
THE ESTATE OF JAMES BROWN	)	C/A No.: 2008-CP-02-1647
A/K/A JAMES JOSEPH BROWN	)	C/A No.: 2008-CP-02-872
	)	C/A No.: 2009-CP-02-597
	)	C/A No.: 2009-CP-02-1140
	)	C/A No.: 2009-CP-02-1810

ORDER WITHDRAWING ATTORNEY GENERAL

This matter comes before the Court by way of the Attorney General's request to withdraw from the above-referenced cases. This Court previously granted the Attorney General's Motion to Intervene by Order filed October 11, 2007, in Case 2007-CP-02-122. In addition, the Attorney General is a named party in cases 2008-CP-02-1647, 2008-CP-02-0872, 2009-CP-02-597, 2009-CP-02-1140, and 2009-CP-02-1810, all cases related to the James Brown Estate and Trust.

This Court finds that allowing the Attorney General to withdraw is appropriate, in light of the Supreme Court's opinion in Wilson v. Dallas, Op. No. 27227 (SC. Sup. Ct. refilled may 8, 2013); the appointment of Russell Bauknight as Special Trustee by Order dated June 13, 2013; the appointment of Russell Bauknight as Special Administrator dated June 13, 2013; and the Attorney General's desire, pursuant to his statutory and common law authority, to have a monitoring role in this matter.

Accordingly, the Attorney General is withdrawn from these cases. This Order is without prejudice to the Attorney General's right to move to intervene in the future, as he finds appropriate based on his monitoring of the case.

AND IT IS SO ORDERED.


 Doyet A. Early, III
 Presiding Judge


 July 30, 2013

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF RICHLAND)

FIFTH JUDICIAL CIRCUIT)

2010)

CASE NO. 2013-CP-40-4900)

Russell L. Bauknight, as Trustee)**MOTION AND ORDER INFORMATION**)

Plaintiff,)

FORM AND COVERSHEET)

vs.)

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

Defendant.)

RICHLAND COUNTY
 FILED
 2013 MAR 25 PM 4:10
 JEANETTE H. HARRIS
 CLERK OF COURT

Plaintiff's Attorney:

C.H. Jones, Jr., Bar No. 3178

Address:

Office of the South Carolina Attorney General

PO Box 11549

Columbia, SC 29211

Phone: 734-3996 Fax 734-6283

E-mail: sjones@scag.ov Other: _____

Defendant's Attorney:

Adam Silvernail, Bar No. _____

Address:

Law Office of Adam T. Silvernail

PO Box 1898

Columbia SC 29202

Phone: 779-1770 Fax _____

E-mail: adam@silvernailfirm.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: 20 minutes

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

3/25/2013

Date submitted

SECTION III: Motion Fee☒ **PAID - AMOUNT: \$** 25.00☐ **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: _____**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: \$** _____

867

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS

) FIFTH JUDICIAL CIRCUIT

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. 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

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,

Plaintiffs,

vs.

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

Defendants.

Civil Action No.: 2010-CP-40-4900

RICHLAND COUNTY
FILED
2013 MAR 25 PM 4:10
JEANETTE M. MOSBIDE
C.C.P. & O.S.

**ATTORNEY GENERAL ALAN
WILSON'S MOTION TO BE
DROPPED AS A PARTY**

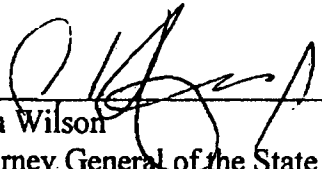
PLEASE TAKE NOTICE THAT Attorney General Alan Wilson ("Attorney General") through undersigned counsel, will move before the Court of Common Pleas for Richland County within ten (10) days of the date hereof or thereafter at such other time and place as the Court determines, for an Order pursuant to Rule 21, SCRPC, dropping the Attorney General as a party to this action. Rule 21 states that "[p]arties may be dropped or added by order of the court of motion of any party or of its own initiative at any stage of the action and on such terms as are just."

This Motion is based upon the May 18, 2010, from Attorney General McMaster to Russell Bauknight, attached as Exhibit A; the recent South Carolina Supreme Court decision in Wilson et al. v. Dallas et al., 2013 WL 697042 (filed February 27, 2013); the Attorney General's Petition for Rehearing in that case, along with the Attorney General's Motion to Supplement the Record, both attached as Exhibit B; and S.C. Code §62-7-405(c). In the Attorney General's Petition for Rehearing, the Attorney General advised the Supreme Court that he would be shortly moving to have himself removed as a party to this case and that any further action in the case to protect the charitable beneficiaries would be pursued by the Trustee. See Petition for Rehearing, page 26-27.

This Motion shall be made pursuant to statutory and case law of the State of South Carolina and other grounds which may be presented to the Court.

Rule 11 Certification: I certify that consultation with the other parties would serve no useful purpose based upon the decision by the Supreme Court in Wilson v. Dallas and the four rehearing requests that have been filed in that case.

Respectfully Submitted,



Alan Wilson

Attorney General of the State of South Carolina

John W. McIntosh

Chief Deputy Attorney General

Robert D. Cook

Deputy Attorney General

C. Havird Jones, Jr.

Assistant Deputy Attorney General

Mary Frances Jowers

Assistant Attorney General

Post Office Box 11549

Columbia, South Carolina 29211

(803) 734-3680

March 25, 2013

Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

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. 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

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,

Plaintiffs,

vs.

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

Defendants.

Civil Action No.: 2010-CP-40-4900

RICHLAND COUNTY
FILED
2013 MAR 25 PM 4:10
JEANETTE M. HODGINS
C.C.P. & G.S.

Certificate of Service

I hereby certify that this 25th day of March, 2013, I served a copy of the
within **Attorney General Alan Wilson's Motion to be Dropped as a Party** on all
counsel of record by depositing a copy in the U.S. Mail and addressed as follows:

Adam T. Silvernail, Esq.
Law Office of Adam T. Silvernail
PO Box 1898
Columbia, SC 29202

Daryl L. Williams, Esq.
Jeter & Williams, P.A.
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, SC 29202

Kenneth B. Wingate, Esq.
Mark V. Gende, Esq.
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211

William W. Wilkins, Esq.
J. David Black, Esq.
Fred L. Kingsmore, Jr., Esq.
Nexsen Pruet, LLC
55 East Camperdown Way
Post Office Drawer 10648
Greenville, SC 29603

Louis D. Levenson, Esq.
Levenson & Associates
125 Broad Street
Atlanta, GA 30303

Robert N. Rosen, Esq.
T. Heyward Carter, Jr., Esq.
S. Alan Medlin, Esq.
David L. Michel, Esq.
18 Broad Street, Suite 201
Charleston, SC 29402

Matt Bodman, Esq.
Matt Bodman, P.A.
1500 Calhoun Street
Columbia, SC 29201

Albert P. Shahid, Jr., Esq.
Shahid Law Office, LLC
89 Broad Street
Charleston, SC 29401

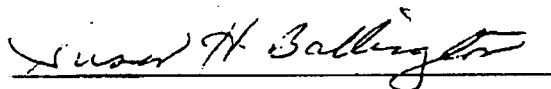


EXHIBIT A



HENRY McMASTER
ATTORNEY GENERAL

May 18, 2010

Mr. Russell Bauknight
Bauknight, Pietras & Stormer, P.A.
1517 Gervais Street
Post Office Box 1330
Columbia, South Carolina 29202

Re: James Brown Litigation

Dear Mr. Bauknight:

I have met with Ken Wingate and Everett Kendall of Sweeney Wingate & Barrow of Columbia, South Carolina, regarding the action to be filed against Adele J. Pope and Robert L. Buchanan, Jr., in the Richland County Probate Court in connection with the James Brown Estate and Trust. I am writing to confirm our understanding that you will be retaining Mr. Wingate and Mr. Kendall to file this action on behalf of the beneficiaries of the James Brown Estate and Trust, including the charitable interests. As you know, by law this office has a duty to protect charitable trusts. Also, per your conversation with Senior Assistant Attorney General C.H. Jones, Jr., in connection with the charitable trust portion of this matter, you have agreed to use the terms and conditions as outlined in the attached "Agreement for Legal Services" which references and incorporates the Attorney General's standard Litigation Retention Agreement. Of course, this office has no authority over your agreement with Messrs. Wingate and Kendall concerning the other portions of this matter.

Yours very truly,

Henry McMaster

Enclosures

HMcM/mfj

THE STATE OF SOUTH CAROLINA
In The Supreme Court

EXHIBIT E

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

RECEIVED

MAR 14 2013

The Honorable Doyet A. Early, III, Circuit Court Judge

S.C. Supreme Court

Case No. 2008-CP-02-1647

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

v.

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

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

Appellate Case No. 2009-142286

Introduction

Respondent Alan Wilson, in his capacity as Attorney General of the State of South Carolina, respectfully requests, pursuant to Rule 221, SCACR, a rehearing of the decision of the Court rendered on February 27, 2013. We emphasize at the outset that we have nothing but the greatest respect for the Court and that the Petition is not intended in any way to detract from that respect. But we must file this Petition, nevertheless, because, based upon the decision as written, we do not believe the Court had the full story concerning the Attorney General's role in the Brown settlement or the Office's part or lack thereof in any administration of the charitable trust.

We had thought that in our Brief and at oral argument we had provided the Court with the information it needed to accurately assess the part the Attorney General played in this settlement. Assuming we did not, however, this Petition is presented to ensure the Court now has all the facts and the applicable law. Specifically, based upon the information presented herein, we seek to have the Court modify its Opinion consistent with what we believe is a more accurate depiction of the role of the Attorney General in this case. Such modification is important because, otherwise, we fear the decision will have a lasting adverse impact upon the credibility of the Office of Attorney General, which this Court has recognized as the executive office designated to protect charitable trusts and defend the public interest. *See, State ex rel. Condon v. Hodges*, 349 S.C. 232, 239, 562 S.E.2d 623, 628 (2002) ["(a)s the chief law officer of the State, (the Attorney General) may ... exercise all such power and authority as public interests may from time to time require, and may institute, conduct and maintain all such suits and proceedings as he deems necessary for the enforcement of the laws of the State, the preservation of order

and the protection of public rights." *See also, City of Cola. v. Tatum*, 174 S.C. 366, 177 S.E. 541, 546 (1934) ["It is doubtless due to the insistence of the Attorney General that the rights of the public have been so carefully guarded"].

Argument

The Court is absolutely correct that the Attorney General was substantially involved in the Brown settlement because of his longstanding common law and statutory duty "as the protector, supervisor and enforcer of charitable trusts[.]" 2013 WL 697042, *Op.* at 18. But equally involved were the numerous other parties in this case. This was not a situation where the Attorney General's Office directed anyone or anything. Of course, the Attorney General's legal authority concerns only the charitable beneficiaries, not private parties or interests. *See* S.C. Code Ann. § 1-7-130 (1986). Here, all other Respondents had widely divergent interests and adverse positions to each other. Those positions were each represented vigorously by well-respected counsel. A settlement of such complexity and magnitude cannot be arrived at by Attorney General fiat. Thus, in no sense, did the Attorney General "broker," nor could he have, the terms of the settlement. Nor did he "direct[] a compromise which ultimately resulted in the AG obtaining virtual control over Brown's estate," as this Court found. *Op.* at 19.

Instead, consummation of the Settlement was a hard-fought, hotly-contested process and agreed to at arms-length by the parties with the assistance of one of the most highly respected mediators in this State, Tom Wills. Contrary to the Court's implication throughout its decision, the Attorney General is not a dictator, and he did not dictate the terms of this settlement. This settlement arrived at was fair, reasonable, and was approved by a highly regarded circuit judge after seven strenuous, hard fought days of

hearings. And, this was a circuit judge who vowed on the record that he would not be "ramrodded" by anyone, but would reach his own independent determination as to the settlement's merits. *Supplement* at 5. [The Court: "So it (the settlement) won't be ramrodded by any stretch of the imagination. It will only be approved or disapproved by a very thoughtful discussion by everybody and everybody having an opportunity to present to me their pros and cons. So, ramrod – I take issue with that description."] Thus, as this Court correctly recognized, "... it was the circuit court, not the AG which gave final approval to the compromise agreement submitted by the parties." *Op.* at 10. That is what the law requires of a court of equity and that is what occurred in this case.

While we certainly disagree with the Court's conclusion voiding this settlement, a settlement which was carefully thought out and thoroughly reviewed, we fully respect the Court's judgment based upon the applicable legal standard that the settlement must be "just and reasonable." However, to the extent that the Court's opinion is premised upon the Attorney General's having effected a "total takeover of Brown's estate" or his having "highjacked the proceedings here," the Court is mistaken. That is not at all what happened here. Based upon this incorrect premise, and to avoid a future adverse impact which this decision, as written, will inevitably cause to the Office of the Attorney General as the protector and enforcer of charitable trusts, we respectfully seek to have the Court reconsider these portions of its Opinion and to correct its assessment of the Attorney General's role here. In our view, any finding that the settlement is not just and reasonable, although we disagree with such conclusion, can and should stand separate and apart from any opinion of the Court that the Attorney General "commandeered" these proceedings. He did not.

As the Court readily acknowledges, "no one disputes the propriety of the AG's initial intervention [in this case] amidst allegations of fraud by the original trustees" *Op.* at 24. And, as the Court correctly observes, in 2011, one of the trustees – Cannon – "entered a plea under *North Carolina v. Alford*, 400 U.S. 25 (1970) to charges of taking money from Brown, for which he was sentenced to house arrest." *Op.* at Footnote 2. Restitution for Cannon's misdeeds is currently being sought; an Order has been issued granting a restitution hearing. That matter is presently pending. This is consistent with the Attorney General's longstanding role concerning charitable trusts.

In other words, in view of the current financial soundness of the estate and trust, we believe that the role of the Attorney General, as "an overseer of charities representing the public, the ultimate beneficiary of the charitable trust" and as the officer to "remedy abuses in the trust management," has now been largely fulfilled. The charitable trust is in the hands of an able circuit judge, exercising his equitable powers, and one who, in the Court's own words, has done "a commendable job in attempting to sort out this difficult situation." *Op.* at 20.

Accordingly, we now advise this Court that, it is our plan that, having completed our function in intervening in this case, the Attorney General will, upon the appointment of a new trustee, assume a posture of monitoring the action, as we typically do in many charitable trust matters. Chief Justice Toal is correct that "the AG's involvement [is] no longer necessary to stave off maladministration of the Charitable Trust." In this monitoring posture, we will be available to assist the court, if required, but any active role by the Attorney General is no longer necessary, now that the Court has directed that the lower court appoint a new trustee. Moreover, in light of this Court's ruling in the separate

action against Ms. Pope and Mr. Buchanan in Richland County, which will be discussed more thoroughly below, we will withdraw from that action completely and leave the new trustee the task of protecting the charitable beneficiaries in that action.

Having said that, we turn to the settlement and the part which the Attorney General's Office played in it, as well as to the Court's incorrect assessment that the Attorney General has enmeshed himself in the day-to-day operations of this charitable trust. We believe we have professionally and capably carried out our legal responsibilities to protect this charity. If we had not, Judge Early, who is an experienced and able trial judge, would not have concluded that in protecting the charitable trust, "the diligent efforts of the Attorney General's Office [have resulted in making] ... the assets to fund the trust ... [now] available." *Record* at 45. This Office stands by Judge Early's assessment.

As the Court readily acknowledges, "[t]he law generally favors an agreement of compromise among family members to avoid a will contest or to promote the settlement and distribution of an estate." *Op.* at 18, citing *Duncan v. Alewine*, 273 S.C. 275, 255 S.E.2d 841 (1979); *Dibble v. Dibble*, 248 S.C. 165, 149 S.E.2d 355 (1966). Moreover, "[a]s a general matter, the more complex, time consuming and expensive the future litigation, the more beneficial settlement becomes as a matter of efficiency to the parties and to the Court." *See, McBean v. City of New York*, 233 F.R.D. 377, 385 (S.D.N.Y. 2006). Further, as this Court recognized in its Opinion, "a court may decline to approve or enforce a settlement agreement which does not settle a 'good faith contest or controversy ...'" *Op.* at 16. *See also, Cooley v. Tax Comm.*, 204 SC 10, 28 S.E.2d 445, 451 (1943). ["the Attorney General of a state 'may enter into compromises and

settlement of suits in which the state is an interested party, which will be binding on the State, where there is doubt and an honest dispute as to the State's rights, and the compromise or settlement is a bona fide one"(quoting 5 Am. Jur. p. 240).]. We thus agree with the Court, based upon our reading of *Cooley*, that "something more than a subjective belief or a mere allegation is necessary to avoid the potential for collusion" *Op.* at 12.

Thus, in any evaluation of a settlement, the court must determine that the settlement is not the product of collusion or coercion. *See*, 15A CJS, *Compromise and Settlement*, § 25 ["... a settlement should not be approved ... if it is the product of fraud, or overreaching by, or collusion among the negotiating parties."] In order to make that determination, there must be an evaluation of the negotiation process. As one court has put it, the court must "determine whether the compromise was the result of arms-length bargaining between the parties." *Ingram v. Coca-Cola Co.*, 200 F.R.D. 685, 693 (N.D.Ga. 2001). Important in such a determination is that the case "has been adversarial, featuring a high level of contention between the parties throughout the litigation, the mediation, and the arbitration and drafting of the Settlement Agreement." *Id.*

All of these elements were met here, but the Court did not examine these. While the Court may disagree with the settlement on its merits, our reasonable, good faith belief that there existed a contest or controversy in this matter, and that a settlement was in the best interest of the charitable trust, cannot be questioned. Nor did the Court examine the settlement negotiations and how settlement came about. Indeed, Appellants' attorney, Mr. Bailey, candidly told the lower court "that Mr. Buchanan and Mrs. Pope aren't opposed to settlement," just the terms of the settlement. *Supplement* at 16-17. Thus,

Appellants themselves appear to have acknowledged that a controversy existed and that they favored settlement. *See, Supplement* at 18. [Mr. Bailey in questioning by the court, recognized that a finding that Tommie Rae Brown (hereinafter "Ms. Brown") was Brown's wife would "diminish what goes into the trust."] It is further noted that Wayne Byrd, attorney for former Trustee Dallas, also advised the Court that in his opinion the controversy was genuine but there needed to be an adjustment as to the percentage going to the charitable trust. *Supplement* at 19-20. Ms. Pope told the lower court at the hearings that "nobody wants more than Mr. Buchanan and me to see this case properly settled." *Supplement* at 6. In fact, Appellants proposed their own settlement to the circuit court. *Record* at 2935-2939. Thus, to conclude that a good faith controversy may have been lacking is incorrect. To the contrary, while there was strong disagreement as to what a settlement would entail, there was virtually no dissent that a settlement should be had.

Moreover, it is worth noting that in its past decisions, this Court has not taken the Attorney General to task for participating in the negotiation of an arm's length settlement based upon a reasonably arrived at, honest, good faith assessment that litigation carries considerable risk and that settlement is in the public interest. Indeed, in *Cooley v. S.C. Tax Comm.*, 204 S.C. 10, 28 S.E.2d 445 (1943), the Court had no issue with a complex inheritance and income tax settlement in which the Attorney General participated on behalf of the State. As here, there was in *Cooley* a vigorous attack upon the settlement. The *Cooley* settlement was questioned by the State Tax Commission, which evidently believed settlement would, in essence, forfeit large sums to the taxpayer. As the Court stated, the settlement was challenged in part, because "the amount to be paid in said

settlement is less by several hundreds of thousands of dollars than the amount of taxes due by said estate if the decedent was in fact domiciled in South Carolina" 28 S.E.2d at 449.

But it is important to observe that in approving the *Cooley* settlement, this Court did not find that the Attorney General – because he favored settlement in order to dispose of costly litigation and to protect the public interest – engaged in overreaching or was unnecessarily forfeiting assets, as he carried out his constitutional and statutory duties. As the Court well knows, any settlement must give up something to get something. In the public arena, any settlement less than what was originally sought (like any plea agreement) can be second guessed or subject to criticism as being too little or not nearly enough. However, as the Court stated in *Cooley*, in a passage which could be deemed virtually applicable to the circumstances in this case:

[l]imiting ourselves to the precise question presented by the peculiar facts of this case, we find the situation to be that the State of South Carolina, acting by counsel for whom provision is made in the Constitution and statutes of the State, ... came to the conclusion that the best interests of the State lay in the settlement of the litigation. Its counsel had before him a settlement proposal which represented substantially more than fifty percent. [1] of the amount he deemed to be involved and he was dealing with contentions on the part of the State involving matters of law and fact about which he believed there was serious doubt. Presumably his judgment was affected by the fact that the Commission had dealt with the estate as that of a nonresident in thus acting upon the detailed factual representations of the attorneys for the executors as to the domicile of the testatrix, and that this course of dealing on the part of the Commission had represented its considered judgment based upon full investigation of available sources of information.

Nowhere in the record is there the slightest suggestion of fraud on the part of the executors or their attorneys in the course pursued by them, or in the representations made by them; nor under the motion challenging

882 is our understanding that the charity will get substantially more than fifty percent here, also. With the renewal and termination rights being a part of the settlement, the revenue stream for scholarships to needy children can continue for at least another 40 years longer than it would have without these rights.

the settlement in question, and in the petition made in support thereof, is it suggested that any of the factual considerations which the executors presented and the Commission and the Attorney General acted upon are erroneous.

And finally the record is clear that the Attorney General has not acted otherwise than in good faith, or with any other purpose than to serve the best interests of the State. (emphasis added).

Id.

In other words, the Court in *Cooley* did not characterize the Attorney General's role in participating in the settlement as one of overreaching, commandeering, or abdication even though the settlement was hotly contested, and even though there were those contending that the Attorney General gave up too much in settling the case. For the Attorney General to advocate a position on behalf of the State or on behalf of the charitable beneficiaries that a matter should be settled is not, absent proof thereof in the Record, overstepping our authority or abdicating our responsibility. Importantly, no such proof exists in this case. Here, as in *Cooley*, the Attorney General participated in hard-nosed settlement negotiations and agreed to compromise when faced with a good faith controversy. The fact that it is the Office of Attorney General involved in the settlement negotiations does not *ex proprio vigore* mean that the Office "brokered" the settlement and thus the settlement will be voided. *See also, Duncan, supra* [Court disapproved of family settlement, in which Attorney General participated, but Court did not single out role of Attorney General]. If it did, the Court would be tying the hands of the Attorney General in resolving cases for the best interest of the State.

Originally, in this case, the Office of the Attorney General did not favor settlement at all and was prepared to litigate the matter to the fullest. We believed that we could prevail completely, based upon the four corners of the will. *Record*, at 1853.

["Mr. Jones: ... the position of our office is we don't settle [W]e're satisfied it is a four corners case."]; *Record* at 1990 [Mr. Jones: ... in the first three or four months it looks like the AG doesn't want to settle or he's not in the mode to settle. [His] ... is a scorched-earth type of situation because [of] how vigorously we were opposing."]. However, as time went on, we became convinced that the trust was losing value rapidly because it was being overwhelmed by lawsuits and family strife. The "cunning, artifice or undue influence" litigation,² brought by the Appellants, as well as the continued family strife, thereby insuring lengthy, expensive litigation, thus made settlement more attractive to the Attorney General even though it had not been before. As the Court itself notes, "the parties remained at odds over the handling of Brown's estate matters." *Op.* at 19.

More specifically, in February, 2008, Appellants sued Cannon, Dallas, Bradley, et al., alleging that "[b]eginning on or before January 1, 1999, the Defendants Cannon, Dallas and Bradley entered into a civil conspiracy to defraud James Brown and his related interests and entities which continued up to the date of his death and thereafter." *Record* at 1201, 1237. This "cunning, artifice, or undue influence" lawsuit is markedly different from the claims of "undue influence" which are addressed in this Court's opinion. Our focus turned to the body of evidence that was building in support of James Brown being swindled over a period of time, not the facts and circumstances surrounding the signing of the trust document.

In that regard, what the Court overlooks is the substantial impact which the Appellants' "cunning, artifice, or undue influence" litigation had upon our decision to seek settlement. Appellants' suit asserts that James Brown was being "bilked" by those

² This initial complaint was filed on February 5, 2008. (R at 1194-1229). The Amended Complaint was filed on March 18, 2008. (*Record* at 1230-1271)

closest to him for almost a decade during his life. Appellants' complaint alleges this scheme had "Defendants Cannon, Dallas and Bradley began or continued a scheme under which excessive and exorbitant fees and commissions were charged and collected against income generated by Mr. Brown from the performance of tours and concerts throughout the world[.]" *Record* at 1201-1201, 1237-1238. Appellants further assert that David Cannon funneled more than one million dollars of funds to himself, his entity DGC Associates, and Albert H. Dallas. This lawsuit seeks actual, as well as punitive, damages. *Record* at 1224-1229, 1264-1270. Moreover, the Complaint further alleges that pursuant to the conspiracy, Dallas, Cannon and Bradley undertook to procure Brown's signature by undue influence, fraud or forgery and fraudulently concealed these acts from Brown.³ *Record* at 1201, 1237.

In other words, once this litigation was filed in February, 2008, we realized that not only did Dallas, Cannon and Bradley seek to defraud James Brown during his lifetime; they also sought to play upon his passion to educate needy children by placing themselves in charge of the charitable trust so that they could bilk Brown after his death.

Appellants' lawsuit, and the allegations contained therein, are discussed extensively in our Brief to this Court at pp. 24-26. There, we noted that "the controversy whether Brown's former handlers and confidants took advantage of and unduly influenced him has a good-faith basis." *Respondents' Brief* at 25-26.

This Court has recognized the doctrine of "cunning, artifice or undue influence" to

³ A snapshot of one of these schemes to bilk James Brown is Exhibit G that is attached to the February, 2008, complaint. Exhibit G addresses the payout of a refinancing of the Pullman bond that had an outstanding balance of \$20,100,000 for a refinance amount of \$25,200,000. That refinance would leave a net proceed of \$5,100,000. However, with the payment of fees to Cannon and Dallas, among others, the net result would be James Brown *owing* over \$1 million in addition to the bond increasing by \$5 million. *Supplement* at 22.

void the acts of a person where that person "has not exercised a deliberate judgment, but that he has been imposed upon, circumvented or overcome by cunning, artifice or undue influence." *Gaston v. Bennett*, 30 S.C. 467, 9 S.E. 515 (1889). See also *Dubose v. Kell*, 90 S.C. 196, 71 S.E. 371 (1911) [Court found no undue influence because the deed was not procured or induced by any undue influence, fraud, cunning, duress or artifice].

As we argued in our *Brief* to this Court, "[u]nfortunately, at the end of the day, Cannon, Dallas, and Bradley's undue influence over Mr. Brown appears to have prevailed." *Brief* at 26-27. Thus, the primary witnesses we would use to uphold the charitable trust – Cannon, Bradley and Dallas – stood accused of fraud and Herring was in prison. As Mr. Medlin told the circuit court, "[t]his is exactly what Mrs. Pope and Mr. Buchanan accused those three gentlemen of doing during Mr. Brown's lifetime – that – to be gross about it, that they cheated and tricked him." *Record* at 1967.

The circuit court recognized the importance of the "cunning, artifice, or undue influence" litigation upon the decision to settle. Questioning Mr. Bailey, the court stated that "you will acknowledge there is a serious challenge to those based on undue influence and for no other reason for the fees that were allowed under those documents to be paid to Bradley, Dallas and Buchanan (sic) up to 50% of the gross?" *Record* at 1399. And, in its Order, the circuit clearly focused on this litigation brought by Appellants:

[o]n behalf of the estate and trust, Ms. Pope and Mr. Buchanan have brought an action against Messrs. Cannon, Dallas and Bradley, alleging inter alia that Messrs. Cannon, Dallas, and Bradley practiced undue influence on Mr. Brown and used various entities controlled by them to syphon off his assets, effectively order the guise of management expenses. Ms. Pope testified that Mr. Cannon told her he could get half of Mr. Brown's estate, if he wanted

Furthermore, the credibility of four principal witnesses to the validity of the 2000 will and trust is questionable. Mr. Herring is in jail

for murder. The accuracy and veracity of the testimony in this matter by Messrs. Cannon, Dallas and Bradley is suspect and at times contradictory.... The questionable credibility of the four witnesses most involved with the preparation and execution of the 2000 will and trust certainly supports the good faith basis of the contestants' claims.

Record at 24-25.

The Court also had concerns about the impact of the prenuptial agreement. This provides further basis for there to have been a good faith controversy, thereby leading to settlement. From our review of the briefs, the agreement is mentioned only once – in footnote 24 of the Appellant's Final Brief. In our view, there may be a reason for this: The Attorney General also did his due diligence as to this issue. From the information represented to us, the prenuptial document in November 2001 was presented to Mrs. Brown by one of the Trustees without legal representation for Mrs. Brown. Additionally, there was no evidence that we found that Mrs. Brown was provided information, of a general and approximate nature, concerning Mr. Brown's net worth. *See Geddings v. Geddings*, 319 S.C. 213, 460 S.E.2d 376 (1995) ("Fair disclosure contemplates that each spouse should be given information, of a general and approximate nature, concerning the net worth of the other. Each party has a duty to consider and evaluate the information received before signing an agreement."). Mr. Brown could not have informed Ms. Brown of his financial situation, even if he had wanted to, because he did not know it himself. In fact, the value is still in dispute today.

Second, a view of the document itself reflects facial defects of the prenuptial agreement *Record* at 2641-2647. The first page states the document is an Aiken document, while the signature page indicates it was executed in Georgia. *Record* at 2641, 2647. The handwriting on the first page purports that it was signed on November

19, 2001, while the signature page purports to be signed on November 27 2001. *Record* at 2641, 2647. Further, the two purported witnesses do not include the notary or the witness swearing before the notary, yet the witness swearing before the notary claims that she along with the "other witness" signing above saw the signatures. *Record* at 2647.

These issues – the lawsuit alleging cunning, artifice or undue influence, and the potential invalidity of the prenuptial agreement – together with the other litigation brought by family members, thus caused us to seriously rethink our position of "no settlement." The trust could well end up with "zero," as we saw it. *Supplement* at 9. [Mr. Bauknight (who was then functioning as court advisor): "If the will contests that were being litigated were successful, the Attorney General's Office would see absolutely nothing going into the charitable trust unless ultimately something was found to have already been funded into a trust."] It was in this light that attorneys for other parties in this litigation approached the Office of Attorney General, suggesting mediation and possible settlement. We did not push these settlement talks, but they were proposed to us. The Attorney General, recognizing the obstacles facing us, gave his approval to enter these settlement negotiations. We did not know whether settlement was even possible, but we agreed to give it a try. *Record* at 1992-1993. We suggested Tom Wills, a leading mediator in the State, in an effort to mediate the matter. The site for mediation was agreed by all to be held in Augusta. While the Court found that Appellants did not receive notice of the mediation, we had been advised and believed in good faith that they had received notice. *Supplement* at 9-14.

The atmosphere in Augusta was one of high tension, due to family members being at odds with one another. A draft skeletal outline for settlement had been prepared by an

attorney for one of the other parties. After considerable negotiation, the ratio of 50-25-25 was agreed upon, together with the inclusion of the renewal and termination rights. This proposal seemed more than fair from the standpoint of the trust, particularly given the value of these music rights.

With regard to those music rights, to their credit, the children and Ms. Brown strongly believed that James Brown truly desired needy children to have scholarships and it was they who offered the renewal and termination rights to the trust. This would give the trust a value far beyond where it then stood.

Such renewal and termination rights, provided a very valuable asset to the Trust. Even if the Trust litigated the matters and won on every point, the Trust *would not have this significant asset.*

As Peter Afrasiabi's article explains, using the example of "Superman," authors and their families possess rights under federal copyright law to terminate a previous assignment of a copyright. The article states that "[t]his termination-recapture right that exists for authors and their families is immensely valuable." *Record*, at 2308, 2313.

It was our position that these rights being made a part of the Trust was a huge gain for the Trust, and that the parties at that time recognized that the value of this asset was uncertain. *Record* at 1326. [Mr. Jones: "The renewal and termination rights being included within the settlement was a major factor for us and what we consider[ed] a bonus ..."]. As the contribution agreement states: "The parties hereunder recognize that it may be difficult at this time to value accurately the interests and rights being contributed hereunder to the Legacy Trust. However, the parties are reasonably informed that a large portion of the value of the assets and interests contributed hereunder resides

in the rights granted to heirs under the federal copyright laws. Accordingly, the parties recognize that the beneficial interests received hereunder by Ms. Brown and/or by the Levenson clients *may be of lesser value than the interests they are contributing to the Legacy Trust pursuant to this Agreement.*" *Record* at 513. (emphasis added)

Following day-long negotiations in a contentious atmosphere, early that evening, we believed a settlement had been achieved. However, due to internal family strife, the settlement agreement then appeared to collapse. After some considerable effort by the mediator, the family strife was resolved and an agreement to settle in principle was finally reached after 11:00 p.m. that evening. The settlement agreement was signed in August, 2008, about 10 months after the Attorney General had intervened in the action. *Record* at 171-172, 506.

That did not end the matter, however. The other Respondents took the position that no court approval of the settlement agreement was necessary, but that such agreement was a private family settlement. *See* S.C. Code Ann. § 62-3-912 (2009). Notwithstanding this position, the Attorney General insisted as a condition of any settlement that court approval would be necessary and should be sought pursuant to section 62-3-1102. *Record* at 1321 ["Mr. Jones: ... while the Attorney General is the – is the chief legal officer of this state and the protector by statute and common law of charitable trusts, ... this court, the court of equity would also protect the charitable trusts and charitable fiduciaries"]; *Record* at 1725 ["Mr. Jones: ... but in the charitable trust the executive branch, the chief legal officer in this state protects the interest of the charitable trust under supervision of a court of equity – not under any supervision of any PR or trustee."]; *Record* at 1725 [Mr. Jones: The Attorney General takes a little different

position. Mr. Medlin and I have gone back and forth about this, but in a trust we feel, your Honor, *that the resolution we have must be presented to you*] (emphasis added). This was consistent with our longstanding policy, that because a charitable trust was involved, court approval is required. *Id.* See also, 14 C.J.S. *Charities*, § 40 ["The ultimate control over [a charitable] ... trust rests in the court."].

Seven days of hearings were held by the circuit court before the settlement was finally approved. As Chief Justice Toal recognized in her separate opinion, "[t]he fact that the AG has agreed to the settlement is of no consequence as the court is the ultimate arbiter of the merits of any settlement agreement devolving from a testator's express intent." *Op.* at 22. We agree with that statement completely. A court of equity is the ultimate protector of a charitable trust. That is why we were insistent that court approval must occur.

At the March 25, 2009 settlement hearing, we were asked bluntly by the circuit court whether we "have ... diligently examined all the possible outcomes? Have you examined all the documents and pleadings and affidavits and court orders and case law and statutes? And having done that, are you of the opinion that the settlement agreement is in the best interest of these needy children?" Our response, by Mr. Jones, was: "without a doubt, your Honor. The Attorney General, as I have mentioned to you earlier on, has not restricted me on any resources in my office that are necessary at my beck and call to do the work we needed to do." *Record* at 1726-1727.

In short, the Court is in error in concluding that the Attorney General "brokered" this settlement. What we did was prudently and reasonably weigh in good faith the pros and cons of the settlement versus that of litigation and to make a reasoned judgment that

settlement was in the best interest of the "ultimate, unspecified, and indefinite charitable beneficiaries mentioned in the decedent's will[.]" *Op.* at 9, citing with approval *In re Estate of Smith*, 75 Misc.2d 895, 349 N.Y.S.2d 281 (Surrog. Ct. 1973). That is what this Court's decision in *Cooley* requires.

We negotiated on behalf of our client, the charitable beneficiaries, in good faith and at arms-length with the other Respondents, who represented different interests. By any objective measure, our belief that there was a good faith controversy here was entirely reasonable. *Record* at 1326. [Mr. Jones: ... based upon the arguments and the hurdles we had to overcome including what witnesses we would have had to have called to present our case and the credibility of those witnesses that it was appropriate, reasonable, and at the part of doing our due diligence to enter into this settlement agreement and that it's reasonable and fair."]. Together, with the assistance of an able mediator, involved in the negotiation process every step of the way, we ultimately all reached a compromise, and the Attorney General insisted upon circuit court review thereof. Intensive review by the circuit court occurred and the settlement was ultimately approved by it. In our judgment, this was proper and in accordance with the law. We understand and respect fully that this Court does not agree with the settlement which was reached. But we strongly disagree that we overstepped our authority or our bounds with respect to the settlement.

We also take considerable issue with the Court's conclusion that "[t]he settlement provisions allowing the AG to select the trustee and his continued influence over the trust overreaches his statutory authority, as there is no provision allowing an AG to become involved in the day-to-day operations of a trust." We never have sought such a role

involving us in day-to-day operations, there is no evidence to that effect, and it would be inappropriate to involve ourselves therein. The Attorney General fully accepts and understands his role as protector of charitable trusts. The Court's conclusion, moreover, is legally erroneous because it overlooks the fundamental point that it is not the Attorney General who makes the ultimate decision in this regard, but the circuit court functioning as a court of equity. We repeatedly emphasized that point to the circuit judge.

It is first important to point out that in the settlement negotiations, the other Respondents came to us with the proposal that the Attorney General – as the neutral protector of charitable trusts – should possess the authority to appoint the trustee. The Court should know that the Attorney General did not seek out this authority, but that it was agreed by the other Respondents as a neutral and detached entity, acting in a quasi-judicial capacity, that we assume that responsibility.

Secondly, contrary to the Court's finding, statutory law authorizes the Attorney General to play a significant role in the appointment of a trustee for a charitable trust. Section 62-7-704(d)(2) states the order of priority for filling a vacancy in a trusteeship of a charitable trust, providing that the vacancy may be filled by (2) ... a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust *[if the attorney general] concurs in the selection*" (emphasis added) The Comments to Subsection (d) provide that "a successor trustee may be selected by the charitable organizations expressly designated to receive distributions in the terms of the trust but only if the Attorney General concurs in the selection." However, if the Attorney General does not concur, or if the trust does not designate a charitable organization to receive distributions [as this one did not], "the vacancy may be filled only by the court."

With these provisions in mind, and particularly the fact that there was no "charitable organization" involved here, authority is not lacking for the Attorney General to have been given the authority to select the trustee as part of the settlement. But even so, the Attorney General took the position that this provision of the settlement, like all others, must be approved by the circuit court.

Third, as a provision of the settlement agreement, such provision regarding the Attorney General's appointment of the trustee was reviewed by the circuit court and approved. The circuit court is the ultimate authority in this regard and at the point that provision of the settlement was presented for approval, we viewed the provision as a means for the Attorney General to recommend a trustee to be considered and approved by the circuit court. Such provision could have been altogether rejected by the circuit court or even revised, but it was not. Further, as we advised the circuit court, if a conflict developed with Mr. Bauknight, "we can appoint somebody else to handle that issue." Of course, any new trustee would ultimately be approved by the circuit court. *Record at 1998.*

Fourth, even after approval of the settlement containing that provision, the circuit court as a court of equity stands as the ultimate protector of the charitable trust with respect to any abuses by the Attorney General or by the trustee. As this Court recognized in *S.C. Dept. of Mental Health v. McMaster*, 372 S.C. 175, 642 S.E.2d 552, 556 (2007), "supervision of charitable trusts is an inherent judicial function." The "ultimate control over the trust rests in the court." 14 C.J.S. *Charities*, § 40. As the United States Supreme Court has noted:

When a charitable trust has been fully constituted, and the funds have been passed out of the hands and control of donors, and into the hands of the

proper institution or organization, intended for its administration the Court of Chancery, or some analogous jurisdiction, becomes its legal guardian and protector, and will take care that the objects of the trust are duly pursued and the funds rightfully appropriated.

American Printing House v. Trustees, 104 U.S. 711, 727 (1881). Furthermore, the "jurisdiction of courts of equity over charitable trusts is a continuing jurisdiction over the safeguarding, supervision and control of such trusts." 15 Am.Jur.2d, *Charities* § 123.

Thus, whether the question is one of approval of the provision bestowing upon the Attorney General the power to appoint and/or replace the trustee or the implementation of this settlement provision over the course of time, the answer is the same: the circuit court, as a court of equity, is the ultimate protector of charitable trusts and its powers clearly trump the authority of the Attorney General in this regard. That is what we told this Court in the *McMaster* case, and it is likewise why we insisted upon taking this settlement in the Brown case to the court for its review. As we stated to the circuit court, "in a trust, we feel, your Honor, that the resolution that we have must be presented to you[.]" *Supplement* at 2.

Case law vividly illustrates this important principle regarding the supervisory power of the Court. In *McMaster, supra*, this Court concluded that "[p]roperty subject to a charitable trust may not be terminated or altered by the General Assembly, but rather, must be approved by the Court As a court of equity, the court possesses the authority to carry out the intent of the donor of a charitable trust." 372 S.C. at 183-184, 642 S.E.2d at 556.

And, in *In re Wilson*, 361 N.E.2d 1281 (Mass. 1977), the Court stated that while it "is true that the Attorney General is charged with representing the interest of the public in the administration of charitable trusts," still, the Court maintains its traditional discretion

with respect to such trusts, including the appointment of a trustee. Likewise, it was said in *In the Matter of the Trusts Under the Will of Crabtree*, 795 N.E.2d 1157, 1169 (Mass. 2003), that "[a] judge is not bound by a settlement reached between acting trustees and the Attorney General ... or obligated to appoint a nominee proposed by the Attorney General." (citing *Matter of Trust Under Will of Fuller*, 636 N.E.2d 1333 (Mass. 1994); *In re Wilson*, *supra*).

Moreover, the Michigan Supreme Court's decision in *In the Matter of Reeder*, 158 N.W.2d 451 (Mich. 1968) is instructive. There, the Court concluded that the court of chancery is the ultimate authority with respect to a charitable trust. In the Court's judgment, the Attorney General was entitled to appear on behalf of the beneficiaries and to assert that a settlement is not in the best interest of the beneficiaries, but in no sense could the Attorney General "forbid the judgment of the chancellor" *Id.* at 456. As the Court emphasized:

[t]he attorney general, standing before the court in this case as an appointed legal representative of the people and of that class of charitable beneficiaries contemplated by the various statutory provisions upon which he relies, is no less amenable to the judgment of equity than are other appointed legal representatives of persons unknown or indefinite, or under legal disability or otherwise requiring representation.

Id.

Nor was Mr. Bauknight under the direction and control of the Attorney General as the Court's opinion implies. Mr. Bauknight is a well-respected professional fiduciary. Further, the circuit court utilized him as the court's advisor before he was appointed trustee. To suggest he is under the control of the Attorney General, further suggests that the circuit court did not consider his qualifications or credentials objectively either as its own advisor or as trustee. We call to the Court's attention the conclusion of the Court of

Appeals in its Order granting the Motion to Substitute Mr. Bauknight:

It is, however, unquestionable that Bauknight, as the court-appointed PR/Trustee, does have an interest in ensuring the proper management of the Estate and Trust. At the same time the circuit court relieved Pope and Buchanan of their duties, it also placed upon Bauknight the fiduciary duty to manage and control the Estate and Trust. Thus, Bauknight should be substituted because the liability for mismanagement of the Estate or the Trust now falls on him.

Record at 76-77.

In summary, the Court, in rejecting the settlement on the grounds that the Attorney General placed himself in control of the trust, through the authority to appoint and remove the trustee, overlooks the fact that it is the court of equity which ultimately approved that provision, as it did the remainder of the settlement. Again, it was the insistence of the Attorney General which resulted in court review. And, it is the circuit court which possesses a continuing jurisdiction over the trust to supervise it and look after its welfare and best interests regardless of the role of the Attorney General to protect the trust. The circuit court made its own decision to appoint Mr. Bauknight independently of the Attorney General.

Finally, we take issue with the Court's statement in footnote 29 of its Opinion which reads as follows:

[f]urther, the AG, with Bauknight's knowledge and cooperation, allegedly entered into contingency-fee agreements with outside counsel, Kenneth Wingate, for Wingate to sue Appellant Pope on behalf of the State, Bauknight, and others while also representing private plaintiffs in the suit. The suit sought damages to Brown's estate allegedly arising during Pope's appointment. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this purported arrangement. These matters should be considered by the circuit court in the first instance and any fees found to be inappropriately incurred should be disgorged and returned to the trust in light of our finding that the compromise is void and the AG has exceeded his authority by, among other things, effectively controlling the charitable trust through the appointment of Bauknight, who

serves at the AG's pleasure.

This recount of what happened is incorrect.

First of all, the Attorney General has not "refused to publicly release all of the documents pertaining to this purported arrangement." The Attorney General is a strong believer in FOIA and routinely advises public officials that "when in doubt, disclose." In this instance, we have released everything in our possession which we legally can release. One document is the subject of a Motion for a Protective Order, pending before Judge Manning. We certainly have no objection to the release of that document and have so advised the Court that we stand ready and willing to turn that document over once the Court so rules. We hope to have resolution of this issue in the near future.

With respect to the lawsuit brought against Appellants for breach of their fiduciary duty, we advise the Court candidly that the Attorney General did not want to have that suit brought because he is opposed philosophically to suing fellow attorneys.

In this instance, the Attorney General was particularly hesitant to sue because Appellants Pope and Buchanan enjoy a superb reputation throughout the legal community. Appellant Buchanan serves as a part-time federal magistrate and is a long time member of the South Carolina Bar. He is an experienced trial attorney with a diverse practice and is highly regarded. Appellant Pope has, for more than thirty years in South Carolina, been an outstanding attorney in the field of trust and estate matters. She is considered by the legal community to be an exceptional attorney.

After much deliberation, the Attorney General was advised that the statute of limitations was about to expire and that it would be a breach of the Attorney General's own fiduciary duty in protecting charitable trusts if an action was not brought on behalf

of the charity. The Attorney General's intent not to bring the action on behalf of the Attorney General's Office is fully demonstrated clearly by a letter, dated May 18, 2010, to Mr. Bauknight in which he stated that it was the Attorney General's "understanding that *you* (Mr. Bauknight) will be retaining Mr. Wingate and Mr. Kendall to file this action on behalf of the beneficiaries of the James Brown Estate and Trust, including the charitable interests." *Supplement* at 37. (emphasis added). The letter from the Attorney General to Mr. Bauknight further confirmed that with respect to "the charitable trust portion of this matter," Bauknight had "agreed to use the terms and conditions in the attached 'Agreement for Legal Services' which references and incorporates the Attorney General's Standard Litigation Retention Agreement." Thus, the contingent fee agreement was between Mr. Bauknight and Mr. Wingate, not with the Attorney General's Office.

Accordingly, the Attorney General's Office was particularly reluctant to have this action brought on behalf of the charity against Appellants by Mr. Bauknight, but in light of the one-year statute of limitations' imminent expiration and the duty of the Office vis-à-vis charitable trusts, did not object to the Trustee's doing so. The action on behalf of the charitable beneficiaries was thus filed on the very last day possible. *See* S.C. Code Ann. § 62-7-1005(a) (2009).⁴ The accounting in question was filed on May 20, 2009. *Supplement* at 23-36. The lawsuit was filed on May 19, 2010, at 1:11 p.m., almost the last instant possible. From the standpoint of the Attorney General, in light of this Court's

⁴ 62-7-1005(a)-(b) states as follows:

(a) Unless previously barred by adjudication, consent, or limitation, a beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust.

(b) A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.

(emphasis added)

ruling, we now see no need to pursue this action further. We advise this Court, therefore, that we will shortly move to have the Attorney General removed as a party in this action and any further action in this case to protect the charitable beneficiaries may be pursued by the new trustee.

Conclusion

In summary, we would submit to this Court that we have diligently pursued the protection of the charitable trust in this case. The Court may disagree with the terms of the settlement which was reached, and we fully respect the Court's ruling. However, in light of the challenges facing us to uphold the trust, particularly the credibility of those we would need to call as witnesses in that regard, we thought settlement was the most prudent course. These were the very individuals who stood accused of fraud and with the promotion of a scheme of cunning and artifice, by Appellants' lawsuit. Clearly, as the circuit court found, there was a good faith controversy and we believed the terms of the settlement were fair and reasonable. 81 A.L.R. 124 (citing *State v. Southern R. Co.*, 82 S.C. 12, 62 S.E. 116 (1908) [court possesses discretion to refuse Attorney General's motion to discontinue]. We still believe that today. We respectfully request that the Court modify its Opinion accurately to reflect the Attorney General's role in the settlement, consistent with the facts and arguments set forth above.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

ROBERT D. COOK
Deputy Attorney General

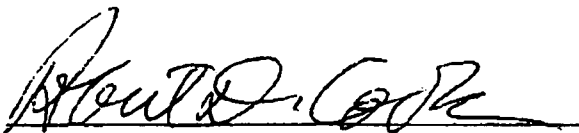
900

C. HAVIRD JONES, JR.
Assistant Deputy Attorney General

MARY FRANCES JOWERS
Assistant Attorney General

J.C. NICHOLSON, III
Assistant Attorney General

1000 Assembly Street
Rembert C. Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3970

By: 

By: 

Attorneys for Respondent Alan Wilson.

March 14, 2013.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

MAR 14 2013

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

S.C. Supreme Court

The Honorable Doyet A. Early, III, Circuit Court Judge

Case No. 2008-CP-02-1647

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

v.

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

**MOTION TO SUPPLEMENT THE RECORD PURSUANT TO
RULE 212(b), SCACR, OR IN THE ALTERNATIVE, TO TAKE JUDICIAL
NOTICE OF TRANSCRIPTS AND RECORDS**

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

Respondents respectfully request that this Court supplement the Record of this appeal to include the following: (1) Transcript of Record, September 28, 2008, pages 15-16; (2) Transcript of Record, November 25, 2008, pages 10 and 29; (3) Transcript of Record, January 30, 2009, pages 104-105 and 149-152; (4) Transcript of Record, April 6, 2009, pages 186-188 and 196-197; (5) Exhibit G to C/A No. 2008-CP-02-322, *Pope et al v. Cannon et al.*; (6) Interim Accounting #1A, filed May 20, 2009; and (7) Letter dated May 18, 2010. The proposed Supplement is attached as *Exhibit A*. In the alternative, this Court may take judicial notice of these documents as they are transcripts of hearings held in the circuit court, Exhibit G is to a Complaint that is part of the Record, the Interim Accounting is also part of the James Brown matter and has been submitted to this Court in another appeal, and the letter is related to James Brown matters pending in the circuit court.

This is an appeal of a complex matter. There were numerous transcripts and documents included in the Record on Appeal, which consists of over 2,900 pages, seven volumes, and a supplement. To include every word of every transcript was not an appropriate course. Similarly, every exhibit to every pleading was not included. The Attorney General and other parties included only the relevant materials. In the Attorney General's review of this matter following the Court's opinion of February 27, 2013, there are a few transcript pages that are especially relevant to his Petition for Rehearing; the Attorney General believes these transcript pages and

other documents will further show that he diligently pursued the protection of the charitable trust in this case.

As to the transcripts, the Attorney General requests that additional pages of transcripts already in the record be included. As to the November 25, 2008 transcript, pages 4 and 5 are already part of the Record on Appeal. (R. at 1295-1297). In this Motion, the Attorney General requests that two additional pages be added to the Record on Appeal. As to the January 30, 2009, transcript, pages 5-6, 9, 11, 13, 13-17, 19-26, 31-32, 36-39, 46, 55, 62-63, 91-95, 122-138, 140, 145, 148, and 156-186 are already part of the Record on Appeal. (R. 1298-1388). In this Motion, the Attorney General requests that six additional pages be added to the Record on Appeal from the January 30, 2009, transcript. As to the April 6, 2009 transcript, pages 4-7, 12, 14, 18, 21-51, 54-59, 65, 70, 76, 78-86, 95-96, 98-99, 101-173, 183-185, and 197 are already part of the Record on Appeal. (R. 1874-2017). The Attorney General requests that three additional pages from the April 6, 2009 transcript be added to the Record on Appeal. While the September 28, 2008, transcript was not included as part of the Record on Appeal, it involves a hearing before Judge Early in the James Brown matter and was held the month after the parties reached a settlement.

As to Exhibit G, this is an exhibit to a Complaint that is already part of the Record on Appeal. (R. 1194-1229). Exhibit G itself is referenced in the Complaint (R. 1213). The Attorney General asks that Exhibit G also be included as part of the Record on Appeal, as this document provides additional background information to relevant issues. As to the Accounting, it was filed by the Appellants and is a part of the James Brown matter; it has been submitted to the appellate court as Exhibit P attached to the Motion to Dismiss of Stay Appeal, or for Extension of Time to File Respondents' Initial Brief, filed by counsel for Tommie Rae Brown on

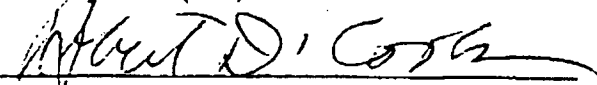
September 13, 2012. As to the letter dated May 18, 2010, this is related to James Brown matters and is relevant to issues before this Court.

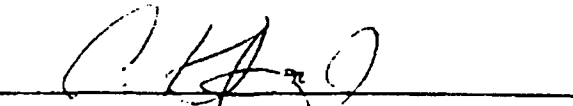
Alternatively, in the event that the Court declines to include the documents as part of the Record on Appeal, the Attorney General would respectfully request that this Court take judicial notice of these records, as the transcripts are from hearings which are part of this case, and the Exhibit, Accounting, and letter are relevant to this matter. *See* 31A C.J.S., *Evidence*, § 96 ("A court may take judicial notice of pleadings filed in a case."); *see also Padgett v. Sun News*, 278 S.C. 26, 32, 292 S.E.2d 30, 33 (1982) (internal citation omitted) ("Traditionally court records have been public records, generally open for public inspection.").

Respectfully submitted,

ALAN WILSON
Attorney General
JOHN W. McINTOSH
Chief Deputy Attorney General
ROBERT D. COOK
Deputy Attorney General
C. HAVIRD JONES, JR.
Assistant Deputy Attorney General
MARY FRANCES JOWERS
Assistant Attorney General
J.C. NICHOLSON, III
Assistant Attorney General

1000 Assembly Street
Rembert C. Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3970

By: 

By: 

305

Attorneys for Respondent Alan Wilson.

March 14, 2013.

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

COURT OF COMMON PLEAS
07-CP-02-122

IN RE: ESTATE OF JAMES BROWN
A/K/A JAMES JOSEPH BROWN

TRANSCRIPT OF RECORD

SEPTEMBER 28, 2008
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:

LOUIS LEVENSON, ESQ.
ATTORNEY FOR THE THE HEIRS

ROBERT N. ROSEN, ESQ.
DAVID L. MICHEL, ESQ.
M. JEAN LEE, ESQ.
S. ALAN MEDLIN, SQ.
ATTORNEYS FOR THE TOMI RAE HYNIE BROWN

ADELE J. POPE, ESQ.
ROBERT L. BUCHANAN, JR., ESQ.
SPECIAL ADMINISTRATORS

A. PETER SHAHID, JR., ESQ.
ATTORNEY FOR THE GUARDIAN AD LITEM

STEPHEN M. SLOTCHIVER, ESQ.
GUARDIAN AD LITEM

1 MCMASTER SAT AT ONE TABLE. THE BUDGET AND CONTROL BOARD
2 AND THE TRUSTEE OF THE CHARITABLE TRUST WHICH WAS MENTAL
3 HEALTH -- IT'S A STATE FUND -- SAT AT THE OTHER TABLE AND
4 THE SUPREME COURT SAID IN THAT CASE THAT THE ATTORNEY
5 GENERAL IS THE PROPER PARTY TO PROTECT ADMINISTRATION OF
6 THE CHARITABLE TRUST.

7 SO, IF ANYBODY DISAGREES WITH WHAT THE ATTORNEY
8 GENERAL IS DOING IN THIS CASE, THEY HAVE NO STANDING. THE
9 ATTORNEY GENERAL IS HERE. HE IS PROCEEDING IN GOOD FAITH.
10 WE HAVE A DEAL WHICH WE THINK IS A REMARKABLE DEAL TO GET
11 SCHOLARSHIPS TO THE KIDS.

12 NOW, THE THOUGHT WOULD BE IF --

13 THE COURT: SO, YOU HAVE THE AUTHORITY ON BEHALF OF
14 THE STATE AND THE TRUSTS FOR THE CHILDREN TO TELL THIS
15 COURT YOU THINK IT IS AN EXCELLENT SETTLEMENT ON BEHALF
16 FOR THEIR BENEFIT?

17 MR. JONES: YES, SIR. AND, ALSO, A PRIVATE
18 SETTLEMENT DOESN'T HAVE TO BE APPROVED -- PRESENTED TO THE
19 COURT FOR APPROVAL. THE ATTORNEY GENERAL TAKES A LITTLE
20 DIFFERENT POSITION. MR. MEDLIN AND I HAVE GONE BACK AND
21 FORTH ABOUT THIS, BUT IN A TRUST WE FEEL, YOUR HONOR, THAT
22 THE RESOLUTION THAT WE HAVE MUST BE PRESENTED TO YOU IN
23 WHICH WE'LL DO THAT AT THE APPROPRIATE TIME WHEN THE TAX
24 ISSUES AND A FEW OTHER THINGS THAT'S BEEN WORKED OUT, AND,
25 HOPEFULLY, THAT IS PROBABLY IN JUST A COUPLE WEEKS AWAY.

1 I MIGHT BE OVERSTATING THAT, BUT THE OTHER THOUGHT
2 ABOUT IT IS, YOUR HONOR, SUPPOSE THAT LITIGATION CONTINUES
3 AND WE HAVE SOME RIGHTS THAT THESE INDIVIDUALS -- LOUIS
4 LEVENSON'S CLIENTS AND MR. MEDLIN AND ROSEN'S CLIENT HAVE
5 PUT IN FOR THE ATTORNEY GENERAL THAT WE COULD LOSE. SO,
6 WE HAVE A STAKE IN THIS, BUT SUPPOSE THAT MR. BELL
7 PROCEEDS, AND THEN THAT LIGHTS BACK UP MR. ROSEN AND IT
8 LIGHTS BACK UP LOUIS LEVENSON, AND WE PROCEED ON WITH
9 LITIGATION AND WE GET A GOOSE EGG FOR THE CHARITY. OKAY.
10 WHO IS TRYING TO REPRESENT THE ATTORNEY GENERAL THEN?
11 THEY CAN WALK AWAY AND WE'RE SITTING THERE WITH OUR PALMS
12 TO THE SKY. SO, THERE IS NO QUESTION, YOUR HONOR, THAT IT
13 IS VERY IMPORTANT THAT WE REACH A RESOLUTION THAT WE THINK
14 IS IMPORTANT AND WILL PRESENT TO THE COURT.

15 I THINK MR. BELL HAS DONE A GOOD JOB. YOU'VE SEEN
16 HOW THINGS MOVED THROUGH HERE THAT HE STOOD BY THE
17 CHARITABLE TRUST AND THAT'S WHAT WE'VE DONE, AND WHAT
18 WE'VE DONE IS MAKE A RESOLUTION THAT GOING INTO THE
19 MEDIATION I DIDN'T THINK WE POSSIBLY COULD GET, AND WE'RE
20 VERY SATISFIED WITH IT.

21 THERE IS ANOTHER ISSUE THAT I WANT TO BRING TO THE
22 COURT'S ATTENTION IS THAT BEFORE THE MEDIATION STARTED --
23 AND WE FILED A PLEADING ON THIS TODAY, YOUR HONOR, THAT I
24 UNDERSTAND THAT THE PROBATE JUDGE ROE IS NOT IN, AND, SO,
25 SHE'LL BE SENDING IT UP TO YOU -- IS THAT MR. BELL SAID

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

COURT OF COMMON PLEAS
08-CP-02-1647

HENRY DARGAN MCMASTER, ET
AL.,

PLAINTIFFS
VS.

ALBERT H. DALLAS, ET AL.,
DEFENDANTS

TRANSCRIPT OF RECORD

NOVEMBER 25, 2008
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:

LOUIS LEVENSON, ESQ.
LORI CHRISTMAN, ESQ.
ATTORNEYS FOR THE THE HEIRS

ROBERT N. ROSEN, ESQ.
DAVID L. MICHEL, ESQ.
T. HEYWARD CARTER, ESQ.
S. ALAN MEDLIN, ESQ.
ATTORNEYS FOR THE TOMI RAE HYNIE BROWN

ADELE J. POPE, ESQ.
ROBERT L. BUCHANAN, JR., ESQ.
SPECIAL ADMINISTRATORS

A. PETER SHAHID, JR., ESQ.
ATTORNEY FOR THE GUARDIAN AD LITEM

1 IT'S FRIGHTENING. THE PROBLEM THAT WE SEE IS BY
2 APPOINTING A SPECIAL ADMINISTRATOR, A SPECIAL TRUSTEE, THE
3 SOLE PURPOSE IS TO RAMROD THIS SETTLEMENT THROUGH AND --

4 THE COURT: WELL, MR. BAILEY, I TAKE ISSUE WITH YOUR
5 TERMINOLOGY OF RAMROD THE SETTLEMENT THROUGH. THE
6 SETTLEMENT IS NOT GOING TO BE RAMRODDED THROUGH ANYBODY.
7 WHAT WE'RE TRYING TO DO IS OFFER EVERYBODY AN OPPORTUNITY
8 TO REVIEW THE WRITTEN DOCUMENT AND THEN COME BACK INTO
9 COURT TO SEEK APPROVAL AT WHICH TIME YOU CAN EXPRESS ANY
10 OBJECTIONS TO IT THAT YOU WISH.

11 IT MAY BE THAT WE WOULD HAVE TO SEE WHETHER WE'RE
12 GOING TO HEAR THAT REQUEST TO APPROVE THE SETTLEMENT
13 BEFORE WE HAVE THE EVIDENTIARY DUE PROCESS HEARING ON THE
14 PETITION FOR REMOVAL. IT WOULD CERTAINLY BE AN
15 OPPORTUNITY FOR MR. BELL TO ARGUE AND PRESENT HIS CASE ON
16 THE ISSUES THAT HE RAISED IN CHAMBERS, I.E., WHETHER OR
17 NOT A SETTLEMENT CAN BE APPROVED WITHOUT HIS CLIENTS'
18 INVOLVEMENT.

19 SO, IT WON'T BE RAMRODDED BY ANY STRETCH OF THE
20 IMAGINATION. IT WILL ONLY BE APPROVED OR DISAPPROVED
21 AFTER A VERY THOUGHTFUL DISCUSSION BY EVERYBODY AND
22 EVERYBODY HAVING AN OPPORTUNITY TO PRESENT TO ME THEIR
23 PROS AND CONS. SO, RAMROD -- I TAKE ISSUE WITH THAT
24 DESCRIPTION.

25 MR. BAILEY: WELL, YOUR HONOR, I VIEW IT AS

1 MRS. POPE: THROUGH DECEMBER 8 AND TODAY EXCEPT FOR
2 AN HOUR TOMORROW AND ONE PRESCHEDULED MEETING IS MY LAST
3 DAY IN THE OFFICE AND MY OFFICE WILL BE ESSENTIALLY CLOSED
4 UNTIL THE EIGHTH.

5 THE COURT: I AM CERTAINLY GOING TO GRANT THAT.

6 MRS. POPE: THANK YOU, JUDGE.

7 THE COURT: IT WOULDN'T WANT YOU SHOOTING ME.
8 ASSUMING AFTER DECEMBER 8 -- WE GOT CHRISTMAS. WOULD 30
9 DAYS AFTER THAT DECEMBER 8 BE PALATABLE?

10 MRS. POPE: WELL, JUDGE, I AM RETIRING FROM THE
11 PRACTICE OF LAW ON DECEMBER 31 AND I HAVE A TRIAL
12 SCHEDULED -- A WEEK-LONG SCHEDULE FOR DECEMBER 15 IN
13 ORANGEBURG, AND, SO, I'M CONCERNED THAT WE DON'T HAVE THE
14 PARTIES JOINED, AND, SO, I WOULD THINK 30 DAYS AFTER THE
15 PARTIES ARE JOINED, AND WE AGAIN -- WE HAVE CONCERNS ABOUT
16 THAT WHICH WE MAY HAVE TO RAISE IN SOME OTHER WAY BY
17 RECONSIDERATION OR OTHERWISE, BUT, JUDGE, NOBODY WANTS
18 MORE THAN MR. BUCHANAN AND ME TO SEE THIS CASE PROPERLY
19 SETTLED. WE ARE CONSIDERING WHETHER TO REPRESENT
20 OURSELVES PRO SE SINCE WE'VE BEEN SUED INDIVIDUALLY, BUT
21 WE WANT MORE THAN ANYONE THAT IF IT IS SETTLED THAT IT BE
22 SETTLED WITH PROPER DUE PROCESS AND WE HAVE GRAVE CONCERNS
23 ABOUT THAT.

24 SO, I WOULD SAY 30 DAYS AFTER ALL -- AFTER THE COURT
25 HAS DETERMINED WHO ARE THE NECESSARY PARTIES AND THOSE

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF AIKEN

2008-CP-02-1647

HENRY DARGAN MCMASTER, ET AL. :

:

-VS-

:

TRANSCRIPT OF RECORD

:

RUSSELL L. BAUKNIGHT, ET AL. :

JANUARY 30, 2009

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:

LOUIS LEVENSON, ESQUIRE

LORI CHRISTMAN, ESQUIRE

ATTORNEYS FOR THE HEIRS

ROBERT N. ROSEN, ESQUIRE

DAVID L. MICHEL, ESQUIRE

T. HEYWARD CARTER, ESQUIRE

S. ALAN MEDLIN, ESQUIRE

ATTORNEYS FOR TOMMIE RAE HYNIE BROWN

ADELE J. POPE, ESQUIRE

ROBERT L. BUCHANAN, JR., ESQUIRE

SPECIAL ADMINISTRATORS

A. PETER SHAHID, JR., ESQUIRE

ATTORNEY FOR THE GUARDIAN AD LITEM

1 TO ENTER INTO THE AGREEMENT.

2 IN ADDITION, THE ATTORNEY GENERAL'S OFFICE WAS
3 CONSIDERING THAT THEY WOULD, ONCE ENTERED INTO THIS
4 AGREEMENT, BECOME A PARTY TO SOME POTENTIAL RIGHTS UNDER THE
5 FEDERAL COPYRIGHT LAW THAT THEY MAY NOT HAVE RECEIVED ANY
6 PORTION OF WITHOUT ENTERING INTO THE AGREEMENT. SO WHEN
7 PUTTING TOGETHER THE LESS THAN 100 PERCENT PORTION FROM THE
8 ESTATE OR TRUST THAT'S THERE NOW PLUS THE FACT THAT THEY
9 WOULD SHARE IN FUTURE RIGHTS CREATED UNDER THE FEDERAL
10 COPYRIGHT LAW, THEY FELT THEY WERE MAKING A FAIR AND
11 REASONABLE SETTLEMENT OF THEIR CASE.

12 Q. AND IN RECEIVING THE INFORMATION FROM THE SOUTH CAROLINA
13 ATTORNEY GENERAL'S OFFICE, YOU PERCEIVED REAL CONCERNS FROM
14 THE REPRESENTATIVES THAT YOU SPOKE TO THAT THEY WERE WORRIED
15 THAT ULTIMATELY THE OUTCOME OF THESE LAWSUITS MIGHT RESULT IN
16 THEM RECEIVING LESS THAN THE AGREED AMOUNT?

17 A. WELL, THE SPECIFIC CONCERNS AND EXAMPLES THAT THEY
18 RAISED WITH RESPECT TO HOW THEY MIGHT NOT RECEIVE 100 PERCENT
19 OF FUNDING FOR THE CHARITABLE TRUSTS WERE IF MR. ROSEN'S
20 CLIENT WERE TO PREVAIL AND THAT HIS CLIENT RECEIVE A 50
21 PERCENT OR ONE-THIRD INTEREST IN THE ASSETS, THEN THE
22 CHARITABLE TRUST WOULD OBVIOUSLY RECEIVE LESS THAN 100
23 PERCENT FUNDING.

24 IF MR. SHAHID'S CLIENT WERE TO PREVAIL AS AN OMITTED
25 CHILD, THE ATTORNEY GENERAL'S OFFICE WOULD END UP WITH A

1 SITUATION WHERE THE CHARITABLE TRUST WAS FUNDED WITH LESS
2 THAN 100 PERCENT.

3 IF THE WILL CONTESTS THAT WERE BEING LITIGATED WERE
4 SUCCESSFUL, THE ATTORNEY GENERAL'S OFFICE WOULD SEE
5 ABSOLUTELY NOTHING GOING INTO THE CHARITABLE TRUST UNLESS
6 ULTIMATELY SOMETHING WAS FOUND TO HAVE ALREADY BEEN FUNDED
7 INTO A TRUST. THERE YOU HAVE TO LOOK AT WHAT -- HOW THAT
8 LITIGATION WITH RESPECT TO THE VALIDITY OF THE TRUST ITSELF
9 TURNED OUT. SO THERE WERE MANY SITUATIONS WHERE I WAS GIVEN
10 EXAMPLES WHERE THE CHARITABLE TRUST WOULD RECEIVE MUCH LESS
11 FUNDING THAN 100 PERCENT.

12 Q. WHAT INFORMATION DID YOU RECEIVE FROM MR. ROSEN'S
13 CLIENT'S REPRESENTATIVE THAT LED TO YOUR RECOMMENDATION?

14 A. WELL, THE COMMON THEME AMONGST THE SETTLING PARTIES WAS
15 SIMILAR TO WHAT THE ATTORNEY GENERAL PUT FORTH, THE RISKS AND
16 HAZARDS ASSOCIATED WITH LITIGATION AS WELL AS THE COPYRIGHT
17 BENEFITS UNDER FEDERAL COPYRIGHT LAW DOWN THE ROAD IN THE
18 FUTURE. MR. ROSEN'S CLIENT CERTAINLY HAD THE SIMILAR RISKS
19 OF LITIGATION. HIS CLIENT POSSIBLY WOULD NOT PREVAIL IN
20 EFFORTS TO SHOW THAT THE MARRIAGE WAS VALID, MAY NOT PREVAIL
21 IN GETTING EITHER THE ONE-THIRD OR 50 PERCENT SHARE SO THAT
22 THE POTENTIAL FOR GETTING NOTHING FOR MR. ROSEN'S CLIENT WAS
23 OUT THERE.

24 IN ADDITION, THAT SAME ISSUE WOULD AFFECT THE BENEFITS
25 RECEIVED UNDER THE FEDERAL COPYRIGHT LAW AND WHETHER OR NOT

1 MR. MEDLIN: LOUIS?

2 THE COURT: NO, I'M ASKING YOU.

3 MR. MEDLIN: WE WOULD LIKE TO CALL MS. POPE TO THE
4 STAND.

5 THE COURT: OKAY.

6 ADELE J. POPE, AFTER BEING DULY SWORN, TESTIFIED AS
7 FOLLOWS:

8 THE CLERK: PLEASE HAVE A SEAT AND STATE YOUR FULL NAME
9 FOR THE RECORD.

10 THE WITNESS: MY NAME IS ADELE JEFFORDS POPE.

11 THE COURT: MS. POPE, SPEAK UP A LITTLE BIT LOUDER OR
12 GET CLOSER TO THE MICROPHONE, PLEASE.

13 DIRECT EXAMINATION

14 BY MR. LEVENSON:

15 Q. MRS. POPE, DO YOU RECALL YOU AND I BEING IN THE STREET
16 OUT HERE IN FRONT OF THE COURTHOUSE IN THE SUMMER OF 2008
17 WHERE WE TOLD YOU THAT WE WERE GOING TO A SETTLEMENT MEETING
18 WHERE ALL PARTIES WHO HAVE NOW SETTLED WERE TO ATTEND?

19 A. MR. LEVENSON, WE---

20 Q. MAY I RESPECTFULLY GET A YES OR NO ANSWER?

21 THE COURT: WE'RE NOT -- WE'RE BOTH GOING TO BE CIVIL TO
22 EACH OTHER. YOU CAN ANSWER IT YES OR NO AND EXPLAIN.

23 THE WITNESS: NOT SPECIFICALLY.

24 BY MR. LEVENSON:

25 Q. OKAY. DO YOU HAVE AN EXPLANATION YOU'D LIKE TO GIVE

1 THEN NOW?

2 A. RIGHT. YOU'VE MENTIONED THAT MEETING TO ME. I'VE HAD
3 ACTUALLY STREET-CORNER DISCUSSIONS WITH YOU, WITH MR. ROSEN,
4 AND WITH OTHERS, THE STREET CORNER JUST OUTSIDE OF THE
5 COURTHOUSE. IT SEEMS TO BE A GATHERING PLACE AFTER THE
6 HEARINGS. I'VE ALSO HAD CONFERENCES WITH YOU IN THE NOOK OUT
7 THERE. SO I -- WE COULD TALK ABOUT THE SUBSTANCE OF IT, BUT
8 I CAN'T SAY THAT I ABSOLUTELY REMEMBER A PARTICULAR
9 CONVERSATION ON A PARTICULAR---

10 Q. IT'S THE VENUE THAT YOU'RE CONFUSED ABOUT. ALL RIGHT.
11 LET ME TRY TO HELP REFRESH YOU. CIGARS WERE INVOLVED.

12 THE COURT: WHOA, WHOA, WHOA.

13 BY MR. LEVENSON:

14 Q. AND YOU REMEMBER SAYING, "DOESN'T ANYONE SMOKE
15 CIGARETTES ANYMORE?"

16 A. YOU KNOW, CIGARS HAVE BEEN INVOLVED EVERY TIME I'VE SEEN
17 YOU AND MR. JONES---

18 Q. OKAY.

19 A. ---AND MR. MEDLIN TOGETHER IN MONTHS.

20 Q. AND DO YOU REMEMBER ME ASKING YOU IF YOU AND BOB
21 BUCHANAN WANTED TO ATTEND THE MEDIATION THAT WE WERE
22 SCHEDULING SHORTLY AFTER THAT CORNER CONVERSATION?

23 A. I ABSOLUTELY DO NOT.

24 Q. OKAY.

25 A. I WON'T SAY IT DIDN'T HAPPEN. I WON'T SAY IT DIDN'T

1 HAPPEN, BUT I ABSOLUTELY HAVE NO MEMORY OF THAT.

2 Q. DO YOU REMEMBER THAT PROFESSOR MEDLIN, MR. ROSEN, AND
3 GENE LEE WERE PRESENT WHEN WE HAD THE CONVERSATION EVEN IF
4 YOU DON'T REMEMBER WHAT THE SUBSTANCE WAS?

5 A. WELL, EXCUSE ME, MR. LEVENSON. CERTAINLY I REMEMBER YOU
6 TELLING ME MORE THAN ONE TIME THAT I'M GOING TO TRY TO GET
7 TOGETHER WITH ROBERT AND HIS PEOPLE, BUT I MEAN, DO I
8 REMEMBER IT THAT PARTICULAR DAY? DOES IT RELATE TO A
9 SCHEDULED MEDIATION OR ANYTHING LIKE THAT? NO. I MEAN, I
10 CERTAINLY KNEW THAT THROUGHOUT THE PERIOD BEGINNING I GUESS
11 WHEN ALL -- ALL OF YOU BEGAN TO CONTEST THE WILL THAT YOU
12 WERE TRYING TO FIGURE OUT A WAY TO GET TOGETHER. I'VE HAD
13 MANY, MANY CONVERSATIONS.

14 Q. WELL, AGAIN FORGETTING THE VENUE AND THE SPECIFICS, DO
15 YOU RECALL TELLING ME YOU WOULD NOT ATTEND SUCH A MEDIATION
16 BUT WE SHOULD BRING SUCH AN AGREEMENT TO YOU AFTERWARDS?

17 A. THAT WAS NOT MY INTENTION TO SAY. I THINK WHAT I SAID
18 -- AND I DID SAY SOMETHING TO THIS EFFECT: LOOK, WHY DON'T
19 YOU AND ROBERT GO TRY TO -- AND I SEE MR. ROSEN NODDING
20 BECAUSE I HAD SAID THE SUBSTANCE OF THE SAME THING TO HIM.
21 WHY DON'T YOU GUYS GO TRY TO MAKE YOUR PEACE AND THEN COME TO
22 US? THAT WAS CERTAINLY MY INTENTION. I'VE PROBABLY SAID IT
23 A HUNDRED TIMES IN A HUNDRED DIFFERENT VENUES. I AM GOOD AT
24 HELPING WITH SETTLEMENTS.

25 Q. AND DO YOU RECALL ME TELLING YOU OR SAYING WORDS TO THE

1 EFFECT THAT MR. BELL WAS NOT GOING TO BE IN ATTENDANCE AND
2 THAT IF WE SETTLED WITHOUT MR. BELL YOU WOULD, QUOTE, GET MR.
3 BELL TO AGREE, UNQUOTE?

4 A. HUH-UH. NO. I'LL TELL YOU THE SUBSTANCE OF A
5 CONVERSATION THAT I'VE HAD WITH A NUMBER OF PEOPLE. I DEEPLY
6 REGRET, MR. LEVENSON, IF YOU MISUNDERSTOOD MY INTENTION AT
7 THAT OR ANY OTHER CONVERSATION, BUT I WILL TELL YOU THE
8 REPEATED SUBSTANCE IS THIS: WHEN YOU TRY TO REACH A FAIR
9 SETTLEMENT, IT WOULD BE WONDERFUL TO GET EVERYBODY TOGETHER.
10 IF YOU CAN'T GET EVERYBODY TOGETHER, DON'T GIVE UP. PUT
11 GROUPS OF PEOPLE TOGETHER AND SEE WHAT YOU CAN FIND IN
12 COMMON.

13 MY INTENTION WAS -- AND I THOUGHT I EXPRESSED IT
14 CORRECTLY IS -- NOT MR. BELL BECAUSE I DON'T CONSIDER THIS
15 PERSONAL TO MR. BELL. MR. BELL'S CLIENTS MAY OR MAY NOT BE
16 ESSENTIAL TO A SETTLEMENT, DEPENDING ON THE OUTCOME, AND I
17 WILL TELL YOU THAT I NEVER THOUGHT FOR A MINUTE THAT THAT
18 OUTCOME WOULD NOT INCLUDE A RECOMMENDATION FROM ME AND FROM
19 MR. BUCHANAN TO THE COURT THAT THAT SETTLEMENT WAS IN THE
20 VERY BEST INTEREST OF A MAJORITY OF THE PARTIES. SO, YES, I
21 HAVE CERTAINLY INDICATED THAT IF YOU COULDN'T GET EVERYBODY,
22 TRY FOR WHAT YOU COULD GET AND THEN KEEP WORKING AT IT
23 BECAUSE I BELIEVE IN SETTLEMENTS.

24 Q. THE POINT I'M SIMPLY TRYING TO GET AT, MRS. POPE, IS YOU
25 WERE NOT UNAWARE THAT THE PARTIES WHO HAVE NOW MADE A

1 PROPOSAL TO SETTLE WITH THIS COURT WERE IN THE PROCESS OF
2 SETTLING THIS CASE AND INVITED YOU TO PARTICIPATE WHICH YOU
3 CHOSE NOT TO DO.

4 A. NO. I WAS NOT AWARE IN THE SENSE FOR STARTERS THIS CASE
5 HADN'T BEGUN. YOU HAD NEVER ASKED TO REMOVE ME FOR CAUSE
6 UNTIL NOVEMBER OF LAST YEAR. THIS CASE DIDN'T EXIST.

7 Q. I'LL WITHDRAW THE QUESTION. THIS CASE BEING A MOTION
8 BEFORE THE COURT TODAY, THE MATTER BEFORE THE COURT TODAY IS
9 THE MOTION FOR THE APPROVAL OF THE SETTLEMENT. NOW, THE
10 QUESTION: YOU WERE AWARE THAT THE PARTIES WERE ATTEMPTING TO
11 REACH A SETTLEMENT AND THAT YOU AND MR. BUCHANAN WERE INVITED
12 TO PARTICIPATE AND YOU REJECTED THAT INVITATION.

13 A. I ABSOLUTELY DENY THAT.

14 Q. OKAY.

15 A. IF I COULD EXPLAIN.

16 THE COURT: YOU MAY. AND HOW IS THIS RELEVANT TO ME
17 TRYING TO DETERMINE WHETHER IT'S JUST AND REASONABLE?

18 MR. LEVENSON: WELL, LET ME ASK YOU ANOTHER -- THE
19 ANSWER WILL COME IN MY NEXT QUESTION.

20 THE WITNESS: IF I COULD EXPLAIN.

21 THE COURT: YOU MAY EXPLAIN. MR. LEVENSON.

22 MR. LEVENSON: ALL RIGHT, SIR. VERY WELL, YOUR HONOR.
23 THE POSITION TAKEN BY MS. POPE AND MR. BUCHANAN IS THAT THEY
24 ARE NOT PARTIES TO THE SETTLEMENT AGREEMENT.

25 THE COURT: I'M WELL AWARE OF THEIR POSITION.

State of South Carolina
County of Aiken

)
Court of Common Pleas
08-CP-02-1647

Henry McMaster,

Plaintiff,

v.

Russell Bauknight, et al.,

Defendants.

)
Transcript of Record

April 8, 2009
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:

Louis Levenson, Esq.
Attorney for the the Heirs

Robert N. Rosen, Esq.
David L. Michel, Esq.
T. Heyward Carter, Esq.
S. Alan Medlin, Esq.
Attorneys for Tomi Rae Hynie Brown

Adele J. Pope, Esq.
Robert L. Buchanan, Jr., Esq.
Special Administrators/Personal Representatives

1 What I am trying to figure out is how to reconcile your
2 position with what the statute says.

3 MR. BAILEY: Well, the court -- I would request the
4 court to consider the fact that what the attorney general
5 is asking involves an estate charitable and non-charitable
6 trust and the attorney general doesn't have the authority
7 to act for a non-charitable trust which will be affected
8 by this because the approval of the agreement calls for a
9 change in the grandchildren's trust from the \$2 million as
10 provided in that trust for a specified period of time and
11 then the balance to pour over into the charitable trust.

12 Here they're asking for that trust to be changed to
13 not infinitum but to comply with the rule against
14 perpetuities and would apply not only to the grandchildren
15 but their issue on down the line. So, it changes the
16 entire scope of the Brown Education Family Trust.

17 We were not asked, Your Honor, to provide any input,
18 of course, into the settlement, and, although, Mr. Bell
19 speaks to the offer of judgment that was filed Friday, the
20 offer of judgment is not to be construed.

21 THE COURT: It is actually called an offer of
22 compromise is what your pleadings say.

23 MR. BAILEY: Offer of compromise is intended to
24 demonstrate two things -- that Mr. Buchanan and Mrs. Pope
25 aren't opposed to settlement. They're opposed to an

1 improper settlement.

2 THE COURT: And you define improper by the alleged
3 diminutions of the amount going into the charitable trust?
4 Is that --

5 MR. BAILEY: Well, and it doesn't include all of the
6 necessary parties and we don't know what the tax results
7 are. Some of the grandchildren are not parties to the
8 settling documents. I think it's Jeanette Mitchell. She
9 -- Nicole Paris, Romunzo, Forlando -- they're all not
10 parties to this settlement agreement. The position which
11 was stated many times by both Mr. Buchanan and Mrs. Pope
12 this is not a fair and reasonable division, if you want to
13 say it that way, of Mr. Brown's estate.

14 The issue of due diligence. Mr. Buchanan was on the
15 witness stand for probably a third of the time, if not
16 less, than Mrs. Pope was on the stand, but the settling
17 parties' attorneys made sure they grilled them
18 relentlessly about their due diligence. We have no idea
19 what due diligence the settling parties have engaged in.
20 We have attorneys making statements to the court that we
21 have done due diligence, but they haven't put anybody up
22 to testify as to what is that due diligence that you did.
23 You've made all of these statements, but those are parts
24 of your oral arguments. We believe that the question of
25 due diligence is extremely important in the court's

1 consideration of whether this is reasonable or not.

2 One thing that Mr. Jones said and I agree with him is
3 you can't override the intent that's expressed in the four
4 corners of a document, especially in light of the rules of
5 statutory construction. Under their interpretation of the
6 document it's a valid will. They have no choice but to
7 defend the estate, the will and the trust. If we've
8 called it the estate plan, fine, but that's -- that's
9 where we are required to go. We are to -- We are required
10 to uphold the intent of James Brown as expressed to
11 multiple people before and after the execution of the
12 will, the tape that he left.

13 He did just about the same kinds of things that Judge
14 Russell did in his case to make sure that there was no
15 frivolous lawsuits brought against his estate plan and he
16 had the no contest -- they didn't call it an in terrorem,
17 but they called it a no contest clause. Mr. Brown did the
18 same basic thing.

19 THE COURT: Mr. Bailey, if the court determined that
20 Tomi Rae Hynie Brown was, in fact, his wife and did not
21 find there was any undue influence and upheld the will and
22 trust, how would that affect the distribution? Won't that
23 diminish what goes into that trust?

24 MR. BAILEY: Yes, it would.

25 THE COURT: And if it found that James Brown, II was,

1 of deduction. Yet, under the terms of the settlement they
2 don't take are not subject to that liability and that's
3 where the liability comes from. It's shared by the
4 charitable trust.

5 So, Your Honor, I just don't see how the court can
6 conclude that this is a just and reasonable settlement for
7 that reason.

8 THE COURT: Do I have the authority or the right to
9 modify it to make it just and reasonable or do I have to
10 approve it or just not approve it?

11 MR. BYRD: I don't think, Your Honor. If you reach
12 the point -- and this really may go to what we lawyers
13 sometime talk as arm-twisting, but if you reach the
14 conclusion that you can't approve the settlement as just
15 and reasonable, then that may send the parties back to the
16 negotiating table to work out something that Your Honor
17 could find just and reasonable, but I don't see how in the
18 world that under these circumstances you can get past that
19 point. Thank you, Your Honor.

20 THE COURT: Mr. Byrd, what you're telling me is you
21 think that the controversy is genuine and that there needs
22 to be some adjustment as to the percentage going to the
23 the charitable trust.

24 MR. BYRD: I do, Your Honor.

25 THE COURT: And that's sort of what the offer of

1 compromise suggests, too. They suggest a different amount
2 going to the family members.

3 MR. BYRD: That's true, Your Honor.

4 THE COURT: Thank you. Anybody else? Anything in
5 response, Professor?

6 MR. MEDLIN: Briefly, Your Honor.

7 THE COURT: Briefly.

8 MR. MEDLIN: The Moran case simply proves our point
9 that the trustee can bind the beneficiaries, but, again,
10 it's an apposite because it involves a trustee who did
11 consent and the beneficiary tried to override. It doesn't
12 overturn section 3-1102. In response to your question
13 about 3-1102 and your authority to direct the trustees to
14 respond, Mr. Bailey's response was, well, there is a
15 private educational trust. The attorney general is not
16 trying to represent the grandchildren. He is just trying
17 to represent the charity. So, I don't see how how that's
18 responsive at all. 3-1102 says what it says. The Moran
19 case doesn't overturn it, and the fact that there is a
20 non-charitable trust involved doesn't overturn it. In
21 fact, there is is an impact on the charitable trust in
22 that it lengthens the grandchildren's trust. They do
23 better under the settlement than they do without the
24 settlement, but the attorney general on behalf of the
25 charitable has approved that impact.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS.
SECOND JUDICIAL CIRCUIT

Adele J. Pope and Robert L. Buchanan, Jr.,
as Personal Representatives of the Estate
of James Brown, Deceased, and as
Trustees of the James Brown 2000
Irrevocable Trust,
and
James Brown Enterprises, Inc.
Plaintiffs,

C/A #: 2008-CP-02-322

COMPLAINT
(Jury Trial Demanded)

vs.

David G. Cannon, Albert H. Dallas,
Judge Alford A. Bradley, Joel A. Katz,
Greenberg Traurig, LLP and
Enterprise Bank of South Carolina,
Defendants.

COPY
ORIGINAL FILED
FEB 05 2008
AIKEN COUNTY
CLERK OF COURT

RESIDENCE OF THE PARTIES

1. Adele J. Pope and Robert L. Buchanan, Jr. are Personal Representatives of the Estate of James Brown, Deceased, and Trustees of the James Brown 2000 Irrevocable Trust appointed by Orders of this Court dated March 7, 2007 and November 20, 2007.

2. Prior to his death on December 25, 2006, James Brown was a resident of Aiken County. His Estate is currently being administered in Aiken County where the beneficiaries and relative interests of the beneficiaries of his Estate and Trust and the ownership of James Brown Enterprises, Inc. are in the process of determination.

3. James Brown Enterprises, Inc. is a South Carolina corporation.

4. David G. Cannon is a resident of Barnwell County, South Carolina, and is, on information and belief, the sole owner of DGC Associates.

Exhibit G

Calculation of Potential Costs, Fees and Expenses Deductible from the Proceeds of Greenberg Traurig's Proposed Pullman Group Bond Refinancing Transaction

Proposed Royal Bank of Scotland Loan	\$25,200,000.00
Less Pullman Group Bond Repayment	<u>20,100,000.00</u>
Net Proceeds	\$ 5,100,000.00

Less Potential Fees and Commissions as Per Exhibits C and D

(a)	Pullman Group [Exhibit D, pp. 1-2, ¶ 2]	\$ 637,500.00
(b)	Greenberg Traurig [Exhibit C, p. 2, ¶ 6]	265,000.00
(c)	David G. Cannon [Exhibit D, p. 2, ¶ 7]	1,459,640.00
	[Exhibit D, p. 2, ¶ 4]	255,000.00
(d)	Albert H. Dallas [Exhibit D, p. 2, ¶ 6]	549,019.00
	[Exhibit D, p. 2, ¶ 9]	255,000.00
(e)	Intrigue Music [Exhibit D, p. 2, ¶ 3]	165,000.00
(f)	Charles Bobbitt [Exhibit D, p. 2, ¶ 5]	<u>200,000.00</u>
	Total Potential Fees and Commissions	<u>\$4,386,159.00</u>
	Net Proceeds After Fees and Commissions	\$ 713,841.00

Less Estimated Expenses and Reserve Fund Based on 1999 Pullman Group Bond Transaction [Exhibit F]

(a)	Legal Fees	\$ 250,000.00
(b)	Copyright & Due Diligence	48,000.00
(c)	Audit & Valuation	20,000.00
(d)	Retainer for Royalty Audit	5,000.00
(e)	Retainer for Trust Audit	2,500.00
(f)	Rating Agency Fees	150,000.00
(g)	Trustee's Commitment Fee & Legal	13,500.00
(h)	Trustee's Counsel	8,000.00
(i)	Investors Counsel	40,000.00
(j)	Bowne Printing	10,000.00
(k)	Soundscan	5,000.00
(l)	KPMG	10,000.00
(m)	Expenses, including overnight, messenger, fax, travel, phone	10,000.00
(n)	Reserve Fund	1,260,000.00
	Total Fees, Expenses and Reserve Fund	<u>\$1,832,000.00</u>

Negative Net Proceeds After Fees, Commissions and Expenses

minus \$1,118,159.00

MAY 3 2 2009

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

PROBATE COURT

IN THE MATTER OF ESTATE OF JAMES BROWN
CASE NUMBER 2007-ES-02-0056

ACCOUNTING
(Supplemental and Amended)

☐ FINAL
☒ INTERIM #1A

The undersigned Personal Representatives submit this Supplemental and Amended Accounting, which covers the period from November 20, 2007, through May 20, 2009.¹

The attached documentation sets forth a complete accounting for the period specified, which is summarized as follows:

	Income	Principal	Total*
Beginning Balance			\$100,000,000.00
Plus: Receipts			\$ 6,196,325.60
Subtotal			\$106,196,325.60
Less: Disbursements			\$ (6,333,310.58)
Ending Balance			\$ 99,863,015.02

*If a consolidated accounting, use this column.

The Personal Representatives declare that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and are true to the best knowledge and belief of the Personal Representatives.

FORM #360PC (7/87)
SCPC 3-704, 3-1003

PAGE 1 OF 2

¹ This amends and supplements the accounting that covers November 20, 2007 through June 20, 2008.

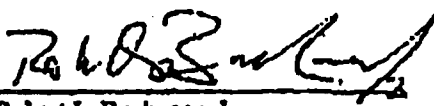
Filed: 5-20-2009

Sue H. Roe
Jud 274 Probate

By: [Signature]

AN
Tribal

MAY 22 2009

Signature: 

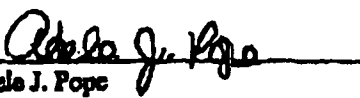
Name: Robert L. Buchanan, Jr.

Address: 212 Newberry Street NW

P.O. Box 463

Aiken, South Carolina 29802-0463

Telephone(O): 803-649-2586

Signature: 

Name: Adela J. Pope

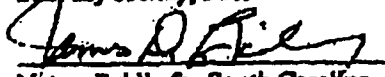
Address: 1218 Taylor Street

PO Drawer 7125

Columbia, SC 29202-7125

Telephone(O): 803-779-1870

SWORN to before me this
20th day of May, 2009

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 2/18/15

FORM #360PC (7/87)
SCPC 3-704, 3-1003

PAGE 2 OF 2

2742

929



MAY 28 2008

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
2/26/08	Hogan & Hartson, LLP - portion, legal fees, Pullman Litigation (NY) (Ck #1110)		\$ 15,000.00
2/26/08	Buchanan (Office) - partial payment for costs, etc., as per Court Order dtd 1/8/08 (Ck #1111)		\$ 15,000.00
2/26/08	Pope (Office) - partial payment for costs, etc., as per Court Order dtd 1/8/08 (Ck #1112)		\$ 15,000.00
2/26/08	Sizemore, Inc. (Ck #1115) Inv. #148797, 2/24/08 \$ 2,142.01 portion, Inv. #140759, 9/30/07 \$ 857.99		\$ 3,000.00
2/27/08	SCB & G - all 8 accounts (DRAFT)		\$ 1,286.37
2/28/08	D. Washington - w/e 2/29/08 (Ck #1107)		\$ 494.81
2/29/08	US Treasury - Form 940, JBE, Inc., 2007 (Ck #1118)		\$ 351.83
3/02/08	Interest Deposit	\$ 9.97	
3/7/08	D. Washington - w/e 3/08/08 (Ck #1113)		\$ 494.81
3/10/08	Miscellaneous Deposit, SFB #5768	\$ 33.61	
3/11/08	Cheri L. Young, RPR - Transcript for 12/21/07 Hearing (Ck #1116)		\$ 124.35
3/11/08	Augusta Turf & Specialty Vehicles - golf cart battery, labor, parts and servicing (Ck #1117)		\$ 360.95
3/11/08	Deposit - House Insurance Refund (\$598.17) Entertainment Partners (\$20.13)	\$ 618.30	
3/11/08	Deposit - AFTRA, Grammys 50th Anniv. Special Residual	\$ 812.56	
3/11/08	Deposit - Warner Music Group (\$144.89) BMI (\$58.08)	\$ 202.97	
3/11/08	Cpt. Pounds - Petty Cash (Ck #1121)		\$ 100.00
3/14/08	D. Washington - w/e 3/15/08 (Ck #1114)		\$ 494.81
3/19/08	Deposit - SoundExchange (New JBE, Inc.)	\$ 2,690.41	
3/19/08	Law Office of James D. Bailey, PC (Ck #1145)		\$ 500.00

[Handwritten signature]

MAY 22 2008

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
4/28/08	Sizemore, Inc. (Ck #1155) portion, Inv. #150287, 3/23/08		\$ 1,000.00
4/28/08	Law Office of James D. Bailey, PC - portion, 2/12/08 bill (Ck #1156)		\$ 3,000.00
4/29/08	Lisa Hicklin - Transcript for 3/07/08 hearing (Ck #1149)		\$ 682.50
4/30/08	Laboratory Corporation of America - DNA Testing of James Brown II (Ck #1157)		\$ 300.00
4/30/08	Interest Deposit	\$ 2.45	
5/1/08	Deposit - Enterprise Bank Acct #151000007 (James Brown Irrev. Trust)	\$ 4,140.74	
5/1/08	Deposit - SoundExchange (New JBE, Inc.)	\$ 22,605.31	
5/1/08	D. Washington - w/e 5/2/08 (Ck #1150)		\$ 494.81
5/1/08	Hatcher, Stubbs, Land, Hollis & Rothschild - retainer fee (Ck #1158)		\$ 1,000.00
5/5/08	SCE & G - all 8 accounts (DRAFT)		\$ 619.08
5/6/08	Beech Island Water District (Ck #1166) Accis. #01-3940-00: \$11.92; #01-3942-00: \$11.00		\$ 22.92
5/6/08	Sound Archives - storage of masters, invoice range LP20856 (Ck #1167)		\$ 490.90
5/6/08	US Treasury - Penalty and Interest for JBE, Inc., Form 940, period 12/31/07 (Ck #1168)		\$ 37.91
5/6/08	AT & T (Ck #1175)		\$ 98.51
5/6/08	Law Office of James D. Bailey, PC - (Ck #1176) remainder, 2/12/08 bill \$ 729.45 portion, 3/13/08 bill \$ 2,270.55		\$ 3,000.00
5/6/08	Buchanan (Office) - partial payment for costs, etc., as per Court Order (Ck #1177)		\$ 3,000.00
5/6/08	Pope (Office) - partial payment for costs, etc., as per Court Order (Ck #1178)		\$ 3,000.00
5/9/08	D. Washington - w/e 5/9/08 (Ck #1163)		\$ 494.81

AMF
PUB/

Rev 2.2 2008

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
5/30/08	D. Washington - extra mileage (Ck #1188)		\$ 100.00
5/30/08	Interest Deposit	\$ 3.14	
6/3/08	SCE & G - DRAFT		\$ 100.42
	Acct #4-2100-7444-7824 \$24.86		
	Acct #4-2100-7444-7043 \$67.15		
	Acct #4-2100-7444-6733 \$ 8.41		
6/4/08	D. Washington - petty cash (Ck #1192)		\$ 250.00
6/4/08	Buchanan (Office) - partial payment for costs, etc., as per Court Order (Ck #1193)		\$ 3,000.00
6/4/08	Pope (Office) - partial payment for costs, etc., as per Court Order (Ck #1194)		\$ 3,000.00
6/4/08	Law Office of James D. Bailey, PC - portion, 3/13/08 bill (Ck #1195)		\$ 5,000.00
6/4/08	Hogan & Hartson, LLP - portion, legal fees, Pullman Litigation (NY) (Ck #1196)		\$ 3,000.00
6/6/08	D. Washington - w/e 6/7/08 (Ck #1186)		\$ 494.81
6/6/08	D. Washington - extra mileage (Ck #1189)		\$ 100.00
6/9/08	AT & T (Ck #1197)		\$ 113.08
6/9/08	Beech Island Water District (Ck #1198) Accts. #01-3940-00: \$11.00; #01-3942-00: \$11.00		\$ 22.00
6/13/08	Deposit - Entertainment Partners, payable to James Brown ck #68022373 dtd 1/4/08 \$71.79 ck #68418020 dtd 2/29/08 \$44.33	\$ 116.12	
6/13/08	Sound Archives - storage of masters, invoice range LZ88382 (Ck #1199)		\$ 490.90
6/13/08	D. Washington - Extra Mileage (Ck #1190)		\$ 100.00
6/13/08	D. Washington - w/e 6/14/08 (Ck #1187)		\$ 494.81
6/15/08	Royalties received, 1 st Half, 2008	\$ 1,460,887.94	

*OK
JMB/h*

MAY 22 2008

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
8/8/08	D. Washington - extra mileage (Ck #1218)		\$ 100.00
8/8/08	D. Washington - w/c 8/09/08 (Ck #1216) (E/T)		\$ 494.81
8/15/08	D. Washington - w/c 8/16/08 (Ck #1235) (E/T)		\$ 494.81
8/15/08	D. Washington - extra mileage (Ck #1236)		\$ 100.00
8/22/08	D. Washington - w/c 8/23/08 (Ck #1237) (E/T)		\$ 494.81
8/22/08	D. Washington - extra mileage (Ck #1238)		\$ 100.00
8/25/08	Deposit - proceeds from Christie's sale (notation: total of \$468,326.12, remainder available 9/10/08)	\$ 5,000.00	
8/25/08	Deposit - proceeds from Christie's sale	\$ 463,326.12	
8/29/08	D. Washington - w/c 8/30/08 (Ck #1239) (E/T)		\$ 494.81
8/29/08	D. Washington - extra mileage (Ck #1240)		\$ 100.00
9/01/08	Interest Deposit	\$ 9.86	
9/2/08	Law Office of James D. Bailey, PC - partial payment, fees and costs (Ck #1241)		\$ 50,000.00
9/2/08	Tressa T. H. Hayes, Esquire - Shipley & Hayes, partial payment appellate matters (Ck #1242)		\$ 10,000.00
9/2/08	Law Office of Sherry T. Barnes - payment towards fees/costs, Georgia Farm Bureau suit (Ck #1243)		\$ 5,000.00
9/2/08	Pope (Office) - partial payment for costs, etc., SA pyt. as per Court Order (Ck #1244)		\$ 100,000.00
9/2/08	Buchanan (Office) - partial payment for costs, etc., SA pyt. as per Court Order (Ck #1245)		\$ 100,000.00
9/2/08	Hogan & Hartson, LLP - portion, legal fees, Fullman Litigation. As per Court Order (NY) (Ck #1246)		\$ 50,000.00
9/2/08	Beech Island Water District (Ck #1255) Accts. #01-3940-00 and #01-3942-00 (T)		\$ 33.56

OK
ME

MAY 22 2008

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
9/2/08	D. Washington - full sat. admin. claim against Estate (Ck #1268)		\$ 1,392.79
9/3/08	Deposit - Christie's sale	\$ 4,137.00	
9/5/08	D. Washington - w/e 9/6/08 (Ck #1247) (E/T)		\$ 494.81
9/5/08	D. Washington - extra mileage (Ck #1248)		\$ 100.00
9/8/08	SCB & G - DRAFT		\$ 234.18
9/9/08	SC Court of Appeals, Cannon Appeal (Ck #1256)		\$ 100.00
9/12/08	D. Washington - w/e 9/13/08 (Ck #1249) (E/T)		\$ 494.81
9/12/08	D. Washington - extra mileage (Ck #1250)		\$ 100.00
9/12/08	Cruise Security (Ck #1257) - (E/T)		\$ 276.50
9/12/08	Alken County Circuit Court-filing fee (Ck #1258)		\$ 100.00
9/15/08	D. Washington - petty cash (Ck #1259)		\$ 100.00
9/15/08	D. Washington - petty cash (Ck #1260)		\$ 100.00
9/16/08	Alken County - Motion filing (Ck #1262)		\$ 25.00
9/17/08	Premium Financing Specialists, Inc. - insurance on house (Ck #1266)		\$ 7,791.86
9/17/08	Security Federal Bank - DEBIT, payoff on loan		\$ 15,122.50
9/19/08	AT & T (Ck #1233)		\$ 108.06
9/19/08	D. Washington - w/e 9/20/08 (Ck #1251) (E/T)		\$ 494.81
9/19/08	D. Washington - extra mileage (Ck #1252)		\$ 100.00
9/22/08	Deposit - soundexchange, Estate of James Brown	\$ 4,674.15	
9/22/08	Deposit - 20 th Century Fox Film, JBE Inc., FSO James C Brown, The New JBE, Inc.	\$ 2.92	
9/22/08	Deposit - secure storage refund for overpayment	\$ 858.56	

Handwritten signature/initials

MAY 22 2008

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
9/23/08	US Treasury - payment towards Estate Taxes (Ck #1234)		\$ 10,000.00
9/26/08	D. Washington - w/e 9/27/08 (Ck #1253) (E/T)		\$ 494.81
9/26/08	D. Washington - extra mileage (Ck #1254)		\$ 100.00
9/29/08	Lisa Hicklin, portion of 8/19/08 transcript (Ck #1277)		\$ 40.00
9/30/08	Interest Deposit	\$ 15.36	
10/3/08	D. Washington - w/e 10/4/08 (Ck #1271) (E/T)		\$ 494.81
10/3/08	D. Washington - mileage (Ck #1274)		\$ 100.00
10/3/08	Adjustment for 0.81 cents not paid to Mr. Washington in Ck 1253	\$ 0.81	
10/6/08	Lisa H. Hicklin, remainder for 8/19/08 transcript (Ck #1267)		\$ 77.00
10/6/08	Zumwalt, Almon & Hayes, PLLC - invoice #10689 (Grammy Museum) (Ck #1269)		\$ 557.50
10/7/08	Lisa H. Hicklin, 9/28/08 transcript (Ck #1270)		\$ 331.50
10/8/08	SCE&G - DRAFT		\$ 287.90
10/10/08	D. Washington - w/e 10/11/08 (Ck #1272) (E/T)		\$ 494.81
10/10/08	D. Washington - mileage (Ck #1275)		\$ 100.00
10/10/08	Alken County Clerk of Court - Motion to Dismiss, Farr Claim (Ck #1279)		\$ 25.00
10/10/08	Sizemore Security - portion, Inv. #150630 (Ck #1280)		\$ 1,000.00
10/10/08	Vann Appraisal Services - appraisal for estate taxes (Ck #1281)		\$ 3,700.00
10/10/08	Law Office of James D. Bailey, PC - partial payment, fees and costs (Ck #1282)		\$ 15,000.00
10/15/08	Difference in 10/15/08. BMJ \$65.40 and Ent. Pura. \$30.68	\$ 96.08	

*all
paid*

MAY 23 2009

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
10/16/08	Ellis Lawhorne & Sims, PA - invoice #94077 (Ck #1283)		\$ 625.00
10/16/08	The Law Office of Leon Friedman - Brown v. AC&R v. Polygram, CA #3:92-1195-0 (Ck #1284)		\$ 350.00
10/16/08	Pope (Office) - partial payment for costs, etc., SA pvt., as per Court Order (Ck #1285)		\$ 15,000.00
10/16/08	Buchanan (Office) - partial payment for costs, etc., SA pvt. as per Court Order (Ck #1286)		\$ 15,000.00
10/16/08	Beech Island Water District (Ck #1287) Accts. #01-3940-00: \$13.20; #01-3942-00: \$13.20 (T)		\$ 26.40
10/16/08	Shipley & Hayes, PC, remainder payment through 10/9/08 appellate matters (Ck #1288)		\$ 7,580.00
10/17/08	D. Washington - w/e 10/18/08 (Ck #1273) (E/T)		\$ 494.81
10/17/08	D. Washington - mileage (Ck #1276)		\$ 100.00
10/18/08	Deposit - Soundexchange (Est. of James Brown)	\$ 3,738.26	
10/08	Deposit - Christie's	\$ 60,922.25	
10/21/08	adjustment on ck #1269		\$ 20.00
10/23/08	D. Washington - w/e 10/25/08 (Ck #1291) (E/T)		\$ 494.81
10/23/08	D. Washington - mileage (Ck #1292)		\$ 100.00
10/23/08	Deposit - (Christie's)	\$ 20,192.50	
10/27/08	AT & T (Ck #1295)		\$ 122.88
10/27/08	Sellers DuRant (Ck #1296)		\$ 9,191.00
	10/15 bill, Estate \$8,324.00		
	10/15 bill, "I Feel Good" Trust \$ 394.00		
	10/15 bill, James Brown \$ 473.00 (E)		
10/28/08	Secure storage - invoice range NB73227 (Ck #1297)		\$ 484.84

AKB/

10/1/08

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
10/28/08	LOAJP, PC - reimbursement, copies/costs for Cannon and Dallas/Bradley Appeals, 10/14-10/27 (Ck #1299)		\$ 951.24
10/28/08	Beech Island Water District (Ck #1300) Accts. #01-3940-00: \$13.20; #01-3942-00: \$13.20 (T)		\$ 26.40
10/28/08	Aiken County Clerk of Court - motion fee (Ck #1305)		\$ 25.00
10/28/08	Law Office of James D. Bailey, PC - partial payment, fees and costs (Ck #1306)		\$ 5,000.00
10/29/08	US Treasury - Estate of James Brown, Form 941, 3/31/08, EIN 20-7238700 (Ck #1307)		\$ 87.24
10/29/08	SCE&G - DRAFT		\$ 307.93
10/29/08	Hogan & Hartson, LLP - portion, legal fees, NY portion of \$25-\$31 Million claim, Pullman Litigation, as per Court Order (NY); Inv. # 1726701, 1735964, 1743933 (Ck #1298)		\$ 20,079.29
10/30/08	D. Washington - w/c 11/01/08 (Ck #1303) (E/T)		\$ 494.81
10/30/08	D. Washington - mileage (Ck #1304)		\$ 100.00
10/31/08	SC Department of Revenue - Estate of James Brown, WH-1605, 3 rd Qtr (Ck #1309)		\$ 264.55
10/31/08	US Treasury - Estate of James Brown, Form 941, 3 rd Qtr (Ck #1308)		\$ 1,699.62
11/2/08	Interest Deposit	\$ 13.12	
11/5/08	D. Washington - w/c 11/08/08 (Ck #1301) (E/T)		\$ 494.81
11/5/08	D. Washington - mileage (Ck #1302)		\$ 100.00
11/5/08	Beech Island Water District (Ck #1310) Accts. #01-3940-00: \$11.00; #01-3942-00: \$11.00 (T)		\$ 22.00
11/5/08	LOAJP, PC - costs only, 11/4 bill (Ck #1311)		\$ 894.94
11/6/08	AT & T (Ck #1312)		\$ 116.47
11/6/08	Pope (Office) - partial payment for costs, etc., as per Court Order (Ck #1313)		\$ 10,000.00

Nov 22, 2008

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
11/6/08	Buchanan (Office) - partial payment for costs, etc., SA pyl., as per Court Order (Ck #1314)		\$ 10,000.00
11/6/08	Deposit - Entertainment Partners	\$ 31.20	
11/13/08	SC Dept. Of Revenue - David Washington (Ck #1321)		\$ 500.00
11/13/08	Deposit - Christie's	\$ 500.00	
11/14/08	D. Washington - w/e 11/15/08 (Ck #1315) (E/T)		\$ 494.81
11/14/08	D. Washington - mileage (Ck #1316)		\$ 100.00
11/15/08	Zumwalt, Almon & Hayes, PLLC - invoice #10739 (Ck #1322)		\$ 481.25
11/15/08	Aiken County Treasurer - 2008 Property Taxes (Ck #1323)		\$ 6,945.15
11/21/08	D. Washington - w/e 11/22/08 (Ck #1317) (E/T)		\$ 494.81
11/21/08	D. Washington - mileage (Ck #1318)		\$ 100.00
11/21/08	Secure storage - storage, invoice-range MW56468 (Ck #1325)		\$ 969.68
11/25/08	Law Office of James D. Bailey, PC - partial payment, fees and costs (Ck #1338)		\$ 5,000.00
11/25/08	US Treasury - Notice No. CP171 dtd 11/10/08; Taxpayer ID 57-0929939 (Ck #1337)		\$ 82.71
11/25/08	Secure storage - storage, masters, Inv. NJ75254 dtd. 10/31/08 (Ck #1333)		\$ 484.84
11/25/08	Sellers DuRant - Inv. #2008-1987 accounting services (Ck #1332)		\$ 440.00
11/28/08	D. Washington - w/e 11/29/08 (Ck #1319) (E/T)		\$ 494.81
11/28/08	D. Washington - mileage (Ck #1320)		\$ 100.00
11/30/08	Interest Deposit	\$ 5.96	
12/3/08	SCE&G - DRAFT		\$ 279.89
12/5/08	D. Washington - mileage (Ck #1327)		\$ 100.00

AM
PUB/L

MAY 22 2009

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
1/13/09	LOAJP, PC - costs only, 1/15/09 bill (Ck #1373)		\$ 3,095.43
1/16/09	D. Washington - w/e 1/17/09 (Ck #1361)		\$ 494.81
1/16/09	D. Washington - extra mileage (Ck #1364)		\$ 100.00
1/18/09	Deposit - Entertainment Partners, James Brown	\$ 20.00	
1/20/09	D. Washington - petty cash reimbursement (Ck #1367)		\$ 100.00
1/23/09	D. Washington - w/e 1/24/09 (Ck #1362)		\$ 494.81
1/23/09	D. Washington - extra mileage (Ck #1365)		\$ 100.00
1/27/09	DRAFT - Check Order		\$ 101.25
1/28/09	Lisa Hicklin, transcript for 10/23/08 hearing (Ck #1169)		\$ 523.25
1/29/09	Kare Office Technologies - briefs, Dallas and Bradley Appeal (Ck #1374)		\$ 172.16
1/30/09	D. Washington - w/e 1/31/09 (Ck #1363)		\$ 494.81
1/30/09	D. Washington - extra mileage (Ck #1366)		\$ 100.00
1/30/09	SCB & G - DRAFT		\$ 72.73
2/1/09	Interest Deposit	\$ 3.50	
2/2/09	US Treasury - Fourth Quarter, 2008, Form 941 (Ck #1289)		\$ 1,699.62
2/2/09	SC Department of Revenue - 4 th Quarter, 2008, Form 1606 UH (Ck #1377)		\$ 264.55
2/6/09	Deposit - AFTRA (James Brown)	\$ 36.70	
2/6/09	D. Washington - w/e 2/6/09 (Ck #1170)		\$ 494.81
2/6/09	D. Washington - mileage (Ck #1171)		\$ 100.00
2/9/09	SC Court of Appeals - Banknight Appeal Notice \$100; Motion \$25 (Ck #1378)		\$ 125.00
2/9/09	Pope (Office) - partial payment for costs, etc., as per Court Order (Ck #1376)		\$ 5,000.00

MAY 22 2009

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
2/9/09	Buchanan (Office) - partial payment for costs, etc., as per Court Order (Ck #1379)		\$ 5,000.00
2/9/09	Law Office of James D. Bailey, PC - partial payment, fees and costs (Ck #1380)		\$ 5,000.00
2/9/09	Shipley & Hayes, PC - partial payment, appellate matters (Ck #1381)		\$ 5,000.00
2/12/09	D. Washington - w/e 2/12/09 (Ck #1172)		\$ 494.81
2/12/09	D. Washington - mileage (Ck #1173)		\$ 100.00
2/12/09	D. Washington - petty cash (Ck #1174)		\$ 100.00
2/12/09	Chargeback of \$36.70; fee of \$5.00		\$ 41.70
2/20/09	D. Washington - w/e 2/20/09 (Ck #1382)		\$ 494.81
2/20/09	D. Washington - mileage (Ck #1383)		\$ 100.00
2/23/09	Secure Storage - storage, masters, Inv. PG31370 dtd. 1/31/09 (Ck #1386)		\$ 484.84
2/25/09	Lisa Hicklin - transcript of 10/23/08 hearing, for appeal (Ck #1393)		\$ 40.00
2/25/09	Daphne H. Helms - transcript of 1/30/09 hearing (Ck #1390)		\$ 667.75
2/25/09	Ben Franklin plumbing - repairs/ maintenance, Beech Island House (Check #1387)		\$ 300.00
2/27/09	D. Washington - w/e 2/27/09 (Ck #1384)		\$ 494.81
2/27/09	D. Washington - mileage (Ck #1385)		\$ 100.00
2/27/09	Aiken County Clerk (Ck #1398)		\$ 25.00
2/27/09	Ben Franklin - plumbing repairs/maintenance, Beech Island Home (Ck #1394)		\$ 1,863.50
2/27/09	Aiken County Probate Court (Ck #1397)		\$ 33.75
2/27/09	D. Washington - miscellaneous expense, plumbing (Ck #1403)		\$ 100.00
3/01/09	Interest Deposit	\$ 2.05	

Handwritten signature/initials

M J 22 2009

DATE	DESCRIPTION	RECEIPTS	DISBURSEMENTS
3/17/09	James D. Bailey - copies of Herring file (Ck #1433)		\$ 105.42
3/18/09	AT&T - (Ck #1425)		\$ 109.74
3/18/09	Secure storage- Invoice Range PR23539 (Ck #1426)		\$ 484.84
3/18/09	Zumwalt, Almon & Hayes, PLLC - invoice #10863 (Ck #1427)		\$ 577.50
3/20/09	D. Washington - w/e 3/21/09 (Ck #1421)		\$ 494.81
3/20/09	David Washington - mileage (Ck #1422)		\$ 100.00
3/24/09	Alken County Clerk of Court - file summons and complaint (Ck #1409)		\$ 150.00
3/24/09	Alken County Clerk of Court - file summons and complaint (Ck #1408)		\$ 150.00
3/27/09	D. Washington - w/e 3/28/09 (Ck #1423)		\$ 494.81
3/27/09	David Washington - mileage (Ck #1424)		\$ 100.00
3/30/09	SCE&G - DRAFT		\$ 88.75
3/30/09	Deposit - Entertainment Partners (James Brown)	\$ 32.96	
3/31/09	Interest Deposit	\$ 1.26	
4/3/09	D. Washington - w/e 4/4/09 (Ck #1410)		\$ 494.81
4/3/09	David Washington - mileage (Ck #1411)		\$ 100.00
4/6/09	Deposit - Entertainment Partners (James Brown)	\$ 4.22	
4/8/09	Harley Ruff, Esquire- deposit for services (Ck #1428)		\$ 1,500.00
4/8/09	Buchanan (Office) - partial payment for costs, etc., as per Court Order (Ck #1429)		\$ 2,000.00
4/8/09	Pope (Office) - partial payment for costs, etc., as per Court Order (Ck #1430)		\$ 2,000.00
4/9/09	D. Washington - w/e 4/11/09 (Ck #1457)		\$ 494.81
4/9/09	David Washington - mileage (Ck #1458)		\$ 100.00

[Handwritten signature]



HENRY McMASTER
ATTORNEY GENERAL

May 18, 2010

Mr. Russell Bauknight
Bauknight, Pietras & Stormer, P.A.
1517 Gervais Street
Post Office Box 1330
Columbia, South Carolina 29202

Re: James Brown Litigation

Dear Mr. Bauknight:

I have met with Ken Wingate and Everett Kendall of Sweeney Wingate & Barrow of Columbia, South Carolina, regarding the action to be filed against Adele J. Pope and Robert L. Buchanan, Jr., in the Richland County Probate Court in connection with the James Brown Estate and Trust. I am writing to confirm our understanding that you will be retaining Mr. Wingate and Mr. Kendall to file this action on behalf of the beneficiaries of the James Brown Estate and Trust, including the charitable interests. As you know, by law this office has a duty to protect charitable trusts. Also, per your conversation with Senior Assistant Attorney General C.H. Jones, Jr., in connection with the charitable trust portion of this matter, you have agreed to use the terms and conditions as outlined in the attached "Agreement for Legal Services" which references and incorporates the Attorney General's standard Litigation Retention Agreement. Of course, this office has no authority over your agreement with Messrs. Wingate and Kendall concerning the other portions of this matter.

Yours very truly,

Henry McMaster

Enclosures

HMCM/mfj

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~~; 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 ~~Lamar~~ and Carrington ~~Lamar~~; 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~~; 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 ~~LAMAR~~ and CARRINGTON ~~LAMAR~~; 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
2016 AUG 26 PM 1:43
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

MOTION FOR PROTECTIVE ORDER
AS TO THE DEPOSITION OF HENRY
D. MCMASTER

Pursuant to Rules 26(c) and 30(j)(3), SCRCP, the undersigned counsel for Henry D. McMaster, former Attorney General for the State of South Carolina, moves for a protective order to preserve any objections made during his deposition on August 18, 2016, on the grounds of attorney-client or work product privileges and any directions given to him not to testify about such matters. Mr. McMaster preserves any other objections made on his behalf during the deposition although a motion on this ground is not required.

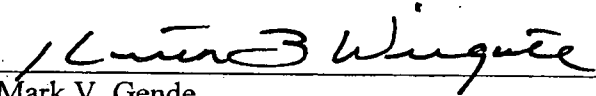
The transcript of the deposition is not yet available, but undersigned counsel will file it in support of this motion when it is available, and after Mr. McMaster has had the opportunity to read, note any changes, and sign the transcript. Counsel for Mr. McMaster will file a memorandum with the deposition transcript identifying those parts of the deposition in which objections were made consistent with this motion. Counsel will file only the typed deposition transcript, but will also file the video tape of the deposition or an audio recording thereof if the Court requests such formats.

Therefore, Mr. McMaster requests that this Court issue a protective order preserving his objections, and barring further questioning by counsel for Defendant about such matters.

Undersigned counsel certifies that consultation with opposing counsel pursuant to Rule 11, SCRCP, would serve no useful purpose.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

A handwritten signature in cursive script, appearing to read "Kenneth B. Wingate", is written over a horizontal line.

Mark V. Gende

Kenneth B. Wingate

Joseph O. Thickens

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, SC 29211

(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina
August 25, 2016

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 capcity as Attorney
Attorney General of the State of South
Carolina; and others,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

)

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

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

MOTION OF DEFENDANT TO
DISMISS ALL CLAIMS OF
PLAINTIFF VENISHA BROWN
UNDER RULE 41(B)

RICHLAND COURT
FILED
2016 SEP 19 AM 8:44
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO: VENISHA BROWN AND RUSSELL L. BAUKNIGHT ON BEHALF OF VENISHA BROWN, and
Sweeny, Wingate and Barrow, P.C. ("Wingate"), their counsel.

YOU WILL PLEASE TAKE NOTICE that ten days after the service hereof, or as soon
thereafter as she may be heard, Defendant/Counterclaim Plaintiff Adele J. Pope ("Pope")
will move before the Honorable Doyet A. Early, III for an Order Involuntarily Dismissing the
Complaint of Venisha Brown ("Venisha") and Russell L. Bauknight ("Bauknight") as agent
for Venisha Brown in this action under Rule 41 SCRPC, especially Rule 41(b).

The Grounds of this Motion are that involuntary dismissal under Rule 41 is
appropriate and just because Venisha has failed to prosecute her claims and failed to
comply with the South Carolina Rules of Civil Procedure.

The history of Venisha's failure to prosecute this action is set out in part below.

On May 19, 2010 Venisha filed the Complaint in this action ("Richland 4900"). The Complaint contained vitriolic and false claims against Buchanan and Pope.

On or about July 18, 2012, the Estate of James Brown paid or advanced funds for Buchanan to release his Counterclaims against Venisha herein.

On or about August 3, 2012, Pope served Venisha with an Offer of Judgment herein. Thereafter counsel for Venisha filed the Offer of Judgment and moved to strike it.

On or about March 26, 2016 Judge Early was assigned to Richland 4900.

On June 23, 2016, Defendant noticed Venisha's deposition, but Venisha's counsel filed a Motion for Protective Order on her behalf.

After a hearing held on August 29, 2016, Judge Early ordered Venisha to appear at her deposition which was scheduled for September 22, 2016.

On September 12, 2014, Venisha's counsel notified Judge Early that he was unable to locate Venisha and requested a telephone conference pursuant to Judge Early's Order setting Venisha's deposition.

A telephone hearing related to Venisha's anticipated failure to comply with the Order to appear at deposition was held before Judge Early on September 14, 2016. Present in addition to Jg. Early were: Joseph O. Thickens, Esq., counsel of record for Venisha and Bauknight as her agent; Walter H. Bundy, Jr., Esq., and Adam Silvernail, Esq. Counsel provided no acceptable reason for Venisha's anticipatory violation of Jg. Early's Order for her to appear at deposition. Nor is there any excuse or for Venisha's multiple breaches of the SCRCF over the last six years.

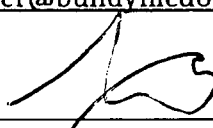
As a result of Venisha's failure to prosecute her claims, Pope asks that Venisha's

Complaint, and that of Bauknight as her Agent be dismissed with prejudice pursuant to Rule 41(b) and Pope's Counterclaims and all relief sought against Venisha proceed.

This motion is based on the Complaint herein; the Motion of Venisha to Intervene in the FOIA suit consolidated herewith, now on appeal; the Offer of Judgment of Adele J. Pope to Venisha filed herein on or about August 3, 2012; and the Affidavits of Adele J. Pope and Robert L. Buchanan, Jr. ("Buchanan") on file herein; the Notices of Deposition to Venisha served herein; the Order of the Honorable Doyet A. Early, III, directing Venisha to appear at deposition; and the September 14, 2016 statement of Venisha's counsel that Venisha will not appear at her Court-ordered deposition scheduled for September 22, 2016.

Respectfully submitted,

W.H. Bundy, Jr.
H. Brent McDonald
Bundy McDonald, LLC
1516 Old Trolley Road, 2nd Floor
Summerville, South Carolina 29485
(888) 552-1559
walter@bundymcdonald.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

September 14, 2016

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

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 B. [REDACTED]; 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 L. [REDACTED] and Carrington L. [REDACTED]; 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. [REDACTED]; 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 L. [REDACTED] and CARRINGTON L. [REDACTED]; 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 JAN 13 PM 1:52
JEANNETTE W. MCBRIDE
C.C.P. & C.S.

PLAINTIFFS MOTION TO COMPEL
DISCOVERY

YOU WILL PLEASE TAKE NOTICE, that the Plaintiffs, by their undersigned attorneys, will move before the Presiding Judge of the Richland Court of Common Pleas on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for an Order, pursuant to Rules 26, 33, and 34 of the South Carolina Rules of Civil Procedure, compelling the Defendant to allow Plaintiffs full access to documents kept at Defendant's house and for an Order requiring the Plaintiff to pay to the Defendant the amount of reasonable expenses incurred in obtaining the Order, including reasonable attorneys' fees.

LEGAL STANDARD

The South Carolina Supreme Court has stated "that the scope of discovery is broad." *Oncology & Hematology Assocs. of S.C., LLC v. S.C. Dep't of Health & Envtl. Control*, 387 S.C. 380, 387, 692 S.E.2d 920, 924 (2010). Rule 26(b)(1), South Carolina Rules of Civil Procedure, gives the breadth of the scope of discovery as follows: "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action ... [and][i]t is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

FACTS BEARING UPON THE MOTION

This Motion arises based upon Plaintiffs attempts to view and copy documents kept at Defendant's home office in Newberry, South Carolina ("The Documents") and disclosed in her discovery responses. (Attached as Exhibit 1.)

In July and August of 2016, Plaintiffs and Defendant corresponded to schedule a review of The Documents. According to defense counsel, The Documents included discs of documents stored

electronically and “there [were] at least 20 boxes of paper documents.” *See* Email Chain 1, July 14, 2016 (attached as Exhibit 2).

The parties ultimately scheduled the inspection for August 23, 2016. Additionally, the parties agreed to various terms, including defense counsel’s agreement that Plaintiff would be able to have a professional copying service reproduce the documents related to the matter so long as they could “pick up and return the documents with a quick turnaround after the 29th.” *See* Email Chain 2, August 22, 2016 (attached as Exhibit 3). Counsel also agreed that The Documents contained on discs would be available for copying.

Despite Defendant’s reference to there being a number of boxes in the range of 20, Defendant actually approximately 139 banker’s boxes and numerous computer discs that constituted The Documents.

Upon realizing the amount and scope of documents present, Plaintiffs sought to obtain copies of the documents through the previously agreed upon copying service so that they may have proper time to fully examine The Documents. Defendant refused to allow Plaintiffs to make copies of the documents, in part due to the fact that Defendant had often used the back sides of the pages in unrelated matters that Defendant claims are confidential. *See* Silvermail Letter, September 20, 2016 (attached as Exhibit 4). However, Plaintiffs contend they are entitled to copies of The Documents as Defendant has keep them in the ordinary course of business, including whatever is on both sides.

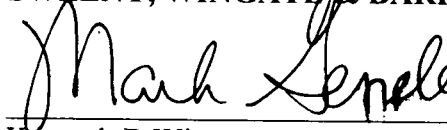
Plaintiffs have no way of knowing what the massive amounts of documents may contain without full access to them. Plaintiffs also have no way of determining if what is on the back side of the documents is relevant to this case and, further, it is not possible to determine which side of a piece of paper is the front and which is the back. Plaintiffs do not seek to obtain or disclose

unrelated materials and are willing to enter into an agreement protecting any documents that are in fact unrelated.

Pursuant to Rule 11 of the South Carolina Rules of Civil Procedure, Counsel certifies that he has communicated, with opposing counsel and a good faith effort has been made to resolve this matter. (See Exhibits 5 and 4).

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



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

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

January 11, 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

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

Case No.: 2010-CP-40-4900

and

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

Plaintiffs.

RETURN OF AIKEN 2013-CP-02-1337 PLAINTIFF
TO JOINT MOTION TO CONSOLIDATE
EXPERT DISCOVERY

v.

Adele J. Pope,

Defendant.

RICHLAND COUNTY
FILED
2017 JAN 20 AM 8:36
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

AND

COUNTY OF AIKEN

Case No. 2013-CP-02-1337

Adele J. Pope,

Plaintiff,

v.

Estate of James Brown and The James Brown
2000 Irrevocable Trust,

Defendants.

RETURN OF AIKEN 2013-CP-02-1337 PLAINTIFF
TO JOINT MOTION TO CONSOLIDATE
EXPERT DISCOVERY

TO: PLAINTIFFS IN RICHLAND COUNTY CASE 2010-CP-40-4900 AND DEFENDANTS IN AIKEN

COUNTY CASE 2013-CP-02-1337, ATTORNEY GENERAL ALAN WILSON AND COUNSEL OF RECORD.

Pro Se plaintiff in the above-referenced Case 2013-CP-02-1337 opposes the motion of Alan Wilson, in his Capacity as Attorney General of the State of South Carolina, and other Plaintiffs in Richland County Case 2010-CP-40-4900 and Defendants in Aiken County Case 2013-CP-02-1337 to consolidate discovery of expert witnesses in this Case for each and all of the following reasons:

1. The earlier motion of AG Alan Wilson and others to consolidate discovery in these two cases was denied; no motion to alter or amend was filed; and non-consolidation is the law of the case.
2. Based on the sworn testimony of Lt. Governor Henry McMaster in 2016, any effort of the law firm of Sweeny, Wingate and Barrow, PA to move or otherwise act in Richland County Case 2010-CP-40-4900 on behalf of the South Carolina AG is both unconstitutional and improper.
3. Based on said sworn testimony of former AG, and now Lt. Governor, Henry McMaster, the Motion, to the extent it is being made by Richland County Plaintiff Russell L. Bauknight claiming to act "on behalf of the Attorney General of South Carolina" is both unauthorized and improper.
4. Richland County Plaintiff James Brown Legacy Trust, having declared to Judge Early that it no longer exists, and having benefitted from such representation, is estopped to move for any relief in the Richland County case or elsewhere
5. The motion is made in bad faith in an attempt to waste \$500,000.00 or more of funds James Brown left to The James Brown "I Feel Good" Charity which AG Wilson has a duty to protect, and not to dissipate, for the benefit of Tommie Rae Hynie ("Hynie"), her son and others.
6. The motion is made in bad faith in an attempt to mask the fact that in the six and a half years since Richland 2010-CP-40-4900 was filed twenty experts have opined that the actions of

Robert Buchanan, Jr. and Adele Pope were proper, and none have opined in either case that any action they took was improper.

7. The motion is made to prevent return of \$2 million prematurely and improperly disbursed to Hynie and Levenson Will/Trust contestants which Plaintiff AG Wilson should have stopped or reversed.

8. The motion is made to try to secure \$20 million in unearned and undeserved legal fees for Louis Levenson, Esq., David Bell, Esq., and counsel for Hynie.

This motion is based on the Affidavit of Adele J. Pope dated January 17, 2017 filed herewith; the filed of the designated attached to that Affidavit; and such other documents as shall properly come before the Court at the hearing on this matter.

CONCLUSION

The motion should be denied as brought in bad faith for an improper purpose. Aiken County Plaintiff should be granted attorneys' fees and costs for providing this response.

Respectfully submitted,



Adele J. Pope

1228 Walnut Street

Newberry, South Carolina 29108

Plaintiff *pro se*, Aiken County Case 2013-CP-02-1337

January 17, 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 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 B. [REDACTED]; 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 L. [REDACTED] and Carrington L. [REDACTED]; 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. [REDACTED]; 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 L. [REDACTED] and
CARRINGTON L. [REDACTED]; 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

Case No.: 2010-CP-40-4900

RICHLAND COUNTY
FILED
2017 MAR 29 AM 10:27
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

**DEFENDANT/ COUNTERCLAIM
PLAINTIFF ADELE J. POPE'S
NOTICE OF MOTION AND MOTION
PURSUANT TO RULE 59(E)
AND RULE 60(B)(2), SCRCP**

Defendant Adele J. Pope (“Defendant” or “Pope”) will move before this Court within ten days of notice hereof or at the earliest possible time thereafter for an Order altering and amending its Order dated March 9, 2017, filed March 21, 2017 (a copy of the order is attached hereto as Exhibit A), pursuant to Rule 59(e) and Rule 60(b)(2), SCRPC, and respectfully requests the Court amend its Order and overrule all objections made by the Plaintiff/Deponent Tommie Rae Brown (“TRB”), order TRB to answer all the questions she refused to answer, re-appear at the reconvening of her deposition in South Carolina at her expense to answer any additional questions that result from answers given to the questions she previously refused to answer, and to pay all of the Popes attorney’s fees, and costs associated therewith.

The grounds, *inter alia*, for the requested relief are based upon the following errors of law and newly discovered evidence which by due diligence could not have been discovered and indeed did not exist at the time of the hearing on this matter which occurred on Monday, November 21, 2016 (hereinafter hearing).

1. The Court failed to rule or provide the legal or factual basis for allowing TRB to refuse to answer questions related to the issue of her status as James Brown’s surviving spouse. If the Court adopted the reasoning and arguments of TRB at the hearing on this matter, the Court erred in sustaining TRB’s deposition objections and her refusal to answer questions. The error being that the Court’s ruling deprives Defendant of the ability to defend against the allegations made by TRB in her Complaint. In her deposition TRB testified on the issue as follows:

Q. Okay do you know why you brought this lawsuit?

A. Why I brought this lawsuit?

Q. Yes, Ma’am.

A. Probably because of being robbed and taken advantage of and kicked out and excluded and just completely abused and taken from.

Q. Okay

A. I have lost a lot of material things, personal things, pride.

Q. You were robbed, what else?

A. Well, I mean, if this is -- if you're asking me if I believe that Ms. Pope took anything from me or my husband that was not due to her or did not act completely lawfully in every way to her responsibilities as she was supposed to handle them, then, yeah, I do believe that she handled things wrong.

Q. Okay. Handled these wrong?

A. Handled things wrong.

Q. Okay.

A. Things went wrong. She had a responsibility to make sure they were handled correctly, and I don't believe that they were, in my opinion.

Deposition of Tommie Rae Brown dated June 16, 2016, Volume 1, Page 134, Ln 12 thru 21; page 135, Ln 1 thru 14:

In the Complaint TRB alleges that Pope breached fiduciary duties Pope allegedly owed to TRB. As a matter of law Pope would only owe a duty to TRB if TRB was in fact the surviving spouse. (See paragraph 18 of Complaint). TRB, however, was not mentioned in the Will or the Trust. Notwithstanding the fact that TRB was not mentioned in the Will or Trust, one such alleged breach of this alleged fiduciary duty was "taking improper adversarial positions to the settlement entered into by the beneficiaries of the Estate and Trust and approved by the Circuit Court." (See paragraph 18 of Complaint). The parties to the settlement agreement agreed to, among other things, that TRB was in fact the surviving spouse. TRB is suing Pope for contesting the settlement agreement, which declared TRB the surviving spouse.

The issue in this case is not whether TRB was, or is in fact, the surviving spouse of James Brown but whether Pope, based upon what she knew or what was available to her during the period referenced in the Complaint, acted reasonably in deciding to contest TRB's claim that she was the surviving spouse. Indeed, the agreement was overturned and

remanded for further proceedings on the inadequacy of the evidence to justify such an agreement as to TRB's status as the surviving spouse. In preventing Defendant from questioning her the very issue for which Plaintiff is suing the Defendant is a fundamental violation of her procedural and substantive due process rights.

2. The Court erred in failing to rule on TRB's counsel's objection at Tr.366:1-4.

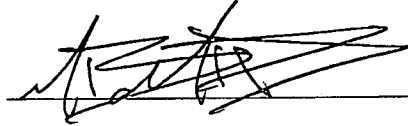
3. Two weeks ago, on March 8, 2017, TRB entered into a settlement agreement with the Limited Special Administrator of the estate and the Limited Special Trustee of the trust and the Personal Representative of the Estate and Trust that provides, *inter alia*, as follows:

"within (10) days of a final appellate court decision in the Surviving Spouse Appeal establishing that TRB is or is not Decedents surviving souse, TRB will withdraw and/or dismiss her Spousal Claims and release the LSA from any and all claims she may have, as surviving spouse or otherwise."

This newly discovered evidence completely undermines any argument that TRB is the surviving spouse, even if there was any merit to the argument upon which the court was heretofore relying on in its order. As such, the order should be granted relief from the order pursuant to Rule 60(b)(2), SCRCP.

[signature page follows]

Respectfully submitted,



W. H. Bundy, Jr., Esquire
M. Brent McDonald, Esquire
BUNDY MCDONALD, LLC
1516 Old Trolley Road, 2nd Floor
Summerville, South Carolina 29485
888-552-1559
walter@bundymcdonald.com
brent@bundymcdonald.com

and

Adam T. Silvernail, Esquire
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
Attorneys for Defendant/Counterclaim Plaintiff Adele J. Pope

March 24, 2017
Summerville, South Carolina

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 B.; 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
L., Carrington L., and 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.; 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
L., CARRINGTON L., and
TONYA BROWN; VENISHA BROWN;
LARRY BROWN; and TERRY BROWN,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

) Case No. 2010-CP-40-4900

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

**DEFENDANT'S SUPPLEMENTAL
RETURN TO THE ATTORNEY
GENERAL'S MOTION TO BE
DROPPED**

2017 MAR 13 PM 10:34

TO: PLAINTIFFS/COUNTERCLAIM DEFENDANTS AND/OR THEIR COUNSEL.

Defendant Adele J. Pope ("Pope") hereby provides this supplemental response to Plaintiff

961

Attorney General's Motion to Be Dropped as a Party ("Motion"). Though the Court has already heard argument on the Motion, received briefing on the Motion, and taken the Motion under advisement, this supplemental response was necessitated by the Attorney General's filing of a supplemental memorandum in support of its motion to be dropped as a party. In response thereto, Pope incorporates her previous memorandum and argument made before the Court and further states as follows:

The basis for the Attorney General's supplemental memorandum on its motion to be dropped appears to be an argument that it should be dropped from the action that it filed against Pope in which it is now a counterclaim defendant because of sovereign immunity pursuant to the South Carolina Tort Claims Act. See S.C. Code Ann. Section 15-78-10 et seq. The Attorney General, however, did not assert the affirmative defense of sovereign immunity in its responsive pleading. Inexplicably, the Attorney General did not cite South Carolina law that expressly and unequivocally requires the defense of sovereign immunity to be pled. In *Tanner v. Florence City-County Building Commission*, 333 S.C. 549, 511 S.E.2d 369 (Ct.App. 1998), the Court of Appeals succinctly stated the law as follows:

"Historically, the common law doctrine of sovereign immunity insulated governmental entities from liability for torts committed by their employees. In South Carolina, total sovereign immunity was abolished by the decision in *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985). Reacting to *McCall*, the legislature adopted the South Carolina Tort Claims Act. S.C.Code Ann. § 15-78-10 to -200 (Supp.1998). That act waives sovereign immunity for torts committed by the State of South Carolina, its political subdivisions, and governmental employees acting within the scope of their official duties. The act, however, lists numerous exceptions to the waiver of immunity. S.C.Code Ann. § 15-78-60 (Supp.1998)."

"This court has held that under the South Carolina Tort Claims Act '[t]he burden of establishing a limitation upon liability or an exception to the waiver of immunity is upon the governmental entity asserting it as an affirmative defense.' *Niver v. South Carolina Dep't of Highways & Public Transp.*, 302 S.C. 461, 463, 395 S.E.2d 728, 730 (Ct.App.1990). **The decision of our supreme court in the case of *Washington v. Whitaker*, 317 S.C. 108, 451 S.E.2d 894 (1994),**

put to rest any remaining question about the necessity of pleading sovereign immunity as an affirmative defense. In *Washington*, the court said ‘we overrule the antiquated rule that sovereign immunity is a jurisdictional bar and, accordingly, cannot be waived. We join those jurisdictions which hold that sovereign immunity is an affirmative defense that must be pled.’ *Id.* at 114-15, 451 S.E.2d at 898 (citations omitted); see also *Town of Duncan v. State Budget & Control Bd., Div. of Ins. Servs.*, 326 S.C. 6, 11 n. 14, 482 S.E.2d 768, 773-74 n. 14 (1997) (reversing a trial court order to the extent it was based on sovereign immunity as no answer had been filed in case and sovereign immunity, as an affirmative defense, must be pled).”

333 S.C. at 552 (emphasis supplied).

Accordingly, sovereign immunity is not a basis in this action for the Attorney General to be dropped from the action because it was not pled as an affirmative defense by the Attorney General in its responsive pleading that was served over six (6) years ago. The Motion to Drop should be denied.

Respectfully submitted,



W. H. Bundy, Jr., Esq.

M. Brent McDonald, Esq.

Bundy McDonald, LLC

1516 Old Trolley Road, 2nd Floor

Summerville, South Carolina 29485

888-552-1559

walter@bundymcdonald.com

brent@bundymcdonald.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

April 6, 2017
Summerville, SC

Attorneys for Defendant Adele J. Pope

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Russell L. Bauknight, et al,

Plaintiffs,

v.

Adele Pope,

Defendant,

IN THE COURT OF COMMON PLEAS

No. 2010-CP-40-4900

**REPLY TO
SUPPLEMENTAL RETURN TO
ATTORNEY GENERAL'S
MOTION TO BE DROPPED
AS PARTY**

Defendant Pope contends that the Attorney General cannot be dropped on the ground of sovereign immunity because it was not pleaded as an affirmative defense in his 2010 Answer to the Counterclaim. The Attorney General is not relying on sovereign immunity. He is asserting the different grounds of absolute prosecutorial / quasi-judicial immunity, and as argued in his Supplemental Memorandum, those grounds are covered by the Attorney General's Failure to State a Claim defense asserted in the 2010 Answer.

Absolute immunity and sovereign immunity are different as recognized by our Supreme Court in *Williams v. Condon*, 553 S.E.2d 496, 508, 347 S.C. 227, 248-49 (S.C.App.,2001).

In 1985, our Supreme Court decided *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741. This case is significant because the Court largely abolished the doctrine of sovereign immunity. . . .The duties of a prosecutor fall into the exceptions enumerated by *McCall* and § 15-78-60. The case law cited throughout this opinion clearly supports the proposition that a prosecutor's typical duties are "judicial" or "quasi-judicial" in nature. Accordingly, this Court finds a prosecutor, in his official capacity, is immune from a Tort Claims Act suit involving "judicial" or "quasi-judicial" acts, provided a defendant prosecutor raises the affirmative defense of sovereign immunity in his return. See *Tanner v. Florence City-County Bldg. Comm'n*, 333 S.C. 549, 511 S.E.2d 369 (Ct.App.1999) (holding sovereign immunity is an affirmative defense that must be pled).

553 S.E.2d 496, 508. As stated in, *Office of State Attorney, Fourth Judicial Circuit of Florida v. Parrotino*, 628 So.2d 1097, 1099 (Fla.,1993), “[t]o summarize, judicial and prosecutorial immunity in Florida long have existed apart from sovereign immunity, have an independent basis in law and policy, and have not been waived.” See also, *MK Ballistics Systems v. Simpson*, 2007 WL 2022025, at *3 (N.D.Cal.,2007)(their tests are different); *State ex rel. Dept. of Justice v. District Court of Eighth Judicial Dist. In and For Cascade County*, 560 P.2d 1328, 1330, 172 Mont. 88, 92 (Mont. 1976)(“different concepts”).

Although *Williams* said “sovereign immunity” should be raised by a prosecutor as an affirmative defense in response to a Tort Claims Act suit, it had to have meant prosecutorial / quasi-judicial immunity because “[t]he defendants sought dismissal pursuant to the defenses of prosecutorial immunity and the immunity afforded them under the South Carolina Tort Claims Act.” Moreover, Pope did not bring her counterclaims under the Tort Claims Act as did the *Williams* plaintiff.

Regardless of the differences between sovereign immunity and prosecutorial immunity, this issue may be argued now. Immunity is an affirmative defense under South Carolina case law¹, but some cases indicate that it may be covered by the affirmative defense of failure to state a claim or cause of action or raised in a later pleading after the answer. Although Plaintiff says that South Carolina law “expressly and unequivocally requires the defense of sovereign

¹ Although no case expressly holds that “prosecutorial immunity” or “quasi-judicial immunity” are affirmative defenses, *Williams* indicates that they would be found to be such defenses in its reference to the affirmative defense of “sovereign immunity” discussed above.

immunity to be pled,”² our case law is more flexible as to specifics of asserting immunity, and we cited two cases from other jurisdictions that support that immunity is covered by the Attorney Generals’ affirmative defense of failure to state a claim under Rule 12(B)(6), SCRCP, in his Answer to the Counterclaim.³ *Plyler v. Burns*, 647 S.E.2d 188, 195, 373 S.C. 637, 649 (2007), held that “although [a defendant] failed to include the affirmative defense of common law judicial immunity in its motion to dismiss, [the defendant’s] inclusion of the defense in the supporting memorandum was sufficient to comply with the intent of Rule 8(c), SCRCP, in this case.” Pope “has not demonstrated that she suffered prejudice or unfair surprise in any way.” *Plyler*, 647 S.E.2d at 195. Accordingly, the Attorney General’s claim of prosecutorial and quasi-judicial immunity should be considered now.

Prosecutorial / quasi-judicial immunity is a very important doctrine. As stated in *Parrotino, supra*, 628 So. 2d at 1098-99.

American law has long recognized that prosecutorial immunity from suit rests on the same footing as the immunity conferred upon judges and grand juries. *Imbler v.*

²Pope cites *Tanner v. Florence City-County Bldg. Com’n*, 511 S.E.2d 369, 371, 333 S.C. 549, 552 (Ct.App.,1999) overruled in part, on other grounds, *Olson v. Faculty House of Carolina, Inc.*, 580 S.E.2d 440, 444, 354 S.C. 161, 168 (2003), for the pleading requirement, but *Tanner* is a Tort Claims Act case, and possibly suggests that raising the ground in a motion for summary judgment would be sufficient. 511 S.E. 2d at 371 (“The Department has not pled sovereign immunity in its answer, nor did it mention any exceptions to the waiver of immunity contained in the South Carolina Tort Claims Act in its motion for summary judgment.”). *Plyler v. Burns*, 647 S.E.2d 188, 195, 373 S.C. 637, 649 (2007), *infra*, shows that a memorandum may be sufficient.

³ *Ramsey v. City of Forest Park*, 418 S.E.2d 432, 433, 204 Ga.App. 98, 99 (Ga.App.,1992)(“an answer pleading a defense of failure to state a claim at least would be minimally sufficient to give notice of substantive immunity defenses. . . .”); *Baker v. Sudo*, 240 Cal.Rptr. 38, 42, 194 Cal.App.3d 936, 942 (Cal.App. 4 Dist.,1987)(affirmative defense of failure to state a cause of action sufficient to raise statutory immunity)

Pachtman, 424 U.S. 409, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). This particular type of immunity embraces persons who exercise a judicial or quasi-judicial function; and the immunity rests on the sound public policy that a strict guarantee of immunity is necessary to preserve the effectiveness and impartiality of judicial and quasi-judicial offices. Both judges and prosecutors alike should be free from the threat of suit for their official actions, because permitting suit in this situation could deter a full and unfettered exercise of judicial or quasi-judicial authority.

Office of State Attorney, Fourth Judicial Circuit of Florida v. Parrotino, 628 So.2d 1097, 1098–99 (Fla.,1993).

As stated by the United States Supreme Court in *Imbler v. Pachtman*, 424 U.S. 409, 422–24 (1976)

The common-law immunity of a prosecutor is based upon the same considerations that underlie the common-law immunities of judges and grand jurors acting within the scope of their duties.²⁰ These include concern that harassment by unfounded litigation would cause a deflection of the prosecutor's energies from his public duties, and the possibility that he would shade his decisions instead of exercising the independence of judgment required by his public trust. One court expressed both considerations as follows:

“The office of public prosecutor is one which must be administered with courage **992 and independence. Yet how can this be if the prosecutor is made subject to suit by those whom he accuses and fails to convict? To allow this would open the way for unlimited harassment and embarrassment of the most conscientious officials by those who would profit thereby. There would be involved in every case the possible consequences of a failure to obtain a conviction. There would always be a question of possible civil action in case the prosecutor saw fit to move dismissal of the case. . . . The apprehension of such consequences would tend toward great uneasiness and toward weakening the fearless and impartial policy which should characterize the administration of this office. The work of the prosecutor would thus be impeded, and we would have moved away from the desired objective of stricter a fairer law enforcement.” *Pearson v. Reed*, 6 Cal.App.2d 277, 287, 44 P.2d 592, 597 (1935).

This important doctrine extends to the responsibilities of the Attorney General regarding charities for the reasons set forth in the Attorney General's Opening Memorandum. See, S.C. Code Ann. §1-7-130; *Metro Charities, Inc. v. Moore*, 748 F.Supp. 1156, 1163–64 (S.D.Miss.,1990); *Vosburg v. Department of Social Services*, 884 F.2d 133, 138 (C.A.4 ,1989);

Mathis v. McDonough, 2014 WL 3894133, at *11 (D.Md.,2014). Therefore, absolute prosecutorial and quasi-judicial immunity apply so as to bar the counterclaims against the Attorney General herein.

For the foregoing reasons and those set forth in his Supplemental Memorandum, the Attorney General respectfully requests that his Motion to Drop be granted.

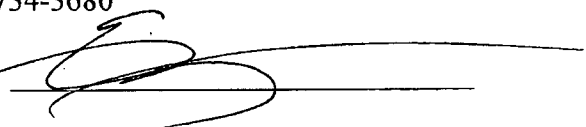
Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

J. EMORY SMITH, JR.
Deputy Solicitor General
S.C. Bar No. 5262

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3680

BY: 

APRIL 7, 2017

ATTORNEYS FOR THE ATTORNEY GENERAL