

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Case No. 2010-CP-40-4900

Appellate Case No. 2017-001899

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SC Court of Appeals

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, Respondents,

v.

Adele J. Pope, Defendant,

Of whom Adele J. Pope is the Appellant.

**MOTION TO STRIKE APPELLANT'S INITIAL REPLY
BRIEF TO RESPONDENTS' INITIAL BRIEF**

Despite this Court's prior action striking the Appellant's entire initial brief, Appellant continues to engage in improper briefing and refuses to comply with the South Carolina Appellate Court Rules. Therefore, Respondents (represented by the undersigned) are compelled to once again file a motion to strike, this time asking the Court to strike Appellant's Initial Reply Brief to Respondents and Counter-Designation to Respondents. On May 22, 2018, Appellant filed an amended initial brief and a Designation of Matter to be Included in the Record on Appeal. On July 23, 2018, the South Carolina Attorney General filed an initial brief, and Respondents (represented by the undersigned) filed an initial brief (of which a corrected initial brief was filed on July 25, 2018). On August 13, 2018, Appellant filed an initial reply brief to the initial brief of Respondents (represented by the undersigned), and she filed an initial reply brief to the initial brief of the Attorney General. Also on August 13, 2018, Appellant filed a Counter-Designation to Respondents (represented by the undersigned) and a separate Counter-Designation to Respondent Attorney General.

Appellant's initial reply brief to the initial brief of Respondents has three significant and pervasive defects: (1) it contains arguments which were not included in the her amended initial brief, (2) it references and relies heavily on irrelevant material, and (3) it contains unqualified declarations of disputed facts without any reference.

These defects are partially obscured by the Appellant's clever, but improper, manufacturing of a history. Throughout this appeal, the case subject to this appeal, and every case related to James Brown in which she has been involved, Appellant has continuously presented as reality a tapestry, quilted with fabric woven from self-spun yarn. This manufacturing process has three primary stratagem: First, in every James Brown case, Appellant files numerous and voluminous affidavits, typically over her own signature. Every affidavit is

filled with statements of facts and appended with reams of documents that bear little if any relationship to the matter for which they are offered. Second, Appellant relentlessly asserts that every aspect of every James Brown case is relevant to any aspect of any James Brown case. Finally, these affidavits are referenced and cross-referenced in various motions, pleadings, affidavits and memoranda as authoritative over time and across the spectrum of cases and issues. Typically these references are general (*i.e.*, to the title of the document) rather than to any specific fact, paragraph, or page.

To make matters worse, the affidavits contain statements that are so dubious, impertinent, and even defamatory, that the trial Judge ordered that affidavits filed after March 9, 2017, were to be filed under seal. See copy of Order Concerning Plaintiffs' Motion to Strike January 17, 2017 Affidavit of Defendant, filed on March 15, 2017, which is attached as Exhibit A. Respondents have filed numerous motions to strike these affidavits, but the trial judge has ruled only once.

This manufacturing process makes it extremely tedious for the Respondents (and presumably this Court) to parse out what is relevant to the appeal and to sift through the voluminous and frequently irrelevant affidavits, pleadings, attachments and arguments dumped on the Court by the Appellant.

In Appellant's initial reply brief, she relies almost entirely on her carefully manufactured tapestry. A couple of examples will prove illustrative:

In the section titled "Response to Respondents' Factual Assertions," Appellant purports to respond to a simple factual assertion made by Respondents—that Robert L. Buchanan had reached a settlement with the Respondents and was no longer a party to the case.¹ Appellant

¹ These facts are set forth at pages 1-2 of the Initial Brief of Respondents.

contrives an issue in order to introduce irrelevant material into the discussion. Appellant's Initial Reply Brief to Respondents at section b, page 3.

Taking these inappropriate references in the order in which they are proffered:

- Footnote 6 refers to assertions purportedly made by Respondents on page 12 of their initial brief. However, the purported assertion is not quoted verbatim and the alleged words cannot be found on page 12.
- Footnote 6 includes a list of documents following a factual statement purportedly made by Respondent, as though they are citations for the factual statement. But, a careful review indicates that not only are these not references to statements made by Respondent, but they are pleadings and motions filed by Appellant or Buchanan.
- Nothing in the documents listed in Footnote 6 is being offered to refute the statements made by Respondents in their initial brief. Rather, they are only being offered—though still not relevant—in support of a contrivance.
- In support of an irrelevant claim regarding the terms of the settlement between the Respondents and Buchanan, Appellant cites (without quotes or specific page reference) a Return that she filed to a Motion that she was not even involved in.
- In support of a statement regarding a purported finding and holding by Judge Early, Appellant does not cite any order or hearing transcript. Rather, Appellant references:

- Her own affidavit filed two years after the alleged finding of Judge Early occurred;² (A copy of this affidavit is attached at Exhibit B.)
- Her own memorandum filed in support of a discovery motion filed three years after the alleged occurrence of the fact being proffered;
- Two references to “id”

These ill-referenced “facts” are then woven together to support the Appellant’s narrative, to wit:

- Appellant and Buchanan acted jointly in the administration of the Brown Estate from March 2007 to March 2012 (not disputed)
- Buchanan reached a settlement agreement with Respondents in 4900 (not disputed)
- Judge Early did not require disgorgement of fees paid prior to Buchanan being removed as trustee (not relevant)
- Judge Early found that Buchanan’s service was proper (not supported)
- Judge Early left open the possibility of Buchanan’s re-entry into 4900 (not supported)
- Respondent paid Buchanan pursuant to the terms of the settlement (mischaracterized);
- Respondent acquiesced in Judge Early’s findings (fabricated)

² This cited Affidavit is a prime example of the blanket incorporation of irrelevant matters that is part of this manufactured tapestry. The Affidavit dated May 29, 2015 was filed in the Richland 4900 case and is titled “Affidavit of Adele J. Pope Supporting Summary Judgment, Damages and Offset/Transfer of Termination Rights Under Federal Copyright Act.” In paragraphs 14 and 13 (sic) of the Affidavit, Appellant asks the court in Richland 4900 take judicial notice of an entire court record for two different James Brown matters pending in another county. The motion to which the Affidavit relates is not part of this appeal and there is no indication that such judicial notice was actually taken. However, it is through this “ask” that Appellant pushes the shuttlecock across the loom.

From these threads of yarn, Appellant avers that “neither the Estate/2000 Trust nor other Respondents had a meritorious defense to the counterclaims.” Appellant’s Initial Reply Brief to Respondents at p.3.

Section j of the Reply Brief, beginning at page 8, presents another example of this manufacturing process. Eight times in that section of reply, Appellant supports a statement of fact with a citation to Appellant’s “Memorandum in Support of Deposition of Attorney General and Opposing Protective Order”, filed August 29, 2016, a copy of which is attached at Exhibit C. That Memorandum is a 25-page statement and argument by counsel. Despite numerous footnotes and general references to deposition testimony, the Memorandum does not have a single exhibit; makes no reference to the date, line or page of the testimony of any witness; and does not provide a verifiable reference to a single document. It is entirely the statement of an attorney—the Appellant’s own attorney.

This is the epitome of “bootstrapping.” Appellant has created her own credentials by citing her own unsupported prior statements as authoritative and conclusive.

I. Appellant’s initial reply brief contains factual statements and legal arguments which are not included in her amended initial brief.

In Bochette v. Bochette, this Court reiterated the rule that “[a]n appellant may not use either oral argument or the reply brief as a vehicle to argue issues not argued in the appellant’s brief.” 300 S.C. 109, 112, 386 S.E.2d 475, 477 (Ct.App.1989). Citing Bochette, this Court has made clear that “(1) an appellant may not use the reply brief to argue issues not argued in his brief in chief; and (2) an issue is deemed abandoned on appeal and, therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority.” Fields v. Melrose Ltd. Partnership, 312 S.C. 102, 439 S.E.2d 283, n3 (Ct.App.1993).

A. In section **b. The role of Robert Buchanan, Jr. in Richland 4900 until 2012**, at page 3 of Appellant's reply brief to Respondents' initial brief, Pope improperly introduces a new argument by replying to an uncontested matter set forth in the Respondents' initial brief. As part of Respondents' Statement of the Case (including relevant facts), Respondents included relevant history of the proceedings. Part of that history is that Robert L. Buchanan, Esq. was a defendant in Case 4900, he settled all claims in July 2012, an order of dismissal was entered as to all claims between Respondents and Mr. Buchanan, and he is not a party to this appeal. Appellant takes that case history and attempts to make a new argument for her appeal.

B. Although Section **i** beginning at page 7 of Appellant's reply brief to Respondents' initial brief does not specifically reply to Respondents' initial brief, new arguments are introduced. This section is an improper attempt by Appellant to make additional arguments or statements not included in her amended initial brief, and should be stricken.

C. Section **j** beginning at page 8 of Appellant's reply brief to Respondents' initial brief is not primarily a specific reply to Respondents' initial brief (though Appellant does reference parallel concerns of Respondents and the Supreme Court in Wilson v. Dallas), but these approximately four pages are improper attempts by Appellant to make additional arguments or statements not included in her amended initial brief.

D. Section **k** beginning at page 12 of Appellant's reply brief to Respondents' initial brief is not a specific reply to Respondents' initial brief nor is it clear what part of Appellant's initial brief to which it relates. Rather, this section is an improper attempt by Appellant to put new and irrelevant material into the record. The statements in section **k** contains certain

arguments or statements devoid of any references. This section should be stricken from Appellant's Initial Reply Brief to Respondents.

II. Appellant continues to rely on irrelevant material in her initial reply brief.

In their motions to strike the initial brief of the Appellant, Respondents complained about the voluminous irrelevant material that was referenced. The Court agreed and directed the Appellant to serve and file an amended initial brief and an amended designation of matter. In her initial reply brief, Appellant is seeking to reintroduce much of the same irrelevant material, as well as add more irrelevant matter.

A. Respondents disagree with the assertions in section **a** of Appellant's reply brief to Respondents' initial brief generally and specifically because of the innuendos placed therein. Section **a** does not provide any additional persuasion that the irrelevant documents of the Appellant should be included in this appeal.

B. Regarding section **f** at page 6 of Appellant's reply brief to Respondents' initial brief, the writing referenced by Appellant is not legitimate, is saturated with legal error and fiction, is completely irrelevant to this appeal, and would not be allowed as evidence in Case 4900 pursuant to the South Carolina Rules of Evidence.

C. Regarding section **g** at page 7 of Appellant's reply brief to Respondents' initial brief, Mr. Smith is simply not a qualified expert for any purpose Appellant proposes, and if he endorses the writing referenced by Appellant in section **f**, then he would be disqualified as a purported expert on termination rights.

III. Appellant's initial reply brief includes many declarations of highly disputed facts without any citation to a proper reference in the record.

Appellant's failure to cite the record for statements of facts is ubiquitous. A few specific examples are illustrative of this practice:

A. In section **c. The Misconduct of the James Brown Legacy Trust, its Trustee and Beneficiaries**, at page 4 of Appellant's reply brief to Respondents' initial brief, Appellant simply presents a part of the manufactured tapestry and concludes that "[t]hese facts confirm that the AG's Legacy Trust has no meritorious claims or defenses to counterclaims in Richland 4900." There are no specific facts cited with specific sources.

B. In section **e. Affidavits Confirm No Meritorious Claims or Defenses**, at page 6 of Appellant's reply brief to Respondents' initial brief, Appellant states that the challenged affidavits are "largely undisputed." This is blatantly unwarranted fantasy. Most, if not all, Appellant's affidavits are wholly disputed, highly questionable as to whether any will be allowed in Case 4900, and completely irrelevant.

Appellant's footnote 9 applicable to section **e** is more of Appellant's improper tapestry.

C. On page 13, in the first paragraph in section **l. Miscellaneous Corrections to Respondent's Statement of Facts** of Appellant's reply brief, Appellant is either attempting to correct a true statement in the Respondents' initial brief about Appellant's removal for cause or correct the Supreme Court's ruling about Appellant's removal for cause in Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013). Either way, Appellant is the only party unwilling to accept that she was in fact removed for cause. The Supreme Court clearly ruled:

Respondents contend the circuit court took up the issues related to Appellants' removal at the hearing to consider whether it should approve the settlement agreement; thus, a hearing and the opportunity to be heard was afforded to Appellants. Further, all of the settling parties petitioned the circuit court for Appellants' removal well in advance of the hearing, thus providing adequate notice. In addition, the circuit court found an irreconcilable conflict existed between Appellants and the settling parties because Appellants had expressed continuing opposition to their actions. *Thus, the circuit court had cause to remove them and replace them with a professional fiduciary.*

We find the circuit court did not violate the statutory provisions regarding the removal of personal representatives. Notice and a hearing were provided, and

the court had cause to remove them as it was in the best interests of the estate. Moreover, it was within the circuit court's implied authority under section 62–3–1102, as Appellants had a continuing and irreconcilable conflict with the settling parties. While we ultimately agree with Appellants in the specific conflict over the compromise agreement, we note the parties remained at odds over the handling of Brown's estate matters.

We are also aware that Appellants have sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. In addition, Appellants sought and obtained permission from the circuit court to sell iconic assets from Brown's estate in order to raise funds, and a large portion of the amount raised went first to pay Appellants' own attorneys' fees. Appellants also unsuccessfully attempted to sell Brown's GRAMMY award at auction; the process was halted only because officials from the National Academy of Recording Arts and Sciences reclaimed the award after informing Appellants that it was a long-standing policy that the award could not be sold by recipients or anyone acting on their behalf. *These actions and the extreme discord between the parties convince us that Appellants' continued service as fiduciaries is not in the best interests of the estate.*

As to section 62–7–706, regarding the removal of trustees, this provision is cited once by Appellants, but it is not otherwise discussed. See S.C.Code Ann. § 62–7–706 (2009). Thus, Appellants have set forth no issue in this regard for the Court's consideration. See *Houck v. State Farm Fire & Cas. Ins. Co.*, 366 S.C. 7, 620 S.E.2d 326 (2005) (observing an argument is effectively abandoned if the appellant's brief treats it in a conclusory manner). The other provisions cited by Appellants concerning the appointment and duties of a special administrator likewise afford no basis for relief here. See S.C.Code Ann. §§ 62–3–614, –616 (2009).

We hold Appellants have shown no error in the circuit court's ruling removing them from their fiduciary positions.

Wilson v. Dallas, 403 S.C. 411, 448-449, 743 S.E.2d 746, 766-767 (2013) (emphasis added).

D. On page 13, in the second paragraph in section **I. Miscellaneous Corrections to Respondent's Statement of Facts** of Appellant's reply brief, Appellant infers that Respondents are somehow stating that Wilson v. Dallas is not relevant. Her inference appears to be a blatant attempt to mislead this Court, and it is part of the tapestry manufacturing process.

E. On page 14, in the first paragraph of that page (in section **I. Miscellaneous Corrections to Respondent's Statement of Facts** of Appellant's reply brief), Appellant is

attempting to correct something that is not even stated on page 23 Respondents' initial brief. In addition to correcting nothing, she references yet another of her affidavits. Then Appellant concludes with a self-supporting statement or argument she did not raise in her amended initial brief and is without any proper supporting authority.

F. In **section I** of Appellant's argument beginning on page 14, not only do Respondents completely disagree with Appellant, Respondents point out the falsity of Appellant's phrase, "... the AG's and other Respondents' failure to challenge most of the facts" Respondents have formally challenged and disagreed with Appellant's alleged "facts" in every way possible.

G. In **section II** of Appellant's argument on page 14, Appellant initially argues that Respondents showed no "good cause" for relief from default. Appellant only addressed in her reply brief the Affidavit of Kenneth B. Wingate (Affidavit of Kenneth B. Wingate [with Exhibit A] filed on November 16, 2010) for the basis of her argument that Respondents showed no "good cause" for relief from default. Appellant appears to address only one phrase of the Affidavit of Kenneth B. Wingate and completely fails to address (1) the remainder of said affidavit, (2) Plaintiffs' Motion to Set Aside Entry of Default, (3) Plaintiffs' Memorandum in Support of Motion to Set Aside Entry of Default, (4) Plaintiffs' oral argument at the hearing on the motion to set aside the default, (5) Supplement to Plaintiffs' Motion to Set Aside Entry of Default, (6) Plaintiff's affirmative claims in the Complaint, and (7) Respondents' arguments for "good cause" shown on pages 15 – 21 of Respondents' initial brief. Appellant generally asserts that Plaintiffs' answer to her counterclaims does not establish a meritorious defense, but she does not specifically argue how such answer lacks evidence of a meritorious defense.

H. Beginning on page 16 and continuing to page 19 of Appellant's reply brief, Appellant argues that Respondents presented no evidence of a meritorious defense, and she divided those arguments into five subsections:

1. Buddy Dallas statement

Appellant argues that a statement by Buddy Dallas does not provide evidence of a meritorious defense but does support Appellant's civil conspiracy claim. Though the statement by Mr. Dallas was offered by Plaintiffs as one piece of evidence among many of a meritorious defense, the statement does provide allegations that Appellant was too cautious, was intrusive and obtrusive (as were others, according to Mr. Dallas) and inferred that Appellant lacked understanding (as others also lacked, according to Mr. Dallas) as to the proper management of James Brown's estate.

2. Judge Early's "findings"

This is Appellant's second reference to purported findings of Judge Early, yet she again provides no reference to any record supporting her allegations.

3. Wilson v. Dallas

Appellant's counterclaims are abuse of process, civil conspiracy, intentional interference with contract, violation of §62-1-106, and attorney's fees. Wilson v. Dallas unquestionably provides meritorious defenses to Appellant's counterclaims, because the Supreme Court affirmed Appellant's removal for cause from her role as a fiduciary in connection with the James Brown estate. Judge Early ruled that Appellant's "counterclaims are barred by collateral estoppel based on the Supreme Court's holding in Wilson v. Dallas" and his order analyzes each counterclaim. Order Granting Plaintiffs' Motion for Summary Judgment as to Defendant's Counterclaims (June 23, 2017).

4. Alleged (by Appellant) devaluation scheme

Regarding Appellant's alleged devaluation scheme in section D on page 18 in her reply brief, Respondents cannot accurately determine to what Appellant is replying in connection with Respondent's initial brief. But Respondents have alleged in their Complaint the Appellant's (1) failure to understand the fundamentals of the operation of the music business, which constitutes the essential value of the trust and estate, and failure to obtain proper advice, (2) failure to understand the basic operation of federal copyright law and its impact on the estate and its valuation, including but not limited to tax valuation, and (3) artificial inflation of the reported value of the estate, without any substantiation, and without any consistency. Complaint filed on May 19, 2010 (in the Richland County Probate Court).

5. Other impediments

Section E of Appellant's reply brief was dumped in as a form of Appellant's improper tapestry, is largely unsupported by references to the record, and she improperly introduces new arguments or statements that she did not make in her amended initial brief.

CONCLUSION

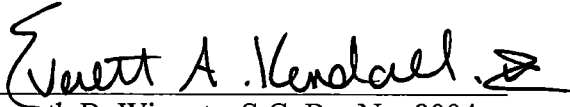
In **Section IV** on page 20 of Appellant's initial reply brief, Appellant addresses an issue applicable to the Attorney General's initial brief. Therefore, Respondents won't address Section IV in this motion, but do incorporate into this motion the entire initial brief of the Attorney General and the Motion of Attorney General to Strike Initial Reply Brief of Appellant as to Attorney General.

Pursuant to the legal standards concerning reply briefs and Appellant's substantial noncompliance with the South Carolina Appellate Court Rules, Appellant's reply brief to Respondents' initial brief and her Counter-Designation to Respondents should be stricken. To

the extent Appellant's Initial Reply Brief to Respondent Attorney General includes the same or substantially similar issues discussed in this motion, then that reply brief, or the applicable sections thereof, should also be stricken.

Respectfully submitted,

September 13, 2018

A handwritten signature in black ink, reading "Everett A. Kendall" with a stylized flourish at the end.

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Mark V. Gende, S.C. Bar No. 72835
Everett A. Kendall, II, S.C. Bar No. 8450
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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 II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

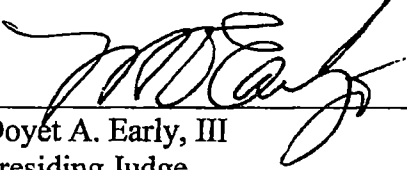
RICHLAND COUNTY
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JEANETTE
C.C.P.

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

DHEH

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

IT IS SO ORDERED.



Doyet A. Early, III
Presiding Judge

March 9, 2017
Bamberg, South Carolina.

EXHIBIT B

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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
) SECOND JUDICIAL CIRCUIT

Case No.: 2010-CP-40-4900

) Affidavit of Adele J. Pope
) Supporting Summary Judgment, Damages
) and Offset/Transfer of Termination Rights
) Under Federal Copyright Act

2015 MAY 29 PM 1:01
J. METTE R. MCGRIDE
C.C.P. & G.S.

RICHARDSON COUNTY
FILED

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

1. This affidavit is made of my own personal knowledge and belief.
2. I am over eighteen and have practiced law for more than thirty years.
3. I have reviewed the facts set out in my motion for Summary Judgment and other relief against Daryl Brown, Tonya Brown, Venisha Brown and Russell L. Bauknight, as their agent, dated today.
4. To the best of my knowledge and belief, each fact set out therein is true and correct, and I incorporate said facts herein.
5. Attached hereto as Exhibit A are portions of the deposition of Daryl Brown take in this Case on December 21, 2012.
6. On page 7 and 8 of his deposition, Daryl admitted that he never saw the complaint in this case until more than 2 years after the suit was filed; does not know what a breach of duty is (p. 8); and became aware that he was a Plaintiff in this case when Louis

Levenson, Esq. informed him he was a Plaintiff.

7. None of Tonya, Venisha, or Daryl signed the 40% contingency fee contract with Sweeny, Wingate and Barrow ("SWB").

8. Daryl's only complaint about what Bob and I did appears to be the Christie's sale, but Daryl had complete details of the Christie's sale in August 2008, more than eighteen (18) months before he filed suit.

9. Daryl refused to answer whether he was aware of what amount the Christie's sale generated (pp. 16-17); identified Levenson as his attorney; and did not know the name of his SWB attorneys.

10. Attached hereto as Exhibit B is an article published this week in my local newspaper about Daryl's current position.

11. Attached hereto as Exhibit C is the Notice of Appearance filed by David B. Bell, Esq., counsel for Tonya, on March 26, 2014.

12. Attached hereto as Exhibit D are portions of the deposition of Tonya Brown, whose name is now Sarah LaTonya Brown Fegan.

13. Venisha has been incarcerated during substantial periods, and both Louis Levenson, Esq. and Russell Bauknight have repeatedly refused to appoint a GAL for her.

14. I ask the Court to take judicial notice of the offers I made to Daryl, Tonya and Venisha BEFORE the *Wilson v. Dallas* decision as evidence of my good faith, and the bad faith of Russell as their agent. SWB and Bauknight not only rejected my offers, they moved to strike them.

15. I am informed and believe that Daryl, Venisha, Tonya and Russell as their agent

brought this illegal lawsuit; continued it; intentionally devalued James Brown's music empire; and made numerous false statements to the Court with intention of damaging me so that I could not protect the "I Feel Good" Foundation.

16. The damage caused me has exceeded \$4.3 million, including loss from the court-approved payments to me under the January 8, 2008 order of Judge Early; lost wages for five years in excess of \$300,000 per year; failure to pay on valid contracts which Bob Buchanan and I entered into on behalf of the Estate/2000 Trust with James Bailey, Esq., and Tressa Hayes, Esq.; legal fees in the Forlando Federal Suit; legal fees in FOIA cases; legal fees and costs in four appeals since May 8, 2013; and legal fees and costs of approximately \$300,000 in this case.

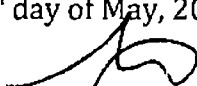
12. I am informed and believe that these costs should not be borne by the needy and deserving students James Brown intended to benefit, but by Brown's family members and claimed heirs who have attempted to dismember the "I Feel Good" Foundation. The Federal Copyright Act Termination Rights of Daryl, Tonya, Venisha and others, and by Russell, individually, as their agent, should be part of that payment.

13. In considering this Summary Judgment motion, I request under Rule 201 SCRE that the Court take judicial notice of the entire record of *Wilson v. Dallas*, 743 S.E.2d 746 (2013) and pending Appellate Cases No. 2013-001649 and 2014-000250, as well as of Aiken County Cases 2007-CP-02-0122 and 2008-CP-02-1647.

FURTHER DEPONENT SAYETH NOT.

Adele J. Pope
Adele J. Pope

SWORN TO before me this
28th day of May, 2015



Notary Public for South Carolina
My Commission Expires: 7/12/2016

EXHIBIT A

Transcript of the Testimony of
DARYL J. BROWN

Date: December 21, 2012



CREEL COURT REPORTING, INC.
Condensed Transcript and Word Index

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF RICHLAND) COURT OF COMMON PLEAS
 3) C/A #: 10-CP-40-4900
 4 RUSSELL L. BAUDENHAY, as)
 5 Trustee of the James Brown)
 6 2000 Irrevocable Trust and)
 7 the James Brown Legacy Trust,)
 8 as Personal Representative of)
 9 the Estate of James Brown,)
 10 and on behalf of Henry Dargan)
 11 McMaster, in his capacity as)
 12 Attorney General of the State)
 13 of South Carolina; Tommie)
 14 Rose Brown, individually and)
 15 on behalf of her minor)
 16 child, James Brown,)
 17 Daryl J. Brown, individually)
 18 and on behalf of his minor)
 19 child Janice Vanisha Brown;)
 20 Lindsey Delores Brown; Deanna)
 21 J. Brown Thomas; Jason)
 22 Brown-Lewis; Yanna N. Brown,)
 23 individually and on behalf of)
 24 her minor children, Sydney)
 25 Leann, Carrington Leann, and)
 Tonya Brown; Vanisha Brown;)
 Larry Brown; and Terry Brown,)
 and)

Page 3

1 APPEARANCES:
 2 Mark V. Gende, Esquire
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 8 Adam T. Silvernail, Esquire
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 18 Co-Counsel for the Defendant
 19 ALSO PRESENT:
 20 Adele J. Pope, Esquire (VIA Telephone)
 21 LAW OFFICE OF ADELE J. POPE, PC
 22 1228 Walnut Street
 23 Newberry, South Carolina 29108
 24 Defendant
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 Observing

Page 2

1)
 2 Plaintiffs,)
 3)
 4 v.)
 5)
 6 Adele J. Pope,)
 7)
 8 Defendant.)
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DEPOSITION OF
 DARYL J. BROWN

 Friday, December 21, 2012
 11:50 a.m. - 3:33 p.m.

The deposition of DARYL J. BROWN, taken on
 behalf of the Defendant at the law offices of SWEENEY
 WINGATE AND BARROW, 1515 Lady Street, Columbia,
 South Carolina, on the 21st day of December, 2012
 before Carla S. Dominick, Court Reporter and Notary
 Public in and for the State of South Carolina,
 pursuant to Notice of Deposition.

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Certificate	139

EXHIBITS

Defendant's Exhibit Numbers 1 through 34A
 (See Exhibit Notebook)

STIPULATIONS

It is stipulated and agreed that this
 deposition is being taken pursuant to the South
 Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the
 witness that the reading and signing of the following
 deposition be, and the same are, hereby not waived.
 Signature sheet is included on page 138.

1 (Pages 1 to 4)

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1 DARYL J. BROWN, having been duly sworn, testifies
2 and deposes as follows:
3 MR. BROWN - EXAMINATION BY MR. SILVERNAIL:
4 Q: Mr. Brown, I'm Adam Silvernail. I represent
5 Defendant Adele J. Pope in Richland County case
6 number 2010-CP-40-4900. I'm going to ask you
7 some questions here today during your
8 deposition. I would just ask that if you have
9 any questions, ask me rather than your counsel,
10 Mark or Aaron. If you need me to repeat
11 anything or clarify anything, by all means let
12 me know. If you need to take any breaks, just
13 let us know and --
14 A: Okay.
15 Q: -- we will do that. And with that said, we'll
16 go ahead and get started. Now, Mr. Brown, tell
17 me, if you would, when did you first become
18 aware of Richland County case number 2010-CP-
19 40-4900?
20 MR. GENDE: Object to the form of the question.
21 Q: And you can go ahead and answer.
22 MR. GENDE: Same objection.
23 A: Yeah.
24 Q: Can you not answer the question?
25 A: No.

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1 Q: Okay. Are you familiar with the case in which
2 we're taking your deposition this morning?
3 A: Yes. I am familiar with it, yeah.
4 Q: Okay. But you don't recall when you first
5 became aware that this case existed?
6 A: Well, actually I can't tell you the actual
7 date.
8 Q: Could you give me a general idea?
9 A: Sometime, I guess, maybe about four, five, six
10 months ago. I don't -- you know, I've heard
11 more about it today than I've ever heard at
12 all.
13 Q: Okay. And although you're not sure of the
14 exact date, do you have any memory of how you
15 became aware of this litigation?
16 A: I think it was at the actual court. Appellate
17 court.
18 Q: Okay. Would that be the supreme court here in
19 Columbia?
20 A: I guess it would be. I guess -- I don't know
21 court -- where it was. All I know it was
22 appellate court. That's it.
23 Q: All right. And so, I'd like to --
24 MR. SILVERNAIL: Mark, here's a full copy of --
25 MR. GENDE: Thank you.

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1 MR. SILVERNAIL: -- everything we've got here.
2 Q: I'd like to pass a document over for you to
3 take a look at, if you would.
4 MR. GENDE: And if you want, we could just flip
5 through these pages.
6 MR. SILVERNAIL: Whichever is easier.
7 MR. GENDE: You've got those marked?
8 MR. SILVERNAIL: Yes.
9 Q: Can you identify that document?
10 A: No.
11 Q: And if you need to take a few minutes to look
12 through it, by all means do.
13 A: No. I don't need for that. No.
14 Q: All right. Have you ever seen it before?
15 A: No.
16 Q: All right. If you would, I'd like to go
17 through the document and ask you some questions
18 based on it. If you would flip over --
19 MR. GENDE: And I, just for the record, object to
20 any questions on a document that the witness
21 has just said he does not recognize and cannot
22 identify.
23 MR. SILVERNAIL: All right.
24 Q: Well, if you would, flip over two pages from
25 where you are. One page back from there. Can

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1 you tell me the title over on the right of that
2 document?
3 A: To the right of it, it says complaint.
4 Q: Okay. And again, this is a document that you
5 say you're seeing for the first time this
6 morning.
7 A: Right.
8 Q: Or this afternoon, or wherever we are. On page
9 five there is a heading there that says for a
10 first cause of action. Do you see that one?
11 A: Yes, I do.
12 Q: What does it say below that?
13 A: "All allegations set forth above all
14 incorporate hearings --"
15 Q: Just below the heading of for a first cause of
16 action.
17 A: Which line?
18 Q: The one immediately below it in parenthesis.
19 A: Sixteen?
20 Q: Just above 16. The second line of the heading
21 there.
22 A: Breach of fiduciary duty.
23 Q: Okay. Are you familiar with the --
24 A: No.
25 Q: -- term breach of --

2 (Pages 5 to 8)

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1 A: No.
2 Q: -- or the idea of breach of fiduciary duty?
3 A: No.
4 Q: Okay. All right. Well, let's go back for a
5 second. Do you know who Adele Pope is?
6 A: Yes.
7 Q: Could you tell me who she is?
8 A: I know she was former trustee.
9 Q: All right. And when you say former trustee,
10 are you referring to the 2000 irrevocable trust
11 of James Brown?
12 MR. GENDE: Object to the form.
13 Q: Can you answer that?
14 A: No.
15 Q: Okay. Well, when you say trustee, tell me what
16 Ms. Pope was trustee of as far as you know?
17 A: Well, James Brown estate.
18 Q: All right. The James Brown estate.
19 A: Yeah.
20 Q: Just because we're all relatively familiar.
21 But for the record would you tell me what the
22 James Brown estate is?
23 A: It's my father's estate.
24 Q: And this would be James Brown --
25 A: Right.

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1 Q: -- the worldwide entertainer?
2 A: Right.
3 Q: All right. When did Mr. Brown pass away?
4 A: In 2006, Christmas day.
5 Q: And during the -- after he passed away, during
6 the administration of this estate, do you
7 recall when Ms. Pope became involved?
8 A: I don't quite remember what day it was or how
9 it came about, but I would assume maybe around
10 February -- you know what. I really don't
11 know.
12 Q: Okay. Could you give me a year, you think?
13 A: Well, it probably was 2007, but I really don't
14 know what day, or what time, or anything of
15 that nature.
16 Q: All right.
17 A: I just -- I just knew it was.
18 Q: Okay. Now, do you know anything about Ms.
19 Pope's service as trustee?
20 A: I wasn't happy with it.
21 Q: How were you not happy with it?
22 A: I didn't think she did anything. I don't think
23 she had any real concern about what my father's
24 interest was.
25 Q: When you say that she didn't do anything or she

Page 11

1 didn't have any concern, could you give me some
2 specific instances of what lead you to --
3 A: Well, let's look at the Christie deal. Let's
4 look at the Christie since we're -- one thing
5 that always comes to mind with me. If you
6 really knew anything about what you were doing
7 you wouldn't have even sold his piano.
8 Q: All right. How do you mean?
9 A: Well, later on you could use that as a part of
10 his museum or things of that nature, you know.
11 Certain things you just don't get rid of.
12 Q: All right. And do you have any memory of why
13 the Christie sale was held?
14 A: Well, the Christie sale was probably held
15 because was trying to get money to pay off or
16 whatever, but it was a complete failure because
17 it was done completely wrong. That was one
18 thing I -- I was totally against that. I
19 didn't like that at all. There was also a list
20 of things that we gave her to not sell and she
21 did it anyway. So that's why I say she had no
22 concern about my father or his children and
23 what we were, you know, trying to show her for
24 somebody that don't know James Brown.
25 Q: And when you say there was a list, I think you

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1 used the term that we gave her. Tell me who we
2 is.
3 A: My sisters. We put a list together, and they
4 had put a list together. And I was informed --
5 you know, had told her a couple of things that
6 I thought that should stay there, you know, and
7 the piano was one of them, you know, because we
8 had plans of doing, you know, a museum later
9 on. And that always -- that always bothers me.
10 It just seems like it was just, you know, a
11 matter of just -- it's just trying to make this
12 money real quick and do whatever we need to do,
13 blah, blah, blah, and things of that nature,
14 and I thought that was handled real sloppy.
15 Q: Well, as to the Christie's sale what would you
16 have done differently, or what would you have
17 had Ms. Pope do differently than Mr. Buchanan?
18 A: Well, first of all, she was -- she should have
19 came and talked to the family first. She
20 didn't do that.
21 Q: All right. Have you ever met Ms. Pope?
22 A: Once.
23 Q: Do you recall --
24 A: And it was brief.
25 Q: Do you recall generally when or where that was?

3 (Pages 9 to 12)

Page 13

1 A: In the courtroom. One of the -- I don't know
2 what day it was, but one of the hearings. It
3 was just a brief -- just a brief, you know,
4 high and goodbye. That was it.
5 Q: All right. And so, getting back to the
6 complaint that's there in front of you. If you
7 would, would you tell me what paragraph 18 says
8 there on that same page?
9 A: "Upon information and belief, during the
10 appointment as substitute personal
11 representative and trustee, the Defendant
12 repeatedly breached the fiduciary duty to
13 effect parties in multiple ways including, but
14 not limited, to filing particulars." Do you
15 want me to continue reading?
16 Q: If you would, I'd like to go with you through
17 those one at a time.
18 MR. GENDE: I just want to insert an objection here,
19 because we're talking about a document that Mr.
20 Brown has already indicated that he cannot
21 identify and that he has not seen. You're
22 essentially having him read paragraphs into the
23 record, and this is going to be a substantial
24 waste of time with respect to the amount of
25 time this deposition will take because you have

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1 identified 48 documents, approximately 45 of
2 which we're going to have similar issues with.
3 And so, you know, I'll give some indulgence
4 here at the beginning of the deposition, but if
5 this is how we're going to approach these 45
6 documents then I'm going to move to terminate
7 the deposition now and get direction from the
8 court as to how this questioning should
9 continue.
10 MR. SILVERNAIL: Well, you are not terminating the
11 deposition at this point, are you?
12 MR. GENDE: I am not.
13 MR. SILVERNAIL: Okay. All right.
14 Q: Then if you would, Mr. Brown, bear with me and
15 we'll -- now, in paragraph A there, you are
16 aware -- or let's go back. Are you aware that
17 this is a complaint that began a lawsuit?
18 MR. GENDE: Object to the form of the question.
19 Asked and answered.
20 MR. SILVERNAIL: All right.
21 Q: Are you aware that you are a plaintiff in this
22 litigation?
23 A: Yes.
24 Q: When did you become aware that you are a
25 plaintiff in this litigation?

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1 A: By being informed by my lawyer.
2 Q: And can you tell me generally even when that
3 was?
4 A: Like I say, not a particular day.
5 MR. GENDE: I'm going to object to any questions
6 that would ask his communications with his
7 lawyer. I've allowed you to ask a question
8 that went to the fact that this lawyer
9 communicated something. Anything that would go
10 to that communication would be objectionable
11 based on attorney/client privilege.
12 MR. SILVERNAIL: I'm not sure that the date and
13 existence or general time period in which he
14 became aware that he was a plaintiff in this
15 litigation is a privileged fact.
16 MR. GENDE: Go ahead and ask your question and then
17 I'll lodge an objection if necessary.
18 Q: Can you tell me what year you became aware you
19 were a plaintiff in this litigation?
20 A: No.
21 Q: What is your understanding of what this
22 litigation is about? And by this litigation,
23 I mean the Richland County case we're here
24 taking this deposition in today?
25 A: Whenever I -- whatever I hear today, that's

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1 what I'm aware of.
2 Q: Okay. So you don't have any idea what this
3 litigation is about?
4 MR. GENDE: Object to the form of the question.
5 Q: You can answer.
6 MR. GENDE: You can answer if you know.
7 A: No.
8 Q: Okay. All right. So let's speak a little more
9 generally then. You mentioned the Christie
10 sale.
11 A: Uh-huh (affirmative response.)
12 Q: What about the result of the Christie sale did
13 you find dissatisfactory?
14 MR. GENDE: Object to the form. He's already
15 answered.
16 Q: You indicated that you were disappointed with
17 the arrangement of the sale and the selection
18 of the items, I believe. But what about the
19 outcome of that sale?
20 MR. GENDE: Object to the form. Mischaracterized
21 the Plaintiff's earlier -- you know, the
22 Plaintiff's earlier testimony.
23 CERTIFIED QUESTION
24 Q: Are you aware of what amount of money the
25 Christie sale generated?

4 (Pages 13 to 16)

Page 17

1 A: I'm not going to answer that question.
 2 MR. WILLIAMS: Would you certify that question and
 3 answer, please, ma'am.
 4 Q: All right. Tell me, prior to the Christie sale
 5 --
 6 MR. GENDE: And just on that point also, Daryl, one
 7 attorney can participate for Ms. Pope. Not
 8 two. And so, Adam --
 9 MR. WILLIAMS: One attorney can ask questions.
 10 MR. GENDE: If Adam is going to be on the record as
 11 the attorney doing this deposition, then Adam
 12 needs to be the one who is conducting the
 13 deposition.
 14 MR. WILLIAMS: He is.
 15 MR. GENDE: And I object to any participation by you
 16 on the record in this deposition.
 17 MR. WILLIAMS: I object to your ongoing intervention
 18 with this witness in trickering -- trying to
 19 coach him as to what his answers ought to be.
 20 All your objections are reserved under the
 21 rules.
 22 MR. GENDE: I have every right to object to the form
 23 of the question and I have an obligation to,
 24 and I'm also allowed to make a short statement
 25 of the basis of that objection.

Page 18

1 Q: Mr. Brown, let's move away from the Christie
 2 sale for a moment. Aside from the Christie
 3 sale, can you give me any other happenings for
 4 examples of things that you believe Ms. Pope
 5 did not do correctly?
 6 A: I said the one main thing was she did not know
 7 James Brown. She never consulted with the
 8 family. If she had done that, then she would
 9 have came out off a little better than what she
 10 did.
 11 Q: And what damage was done by Ms. Pope not having
 12 known James Brown?
 13 A: One of the things was the estate itself was
 14 worse off than what it started with.
 15 Q: Can you explain what you mean by that?
 16 A: Financially is as far as I'm going to go. It's
 17 financially.
 18 Q: Well, can you tell me what you mean by worse
 19 off financially?
 20 A: Well, I mean, basically the estate was owed
 21 money at the point, and it's still -- it was
 22 even owed even more money after she got
 23 finished.
 24 Q: All right. What evidence do you base that
 25 belief on?

Page 19

1 A: Attorney. My attorney sitting down and talking
 2 with me.
 3 Q: Okay. And when you refer to your attorney, who
 4 are you referring to?
 5 A: Louis Levenson.
 6 Q: Okay. And we'll come back to that in a minute.
 7 And so, the estate was -- can you give me any
 8 specific --
 9 A: Like I said, I talked to my lawyer about it.
 10 Q: No, no. And by all means you don't need to
 11 tell me the content of that conversation. But
 12 can you tell me a specific fact on which you
 13 base your belief that the estate was in worse
 14 shape financially than before?
 15 A: Just basically from what was shown to me by my
 16 attorney.
 17 Q: And, I mean, have you reviewed any statements
 18 of income for the estate?
 19 A: Like I said, what I reviewed with my attorney
 20 at the time and I do not wish to share that
 21 with anybody.
 22 Q: Well, I'm just asking what documents you've
 23 reviewed.
 24 A: I don't even know what documents actually they
 25 were. I just know what I seen, you know. I'm

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1 not -- you know, whatever my attorney said to
 2 do, that's what I hired him for, that's what we
 3 do.
 4 Q: And do you know who your attorney in this case
 5 is?
 6 A: Yes. As far as Louis Levenson.
 7 Q: Well, we're here today in Richland County case
 8 number 2010-CP-40-4900. Do you have an
 9 attorney in this case?
 10 A: Yeah, I guess I -- yeah, I would.
 11 Q: And who is that?
 12 A: In 2000 -- say that again? Rephrase that
 13 question again.
 14 Q: All right. Can you tell me who your lawyer is
 15 in the case we are taking this deposition in
 16 today in Richland County?
 17 A: I really couldn't tell you who it is, you know.
 18 Q: All right. Well, I guess we don't need to
 19 come quite back to that. Let's go forward for
 20 a minute, if we can.
 21 MR. SILVERNAIL: Could we mark that Defendant's One.
 22 (Defendant's Exhibit Number One was marked for
 23 identification purposes.)
 24 Q: I'd like to have you look at another document
 25 with me, if you would. Have you ever seen this

5 (Pages 17 to 20)

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1 thing." Can you find that?
 2 A: Oh, yes. You want me to read it?
 3 Q: I would appreciate it.
 4 A: "And another thing. I don't have lawyers and
 5 I did not authorize the Wingate Law Offices to
 6 sue Adele Pope in my name. The attorneys --"
 7 it says, "attorneys care nothing about
 8 underprivileged and all they care about is
 9 their large fee and they need a name." And I
 10 just told you that. That's anger. That's what
 11 I was seeing. That wasn't projected between
 12 anybody. That's everybody that's sitting here.
 13 Any lawyers.
 14 Q: Well, let's look at the first part of that for
 15 a second. Did you hire the Wingate -- or the
 16 Wingate Law Office to sue Adele Pope?
 17 A: That was not my lawyer. Louis Levenson.
 18 Q: You personally didn't -- didn't take any action
 19 to sue --
 20 A: I go by whatever my lawyer -- no. My lawyer
 21 tells me what he's going to do. That's it.
 22 Basically that's -- you know, that's what I
 23 hire him for. I'm not a lawyer. I don't know
 24 the law. I don't know what has to be done.
 25 That's it.

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1 Q: Okay.
 2 MR. SILVERNAIL: Can we mark that?
 3 (Defendant's Exhibit Number Four was marked for
 4 identification purposes.)
 5 Q: I'll hand you one more.
 6 A: Uh-huh (affirmative response.)
 7 Q: Can you identify that document?
 8 A: Yeah.
 9 Q: Okay. What is it?
 10 A: It's a document terminating my lawyers.
 11 Q: Did you write this?
 12 A: Oh, yeah. I wrote this.
 13 Q: Do you know when you wrote it?
 14 A: Actually, that's September 2010. That was
 15 another point of getting attention. I had no
 16 intention of firing my lawyer. I just told you
 17 that. The same thing with that that goes along
 18 with this. All that is a part of this.
 19 Q: Well, let's take a look at it for a minute.
 20 A: Uh-huh (affirmative response.)
 21 Q: It's dated September 10th, 2010?
 22 A: Uh-huh (affirmative response.)
 23 Q: All right. Is that the date when you wrote it?
 24 A: No.
 25 Q: Okay. Do you have any idea when you did write

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1 it?
 2 A: It was actually wrote two weeks before I sent
 3 it out.
 4 Q: Okay. And do you remember when that was?
 5 A: I think it was in November, I think it was, I
 6 did that. Yeah, around November. Something
 7 like that. Yeah, it was around the first of
 8 November or second week in November. I forgot
 9 about it because it's so long, done and done
 10 with, and I left those things. They're gone.
 11 Q: And when you say November, would that be of
 12 2012?
 13 A: Yes, it would be.
 14 Q: Okay. And, bear with me for a moment. And so,
 15 you did not mean to fire your lawyer with
 16 this?
 17 A: No. No. It was just to get their attention.
 18 That's all this was.
 19 Q: Okay. Did you get attention?
 20 A: Oh, yeah. Oh, yeah.
 21 Q: Did anything change after this letter?
 22 A: Yes, it did.
 23 Q: What was that?
 24 A: I got to be more -- have a more understanding
 25 what the key part was of everything. I had

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1 more understanding what -- who Mr. Bauknight
 2 was as a man, as a person. And me and my
 3 lawyer sat down and we -- like I said, it was
 4 a thing where we just basically -- you know, we
 5 laughed about it. Because Louis knows me and
 6 he know my temper. He know how I can be
 7 sometimes. And I said, Louis, I've never had
 8 a -- he said, but you sure got my attention.
 9 I said, well, that's what it was for. To get
 10 your attention.
 11 Q: And --
 12 A: To get everybody's attention. Okay? Including
 13 you guys, the supreme court, everybody. The
 14 world's attention on James Brown. Because at
 15 that point there was no attention on James
 16 Brown. Not one piece was attention on James
 17 Brown. But then when I talked to them -- after
 18 I talked to them I found out that they had a
 19 lot more interest than I thought they did.
 20 They were doing a lot more things that I could
 21 imagine and I was really pleased with it.
 22 Q: All right. And -- well, let's go back just a
 23 second in what you said about learning the
 24 Attorney General's part.
 25 A: Uh-huh (affirmative response.)

13 (Pages 49 to 52)

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1 Q: What is your understanding of the Attorney
2 General's part in --
3 A: Well, they're to protect -- basically to
4 protect the underprivileged education. That's
5 their job. That's what they do, you know. And
6 I think they're doing a pretty good job of it.
7 Q: And do you stay in contact with the Attorney
8 General's Office?
9 A: No, I don't.
10 Q: Have you ever met anybody from over there?
11 A: A good friend right there.
12 Q: And who are you motion at?
13 A: Sonny Jones.
14 Q: Okay. How far do you all go back?
15 A: Just from the -- meeting him in the courtroom
16 and different things.
17 Q: All right.
18 MR. GENDE: Brief break.
19 (Off the Record)
20 Q: All right. Now, I think you were telling me a
21 little bit about Sonny Jones.
22 A: Yes.
23 Q: Do you recall when you first met him?
24 A: Wow. I guess after the -- I'm trying to think
25 of the first court date that we had, but I

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1 can't remember. That's a long ways back. I
2 can't remember the actual date or day. I think
3 it was one of the first court hearings when all
4 this thing started. And I think at the time,
5 I think still Mr. Cannon was still trustee at
6 the time. So that's how far back.
7 Q: And do you see Mr. Jones often?
8 A: No. He won't play golf with me, you know.
9 Q: Do you guys keep in touch by phone?
10 A: No. No.
11 Q: Okay. Now, I'd like to spend a little time
12 looking with you at this document that I was
13 just handed this morning.
14 A: Are you done with this?
15 Q: Yes.
16 MR. SILVERNAIL: You can mark that, if you will.
17 (Defendant's Exhibit Number Five was marked for
18 identification purposes.)
19 Q: Do you recognize that?
20 A: Oh, yeah. Yes, I do.
21 Q: Tell me what that is.
22 A: That's the kiss and make up. That's the short
23 end that everything is okay. That we're going
24 to be -- you know, I was just trying to get
25 their attention. That's all.

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1 Q: Why did you write this?
2 A: Well actually, you know, like I said, it was --
3 we sat down together and wrote it up. Me and
4 Louis, and we put this together.
5 Q: Okay. All right. Did you have any other help
6 or input?
7 A: No. That was it.
8 Q: Okay. And then it looks like this is also
9 signed by your daughters.
10 A: Uh-huh (affirmative response.)
11 Q: And your daughters are
12 A: Janise and Vanisha -- I mean, Lindsey and
13 Janise Brown.
14 Q: Okay. How old are they?
15 A: One is 17 and one is 22.
16 Q: And which is who?
17 A: Well, my older daughter is Lindsey. She's 22-
18 years-old, which I have a grandson. And
19 Lindsey -- Janise is -- she's 17. She
20 graduates out of high school this year.
21 Q: Do they live in Georgia?
22 A: Uh-huh (affirmative response.)
23 Q: Do they live with you or near you?
24 A: Near me, yeah.
25 Q: All right. And it looks like they signed this

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1 document as well?
2 A: Oh, yeah. They were -- we were all there.
3 Q: Okay. And if you could, paraphrase for me what
4 this says. I know you expressed briefly --
5 A: Do you want me to read what it says?
6 Q: Just give me your understanding of what this
7 says. You can be brief.
8 MR. GENDE: Object to the form of the question. I
9 mean, the document is in front of you.
10 Q: You can go ahead and answer.
11 A: I'll take the advice of my --
12 MR. GENDE: Well, I'm not particularly giving any
13 advice. I'm not giving advice. I'm making a
14 formal objection for the record to this
15 question.
16 A: Basically like -- you're reading it, and that's
17 basically what it says. Everything is fine.
18 We're going to be okay. We're going to move
19 forward. Louis don't worry. I'm not -- don't
20 worry about this ever again. And that's
21 basically what this is. And it gave more
22 information. At that time we were also worried
23 -- talking about the kids' education. And also
24 her mother, which I'm still married to her.
25 Needed to know about some things. And we all

14 (Pages 53 to 56)

Page 57

1 were sitting there just like -- you know, and
 2 he went over everything and it was just -- it
 3 was just nice. It was just nice to know that,
 4 you know -- he let me know how important I was
 5 and how the things that I did know, you know,
 6 were very important. And, you know, how
 7 important I was to the family and different
 8 things that were going on.
 9 Q: Okay. So your wife attended this meeting?
 10 A: She was there, too. That's Stacy Brown. She
 11 was one of the witnesses.
 12 Q: Where did you all have this meeting?
 13 A: At home. At her house.
 14 Q: Okay. And is that in --
 15 A: My truck ain't big enough.
 16 Q: Is that in Augusta?
 17 A: Yeah.
 18 Q: All right. And was any -- I'm sorry. Did I
 19 already ask you if anybody else was at this
 20 meeting?
 21 A: No. That's the only ones there.
 22 Q: All right. And tell me the date of this
 23 letter.
 24 A: The date of this letter was -- I'm trying to
 25 figure it out, because --

Page 58

1 Q: Well, there's a date up at the top.
 2 A: Yeah. The 26th. October 26th, 2012.
 3 Q: And is that date correct?
 4 A: That is correct, yeah.
 5 Q: Okay. Did you give this letter to anybody
 6 other than your lawyer?
 7 A: No. No. He's the only one that had this
 8 letter. That's it.
 9 Q: Okay. But you acknowledged on the second page
 10 that it could be -- paragraph three that begins
 11 at the top of the second page. And there's a
 12 list of folks in that paragraph who it could be
 13 sent it.
 14 A: Of course, yeah. Yeah. You have to. That was
 15 everybody that I got the attention.
 16 MR. SILVERNAIL: If you'll mark that.
 17 (Defendant's Exhibit Number Six was marked for
 18 identification purposes.)
 19 Q: And I'll hand you what is Exhibit --
 20 COURT REPORTER: Six.
 21 MR. SILVERNAIL: Six. Okay.
 22 Q: Let me hand you this if I could. Do you
 23 recognize that?
 24 A: Yeah. Yeah. It's one of -- I'm assuming it is
 25 one of the letters I sent to Adele, the

Page 59

1 termination of the lawyer I think it was at the
 2 time.
 3 Q: Okay. So you personally mailed that to --
 4 A: Oh, yeah.
 5 Q: -- and that would be to Adele Pope?
 6 A: Yeah.
 7 Q: Okay. So you personally dropped that in the
 8 mail?
 9 A: Uh-huh (affirmative response.)
 10 Q: Okay. And was it by mail or was it delivered?
 11 A: No. It was by mail.
 12 Q: Okay.
 13 MR. SILVERNAIL: You all. I'm sorry. I'm going to
 14 have to ask to take just a minute of a break.
 15 MR. GENDE: No problem.
 16 (Lunch break fro 12:50 p.m. to 1:35 p.m.)
 17 Q: All right. Mr. Brown, I hope you had a nice
 18 lunch.
 19 A: Oh, yeah.
 20 Q: We're going to keep barreling on through. I'm
 21 going to hand you this document.
 22 MR. SILVERNAIL: If we didn't before, can we mark
 23 that one. I think we are at Seven. That will
 24 be Seven, right?
 25 COURT REPORTER: This is Seven, yes, sir.

Page 60

1 MR. SILVERNAIL: Okay.
 2 (Defendant's Exhibit Number Seven was marked for
 3 identification purposes.)
 4 MR. SILVERNAIL: Can we go off the record for just a
 5 second.
 6 (Off the Record)
 7 (Defendant's Exhibit Number A was marked for
 8 identification purposes in place of Exhibit Number
 9 Seven.)
 10 Q: All right. Mr. Brown, can you identify that
 11 document?
 12 MR. GENDE: Are you on the record just mention the
 13 change we made?
 14 MR. SILVERNAIL: Yeah, just to be clear. We've
 15 taken the handwritten letter that we received
 16 this morning and made it A rather than
 17 including it in the numbered sequence so that
 18 the remaining exhibits will go along the same
 19 line and keep their original numbers.
 20 Q: I'm sorry. Mr. Brown, do you recognize that
 21 document?
 22 A: No.
 23 Q: All right. Can you tell what it is by looking
 24 at it?
 25 A: It looks like another civil action. Actually,

15 (Pages 57 to 60)

EXHIBIT B

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awards**

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SPORTS • 6

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Wednesday, May 27, 2015 •

Brown's son comments on case

By Sue Summer
For The Newberry Observer

NEWBERRY — The S.C. Supreme Court ordered Aiken Judge Doyet Early to update the court on what has happened in the estate of music legend James Brown since the case was returned to Aiken two years ago.

In May 2013, the Supreme Court overturned a 2009 settlement deal that "dismembered" Brown's estate plan, and the case was returned to Aiken for further proceedings.

The Supreme Court, in its *Wilson v. Dallas* decision, directed Early to appoint trustees for Brown's charity in accordance with Brown's will and trust documents, which called for three trustees. Early was also directed to review all legal fees.

In defiance of the Supreme Court directive, Early appointed only one trustee, Columbia CPA Russell Bauknight. During a 2013 hearing in which potential trustees were "interviewed," Bauknight testified he would refuse to serve if Early appointed other fiduciaries.

There is no record in previous filings that Early has required all attorneys to reveal their fees, nor has a hearing been held to review the fees.

In its April 20 order, the Supreme Court requested Judge Early to address seven specific questions:

- Who are the heirs, beneficiaries, and parties of interest of the estate?
- Whose status has yet to be determined?
- What is the effect of the prenuptial agreement executed by Tommie Rae Hynie?
- Is DNA testing for heirs completed?
- What determination has been made about the standing of the parties in the will and trust contests?
- Have fees been reviewed?

See BROWN | 2

Brown

From page 1

• Has a proposed settlement been submitted for court approval?

The Supreme Court referred to Brown's companion as "Hynie," not "Brown," despite Early's January 2015 order that declared her to be Brown's wife.

Under the Federal Copyright Act, Brown's marital status may have a long-term impact on his education charity, the "I Feel Good" Trust.

The trust is funded with Brown's music empire, including the copyrights to over 850 songs and the rights to his image.

After Brown's death on Christmas Day 2006, Brown's companion and some children contested his will and trust, and former Attorney General Henry McMaster worked a 2009 settlement deal that gave to will contestants over half of what Brown left to his education charity.

Brown's will and trust included in terrorem clauses that said: anyone

who contests either document, receives nothing.

The McMaster settlement was appealed by the second set of Brown trustees, Adele Pope of Newberry and Robert Buchanan of Aiken. In May 2013 the S.C. Supreme Court overturned the settlement, calling it a "dismemberment" of Brown's estate plan, and returned the case to Early.

The Brown case, two years later, is still not resolved.

Two months ago the Supreme Court asked the Aiken Clerk of Court to submit all of Judge Early's orders related to the James Brown estate since the Wilson v Dallas decision, and the Court

put further proceedings in Aiken on hold. The Court's April 20 order gave Judge Early 20 days to provide "a thorough and detailed update" on the status of the estate.

The April 20 order did not address one of the most debated questions related to the Brown estate: what documents did Russell Bauknight provide to the professional appraiser who determined the at-death appraisal of Brown's music empire was \$4.7 million?

In the summer of 2006, only months before Brown died, the Royal Bank of Scotland was prepared to loan Brown \$42 million on the royalties alone, not including

rights to his image — and a \$100 million offer was on Judge Early's desk when the settlement agreement was approved.

Attorney General Alan Wilson has not required Bauknight to provide a copy of the appraisal or supporting documents to those who have requested appraisal documents from him under the Freedom of Information Act, even though Bauknight was appointed trustee by AG Henry McMaster under the settlement agreement.

Wilson claims never to have seen the appraisal, but his deputy "Sonny" Jones argued in 2011 that the Supreme Court should supplement the record in Wilson v Dallas with the \$4.7 million value.

In a telephone interview on April 27, Brown's son Daryl praised the Supreme Court for its efforts to sort out what has happened to his father's dream of helping needy students — and he affirmed what he wrote in a letter to Wilson almost three years ago, in May 2012.

"The Attorney General was supposed to protect the needy children, not give away what my father intended for them," he said.

In the letter Daryl criticized McMaster for a settlement that ignored his father's wishes, and he criticized Judge Early for failing to protect the "I

Feel Good" Trust. Daryl wrote his father had every right to expect the State of South Carolina to carry out his will the way he left it, not the way someone else wanted it.

"Many people died in a great civil rights struggle in this country. Men, women, and children of both races died that a time would come when all people would be treated equal in a court," he wrote.

Despite the sacrifices made in that struggle, Daryl said, South Carolina courts have not treated his father as respectfully as the courts would have treated his father's friend, Strom Thurmond.

"It is all about respect... for a black American who accomplished much and survived a segregated America, sincerely believing ... that education was a way out of the ghetto for young people and believing ... that right would prevail in the end. Hopefully, the Supreme Court judges can give some direction to both the Attorney General and ... local judges, to first read the person's will and then follow the law."

Daryl Brown stressed in the telephone interview that his father's civil rights have been violated throughout the entire proceeding. "At this point in our history, it's disappointing," he said.

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REAL ESTATE AUCTION

EXHIBIT C

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

IN RE: THE ESTATE OF JAMES BROWN
a/k/a JAMES JOSEPH BROWN

) Case No.: 2007-ES-02-0056
) Case No.: 2008-CP-02-1647
)
)

NOTICE OF APPEARANCE

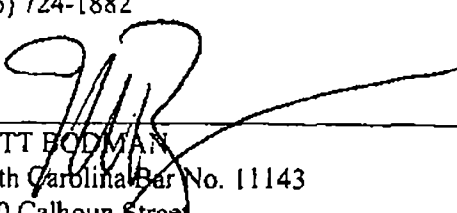
COMES NOW, Matthew Bodman and David B. Bell, and notify the Court that are appearing as counsel of record for Tonya Brown a/k/a Sarah Latonya Brown Fegan. The undersigned will serve as counsel for Tonya Brown in all matters involving the captioned case.

This 26th day of March, 2014.

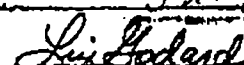


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Columbia, SC 29201
(803) 806-8605
Counsel for Tonya Brown

3-27-14

cc.C.P.&G.S.

Deputy Clerk

EXHIBIT D

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
 2 COUNTY OF RICHLAND) C/A #: 10-CP-40-4900
 3
 4 RUSSELL L. BAUKNIGHT, as)
 Trustee of the James Brown)
 2000 Irrevocable Trust and)
 5 the James Brown Legacy Trust,)
 as Personal Representative of)
 6 the Estate of James Brown,)
 and on of Henry Dargan)
 7 McMaster, in his capacity as)
 Attorney General of the State)
 8 of South Carolina; Tommie)
 Rae Brown, individually and)
 9 on behalf of her minor)
 child, James Brown, II,)
 10 Daryl J. Brown, individually)
 and on behalf of his minor)
 11 child Janise Vanisha Brown;)
 Lindsey Delores Brown; Deanna)
 12 J. Brown Thomas; Jason)
 Brown-Lewis; Yamma N. Brown,)
 13 individually and on behalf of)
 her minor children, Sydney)
 14 Lumar, Carrington Lumar, and)
 Tonya Brown; Venisha Brown;)
 15 Larry Brown; and Terry Brown,)
)
 16 and)
)
 17 HENRY DARGAN MCMASTER, in his)
 capacity as Attorney General)
 18 of the State of South)
 Carolina; TOMMIE RAE BROWN,)
 19 individually and on behalf of)
 her minor child, JAMES)
 20 BROWN, II; DARYL J. BROWN,)
 individually and on behalf of)
 21 his minor child, JANISE)
 VANISHA BROWN; LINDSEY)
 22 DELORES BROWN; DEANNA J.)
 BROWN THOMAS; JASON)
 23 BROWN-LEWIS; YAMMA N. BROWN,)
 individually and on behalf)
 24 of her minor children, SYDNEY)
 LUMAR, CARRINGTON LUMAR, and)
 25 TONYA BROWN; VENISHA BROWN;) LARRY BROWN and TERRY BROWN,)

Examination by Mr. Silvernail
[Emphasis supplied] 50

1 A: Yes.

2 Q: Okay. And how many songs did he produce during
3 his lifetime?

4 A: One.

5 Q: Okay. Was that done in conjunction with Mr.
6 Brown or on his own? And when I say Mr. Brown,
7 I mean your grandfather there.

8 A: Rights of Teddy Brown.

9 Q: So you inherited those from your father?

10 A: Yes.

11 Q: And are you personally involved in the
12 administration of those rights?

13 A: No.

14 Q: All right. Now, I want to talk about the issue
15 within case 4900 for a few minutes. Are you
16 familiar with this case?

17 A: Yes.

18 Q: When did you first learn about it?

19 A: Through my -- Levenson.

20 Q: Do you recall what year that was?

21 A: No.

22 Q: Okay. Did you read the complaint in this case?

23 A: It's been several papers.

24 Q: All right. Are you aware that you are a
25 plaintiff in this case?

1 A: Yes.

2 Q: Why did you bring this case?

3 A: My attorney. You know, I depend on him for
4 counsel and --

5 Q: Okay. Well, you're aware that you're a
6 plaintiff, so you know you're suing Adele Pope,
7 correct?

8 A: Yes.

9 Q: And you're aware that you did sue Bob Buchanan,
10 correct?

11 A: Yes.

12 Q: Do you have any idea what grounds you sued them
13 on?

14 A: No.

15 Q: Okay. Do you personally have any opinion about
16 their service as personal representatives and
17 trustees?

18 MR. GENDE: Object to the form of the question.

19 A: I depend on my counsel, Louis Levenson.

20 Q: Okay. Do you know how long Ms. Pope and Mr.
21 Buchanan served as personal representatives and
22 trustees?

23 A: No.

24 Q: All right. Do you know a gentleman named Sonny
25 Jones?

1 A: Correct.

2 Q: Do you know what anyone else got under the
3 settlement?

4 A: No one has got anything under the settlement.

5 Q: All right. Well, do you know what the
6 agreement provided for other people to receive?

7 A: No.

8 Q: Okay. Would you go on back. There's a
9 document attached behind that entitled James
10 Brown Legacy Trust.

11 A: Okay.

12 Q: Are you familiar with this document?

13 A: No.

14 Q: Okay. Is today the first time you've seen it?

15 A: I don't know. It's been many documents.

16 Q: All right. Have you ever heard of the James
17 Brown Legacy Trust?

18 A: Yes.

19 Q: Okay. When did you first hear of it?

20 A: After it was approved a settlement.

21 Q: And when you say it was approved, would that
22 have been the May 26th, 2009 order?

23 A: Yes.

24 Q: All right. And do you know what the Legacy
25 Trust is?

1 A: No.

2 Q: Have you signed the Legacy Trust?

3 A: I don't know.

4 Q: Within this document it talks about the Brown

5 Family LLC. Have you ever heard of that

6 entity?

7 A: Yes.

8 Q: Okay. When did you first hear of the Brown

9 Family LLC?

10 A: After the approval of the settlement.

11 Q: What is the Brown Family LLC?

12 A: I don't know.

13 Q: Do you know if you're a member of that LLC?

14 A: No, I don't know.

15 Q: Okay. Do you know who manages the LLC?

16 A: No.

17 MR. GENDE: What was the number of this one?

18 MR. SILVERNAIL: This was 72.

19 MR. GENDE: Just for the record, Mr. Silvernail has

20 requested this to be marked as Defendant's

21 Exhibit 72.

22 (Defendant's Exhibit Number 72 was marked for

23 identification purposes.)

24 Q: All right. Now, I'd like to get you to look at

25 what we have numbered Defendant's 80. This is

1 would receive nothing?

2 MR. GENDE: Object to the form of the question.

3 A: No.

4 Q: Do you expect to receive anything from your
5 grandfather's estate or trust?

6 A: No.

7 Q: Nothing?

8 A: No.

9 Q: Okay. But you contested his will and his
10 trust, I believe you said earlier, based on the
11 fact that it did leave you nothing; is that
12 correct?

13 A: Correct.

14 Q: And yet under this settlement you have agreed
15 to take nothing, haven't you?

16 MR. GENDE: Object to the form of the question.

17 A: Repeat the question.

18 Q: Well, you told me a moment ago that you don't
19 expect to receive anything under the settlement
20 --

21 MR. GENDE: Object --

22 Q: -- is that correct?

23 MR. GENDE: Object to the form of the question.

24 Misstates her prior testimony.

25 MR. SILVERNAIL: Well, then let's ask it again.

1 A: It does not remain today.

2 Q: So you do not believe you will receive your
3 father's share of the estate?

4 A: No.

5 Q: Okay. Do you believe you will receive any
6 other share of the estate?

7 A: I don't know.

8 Q: Okay. But you have agreed to a settlement that
9 purports to set out how the estate and trust
10 will be distributed?

11 A: When we signed it, it was as we agreed; Louis
12 and his clients.

13 Q: All right. And have y'all agreed?

14 A: No.

15 MR. GENDE: Object to the form of the question.

16 Q: I don't want to confuse you, but I'd like to go
17 back with you to the previous Number 72, I
18 believe. Now, this is the motion for approval
19 of the settlement agreement that we looked at
20 a few minutes ago. I believe you testified
21 that you had seen this document before; is that
22 correct?

23 A: Yeah, this part.

24 Q: Okay. This was filed in a case numbered 2008-
25 CP-02-1647.

1 Q: -- how their interest in this will be divided?

2 MR. GENDE: Object to the form.

3 A: Well, they may have but I don't know.

4 Q: Okay. Do you believe they can agree on that
5 without you?

6 MR. GENDE: Object to the form.

7 A: No, because it say all parties.

8 Q: Turn with me back over to copy of the James
9 Brown Legacy Trust document that is behind
10 that. I'm afraid the pages to this document
11 don't appear to be numbered. But the second
12 page of the document, which is -- has article
13 two at the top. Under article four on that
14 page, which is -- has sub numbered paragraphs
15 of 5.1. Subparagraph 5.1.3 says that 25
16 percent will be distributed to the Brown Family
17 LLC that we had talked about earlier. But I
18 just want to clarify. You said you don't know
19 if you have any interest in that entity?

20 A: I don't know.

21 Q: All right. Do you know if that entity owns any
22 assets today?

23 A: No, I don't know.

24 Q: All right. And today you don't know what you
25 expect to receive?

1 A: No, I don't.

2 Q: Okay. But I believe you did say earlier you
3 didn't believe it would be your father's share
4 of the estate; is that correct?

5 MR. GENDE: Object to the form.

6 A: Well, I don't know.

7 Q: Okay. Do you have any -- is there any pending
8 plan to sort that out that you know of?

9 A: No.

10 Q: Okay. Have you had any conversations other
11 than with your lawyer about who will get what?

12 A: No.

13 Q: Not with your aunts or your uncles?

14 A: No.

15 Q: All right. Now, tell me, you have sued Ms.
16 Pope and Mr. Buchanan in case 4900. What is it
17 you want from them?

18 MR. GENDE: Object to the form of the question.

19 A: It was advice from our attorney Levenson.

20 Q: What relief do you seek from them?

21 A: I don't know.

22 Q: Okay. You've sued them for breach of fiduciary
23 duty. Do you know what breach of fiduciary
24 duty means?

25 A: No.

1 Q: Okay. And just to be sure. Can you tell me
2 any ways in which they've breached their
3 fiduciary duty that you believe?
4 A: No.
5 Q: Now, you've also sued Ms. Pope and Mr. Buchanan
6 for breach of trust. Do you know what breach
7 of trust is?
8 MR. GENDE: Object to the form of the question.
9 A: That we didn't trust them.
10 Q: Okay. And you've also sued them for
11 negligence. Do you know what negligence is?
12 A: Yes.
13 Q: Tell me what negligence is?
14 A: You neglect. Not doing properly. Neglecting
15 your duties.
16 Q: Okay. And can you give me any examples of
17 negligence that you believe Ms. Pope or Mr.
18 Buchanan undertook.
19 A: That was taken from the counsel of my attorney.
20 Q: Okay. But you personally don't know of any?
21 A: No.
22 Q: All right. Now, during Mr. Brown, your
23 grandfather's, lifetime, did you ever discuss
24 the value of his assets with him?
25 A: No.

EXHIBIT C

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, and others

and

ALAN WILSON, 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

)

) **MEMORANDUM IN SUPPORT OF**
) **DEPOSITION OF ATTORNEY**
) **GENERAL AND OPPOSING**
) **PROTECTIVE ORDER**

)

)

)

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Summary of Relief Requested

For five years and seven months Attorney General Alan Wilson has been the one person who could end this unprecedented litigation brought in 2010 to stop an appeal of a settlement reached by his predecessor which dismembered entertainer James Brown's "I Feel Good" Foundation and threatened its 900 copyrights.¹

For two of those years Wilson claimed the right to control the James Brown assets solely because his office had entered the proceedings. For three he has praised Russell Bauknight as millions of dollars in legal fees were spent from funds Brown left his "I Feel Good" Charity² to carry out its proposed second dismembering announced to Judge Doyet A. Early, III in open court on May 29, 2013 by Louis Levenson, Esq., and counsel for the

1. Defendant does not waive her position that this case, "Richland 4900", violates the U.S. and S.C. Constitutions because the Attorney General and private citizens share a single, private attorney.

2. Since May 8, 2013, Bauknight has paid or incurred legal fees of his Nexsen Pruet ("NP") lawyers, Dave Sojourner, Jr., Esquire, and Sojourner's attorney of more than \$3.4 Million, paid from an estate he asserts is a \$5 Million estate.

Attorney General's Richland 4900 Co-Plaintiff Tommie Rae Brown.³

Now in August 2016, the Attorney General asserts that *United States v. Morgan*, 313 U.S. 409, 422 (1941) and its progeny shield Wilson from being deposed because he holds a high office; it will take time from his official duties; and the Defendant he has been suing for five years has not demonstrated that the information cannot be obtained from other sources.

This is not correct. A reading of *Morgan* and the subsequent cases, as well as South Carolina cases and the Rules of Civil Procedure, makes clear that the deposition of Wilson is appropriate under the extraordinary facts of this case. His testimony is essential in this case *which the State brought against Robert Buchanan, Jr. and Defendant*. The circumstances make clear that injustice will result if the deposition is not granted. This is not an examination of the policy of the Attorney General's office, but of Wilson's actions through his office, his Legacy Trust, and Bauknight to damage Defendant over five years.

Wilson is the only person who can give the necessary information.⁴ Since he took over control of Richland 4900 in January 2011, the damage to Defendant and Buchanan, as well as the threat to Brown's Charity, has increased exponentially.

Some of the circumstances showing the deposition to be essential follow.

³ The final decision in *Wilson v. Dallas* was rendered on May 8, 2013. By May 14, 2013 the Attorney General had actively worked with Levenson and Alan Medlin, Esq., counsel for Tommie Rae, to have Bauknight reappointed. Through the private law firm, Sweeny, Wingate and Barrow, P.C. ("Wingate"), they share, Tommie Rae, the Levenson Plaintiffs and Attorney General Wilson had also sought a stay of this case, Richland County Case 2010-CP-40-4900 ("Richland 4900.")

⁴ In considering the circumstances supporting a deposition, the Court is asked to take judicial notice under SCRE 201 of the entire participation of the Attorney General, the James Brown Legacy Trust, NP and Bauknight in all roles, in Aiken Cases 2007-CP-02-0122; 2008-CP-02-1647; 2013-CP-02-1337; the Tommie Rae Spousal and James B. Heirs proceedings; and appeals from all of these cases; the James Brown Estate file; all James Brown FOIA cases filed since August 3, 2011 and related appeals; and Richland 4900.

I. Background to Involvement of Attorney General Wilson in Richland 4900⁵

a. The McMaster Settlement and Creation of the Legacy Trust

On September 24, 2007 Attorney General Henry McMaster entered the James Brown proceedings. For the next five years McMaster and Wilson, his successor, asserted the Attorney General had the right to control the James Brown litigation.

In December 2007 Tommie Rae and Levenson's clients filed meritless suits to set aside Brown's estate plan. Most later admitted the suits had no merit.⁶

On January 8, 2008 Judge Early approved the Buchanan/Pope fee contract; praised their work; and found that their work commitment had more than doubled since they became PR/Trustees on November 20, 2007.

On April 8, 2008 Judge Early issued a comprehensive order examining the appointment and service of Buchanan and Pope as SAs and PR/Trustees. He found their appointment proper, and all of their service both ethical and appropriate.

On May 20, 2008 Buchanan and Pope served their First Semi-Annual Report as PR/Trustees to Devisees, Beneficiaries and the Attorney General.⁷

On May 29, 2008, at the request of philanthropist John Rainey, McMaster met with

⁵ Defendant asks the Court to take mandatory judicial notice under Rule 201 SCRE of the entire record in *Wilson v. Dallas*, and of proceedings after the Administrative Orders of June 13, 2013, in which – at the request of Levenson, Tommie Rae and Bauknight – Judge Early excluded Buchanan and Defendant from all James Brown proceedings except their own claim cases.

⁶ In the first filings in this case, all Richland 4900 Plaintiffs admitted that the creation of a Trust for the education of needy students was a long-held and often-stated desire of James Brown. In her October 31, 2008 deposition Levenson client Deanna Brown confirmed that the Will was valid. Plaintiffs Daryl and Terry Brown have openly urged the Attorney General to support Brown's estate plan.

⁷ In his August 18, 2016 Deposition McMaster said he had never seen the Buchanan/Pope First Semi-Annual Report. Contemporaneous Records, however, show that it was served on the Attorney General and others on or about May 20, 2008, and that Buchanan & Pope hand-delivered it to McMaster in a meeting with McMaster, Jones, Jowers, Chief Deputy John McIntosh and others, on May 29, 2008.

Rainey, Pope and Buchanan.⁸ The Semi-Annual Report was handed to McMaster.

According to Jones, Rainey admonished him for interfering with the operation of Brown's Foundation, and McMaster directed him to work with Buchanan and Pope.⁹

On July 14, 2008, at the request of Buchanan, Pope and McMaster, the S.C. Court of Appeals directed the Christie's sale to proceed on July 17.

In July 2008 McMaster nominated five persons from whom Buchanan and Pope would select a third Trustee for Brown's 2000 Trust, the bulk of which goes to the "I Feel Good" Charity.¹⁰

On July 30, 2008 McMaster approved Buchanan and Pope as permanent Trustees of Brown's 2000 Trust.

On August 10, 2008, McMaster brokered the settlement with Tommie Rae and some Levenson clients which dismembered the "I Feel Good" Charity and \$285,000 Education

8 Also present at the May 29 meeting were some of the employees of the Attorney General's office who have worked for both McMaster and Wilson on James Brown matters: Havird "Sonny" Jones; Mary Frances Jowers; and John McIntosh, who has served as Chief Deputy for both McMaster and Wilson. On August 27, 2016 *The State* announced the retirement of John McIntosh from the Office of Attorney General. In deposition in Aiken Case 2013-CP-02-1337 ("Aiken 1337"), in which the Attorney General has asserted the discovery is similar to Richland 4900, Jowers and Jones have refused to answer, or only partially answered, most questions. Directed by the Attorney General, Jowers and Jones assert that enjoy privilege under the Common Interest Doctrine with all of the parties to the McMaster Settlement Deal and their counsel from 2009 through May 8, 2013. In addition, Jones claims that he had has a privilege under the Common Interest Doctrine with Bauknight and his dozen NP attorneys since Bauknight was reappointed by Judge Early just after May 8, 2013.

9 This testimony was given by Jones in his Aiken 1337 deposition. In his deposition in this Case, McMaster had little memory of the meeting. He did recall that Rainey was very supportive of Pope. Contrary to contemporaneous records, he claimed never to have seen the Semi- Annual Report. He also claimed to have very little knowledge or memory of the events from 2007 - 2011. The Court is asked to take judicial notice under Rule 201 SCRE of the McMaster WIS-TV video made a part of the Jones and Jowers depositions. In February 2007 McMaster spoke of the vast value of Brown's image and persona, as well as his copyrights.

10 In 2008 the Attorney General nominated W. Steven Johnson, Esq.; Xavier Starkes, Esq.; Russell Bauknight; David Sojourner, Jr.; and Tracey Greene, Esq. In 2009 Johnson presented an Affidavit/Opinion that the work of Buchanan and Pope met or exceeded the standard for fiduciaries. In his 2016 deposition in Aiken Case 2013-CP-02-1337 ("Aiken 1337") Johnson reiterated his position, and the documentation for it.

In his 2016 deposition in Aiken 1337 Sojourner, like Johnson, admitted that even today he had no expertise in matters related to Federal Copyright Act Termination Rights.

Trusts for certain grandchildren. It also threatened the Charity's 900 copyrights; created McMaster's James Brown Legacy Trust;¹¹ and provided that Buchanan and Pope would be replaced.¹²

Levenson and Tommie Rae's lawyers would reap about \$20 Million in legal fees for will challenges pending only seven months, and for which there had been no discovery.¹³

By September 2008 Medlin claimed he, Levenson and McMaster "spoke as one."

In September 2008 Brown's estate tax return, valuing the music empire and certain related assets at about \$84 Million, was filed.¹⁴

In January 2009, as Judge Early began hearings on the McMaster Settlement, Levenson called Buchanan to threaten Rule 11 sanctions and other problems if he and Pope did not resign, clearing the way for the settlement.

In March 2009, David Bell, Esquire, whose client had joined the McMaster Settlement, wrote Buchanan threatening a judicial grievance if Buchanan did not resign.¹⁵

11 Although it bears Brown's name the Legacy Trust was actually created by McMaster. Until May 8, 2013 the Attorney General and Tommie Rae had more than 2/3 voting control of the Legacy Trust and the Attorney General the right to appoint and replace Trustees at will.

12 In his August 18, 2016 deposition McMaster claimed to have little memory of his 3-year involvement in James Brown matters; claimed he had not seen the May 20, 2010 report Buchanan and Pope had hand-delivered to him on May 29, 2008; did not recall ever reading Brown's Will; did not know what the Legacy Trust he created and controlled when he left office was. When asked by Wingate if the Legacy Trust had charitable beneficiaries, he did not know. Despite this vague memory, McMaster vigorously asserted that the McMaster Settlement Deal was a good idea, and that Supreme Court's *Wilson v. Dallas* decision finding that his settlement deal dismembered Brown's noble estate plan was wrong.

13 While Tommie Rae has still not been determined to be Brown's spouse, and some Levenson clients are still contesting Brown's estate plan, Tommie Rae and some children received about \$2 Million from a sale of "Please, Please, Please" and two other songs. The sale of just 3 of Brown's 900 songs, apparently condoned by AG Wilson, Bauknight and NP, is reputed to have been for \$6 Million. Jones and Jowers appeared not to know of the \$2 Million payment. Or, based on their claimed Joint Interest Doctrine privilege shared with Bauknight, they simply excluded it (as directed) from deposition responses.

14 The \$84 Million was consistent with a formula for valuation of the estate tax return presented to Judge Early by Buchanan & Pope as SAs on Nov. 15, 2007; with the \$42 Million value placed on about 850 of the copyrights by a 2006 Royal Bank of Scotland Appraisal; and the at-death balance of a TIAA debt, approximately \$15MM. SEE WIS-TV interview of McMaster of February 7, 2007, part of the Jones and Jowers Aiken 1337 deposition.

15 Bell, a Georgia lawyer closely aligned with the Cannon PR/Trustees, has been infamous for his

In March 2009, through James Gilreath, Esq., Levenson made a threat to Pope similar to that he had made to Buchanan in January. Levenson also told the media that anyone standing in the way of the settlement better get out of the way.

In May 2009 Judge Early approved the McMaster Settlement. Bauknight, already Trustee of the Legacy Trust, replaced Buchanan and Pope as PR/Trustee.¹⁶

On May 26, 2009 Buchanan was owed \$500,300 and Pope about \$1.4 Million under their contract with Plaintiff Estate/2000 Trust. Judge Early's compensation order provided for interest to accrue on both amounts until paid.¹⁷

dirty tricks in James Brown matters since early 2008 when he filed multiple grievances against Levenson in two states. Bell claimed Levenson had forged his 2007 fee contract with Bell clients Terry, Forlando and Romunzo Brown, and others.[The three fired Levenson in 2007 and aligned themselves with Cannon & Dallas.] In January 2008 Bell and Atlanta Law Firm Powell Goldstein ("PG") filed a baseless federal lawsuit seeking to enjoin Brown's 2000 Trust until the Cannon Trustees were reinstated.

In 2007, as the \$17 Million Cannon took was being uncovered, PG sent documents to Cannon and Dallas to change the situs of Brown's 2000 Trust to Georgia. The documents were defective, and the plan aborted in August 2007, just before Cannon's resignation.

As set out below, Attorney General Wilson and Bauknight as trustee of the Attorney General's Legacy Trust secretly aligned themselves with Forlando in early 2011.

In 2015 Buchanan and Pope were unsuccessful in their effort to charge Forlando's interest in the Estate/2000 Trust with the costs of the 4-year frivolous suit. Bauknight, speaking for the 2000 Trust Forlando had worked 4 years to paralyze, claimed Forlando had done nothing wrong, and that Buchanan and Pope were the wrongdoers.

¹⁶ From 2009 until today, the Attorney General has had sole authority to remove and replace Bauknight as Trustee of the Legacy Trust.

¹⁷ The Court is asked to take judicial notice of the representations of Bauknight and NP lawyers in Aiken 1337 about the \$1.4 Million owed Defendant as of May 26, 2009.

In 2015 Bauknight/NP claimed that, even though the amount due Pope on that May 26, 2009 under her contract with Plaintiff Estate/2000 Trust and Judge Early's Order had been earning interest at more than \$120,000 a year for six years, it could not be paid because Richland 4900 was still pending. At the same time Bauknight/Wilson/Wingate were asking that Richland 4900 be stayed until all matters in Aiken County were concluded.

The Estate/2000 Trust also claimed the Grammy© withdrawal from the Christie's sale on July 17, 2008, also a subject of Richland 4900, prevented this payment.

The Grammy© withdrawal was entirely appropriate; without penalty; and made with Levenson present over the urging of Christie's counsel that it remain in the sale.

Christie's counsel advised that the Academy which produces Grammys© uses strongarm tactics to try to avoid sales of Grammys© such as James Brown's because there have no legal right to stop the sales. Media reports of two Grammy sales of the Stevie Wonder's Grammy© support Christie's position.

Because Cannon, Dallas, Forlando, PG and Levenson clients had all taken action to chill the July 17, 2008 Christie's sale, and the projected sale price of the Grammy© was small, Buchanan and Pope made the wise business decision not to incur the legal costs of defending the sale. The James Brown Grammy© was returned. With thousands of other James Brown items, it was placed by Buchanan and Pope in a museum for safekeeping pending

b. The Attorney General's Efforts to Stop Appeal of the McMaster Settlement

On July 29, 2009, as Brown's documents required, Buchanan and Pope appealed the McMaster Settlement.

The Attorney General, now controlling a \$100 Million Foundation, wanted to stop the appeal. So did lawyers whose \$20 Million in contingency fees was threatened.

The Attorney General had the services of Bauknight, Trustee of his Legacy Trust. He also had the dozen NP lawyers who have represented the Legacy Trust – and been paid from funds Brown gave his "I Feel Good" Charity – for seven years.

In the summer of 2009 Bauknight and NP, joined by the Attorney General, began to assert that Buchanan and Pope had been replaced out of concerns for mismanagement.

The claim was false.¹⁸ The Attorney General knew it was false.

Bauknight and NP, aided by the Attorney General, virtually ignored the \$17 Million Cannon had taken from funds Brown gave the Foundation. Instead they searched Brown's 150 + boxes of files for problems caused by Buchanan and Pope.¹⁹

the outcome of the Will/2000 Trust challenges.

It is now known that the inaccurate Grammy © claim referenced by the Supreme Court in the *Wilson* decision was planted on the Kilpatrick Stockton ("KS") website in January 2011 when KS was working with Bell/Forlando, and Attorney General Wilson's office was secretly working with Forlando, and also working with James Trigg of KS.

Robert Potter, Esq., of KS, who was attributed with stopping the sale, informed Defendant that he had no knowledge of the post. [See Affidavit of E. Alexander, Aiken 1337.]

18 In addition to the direct involvement of Attorney General McMaster and Jones in numerous matters, including approving the Christie's sale, Jowers was invited to every PR/Trustee meeting held by Buchanan and Pope. Auditor Sandra Matthews examined the Estate/2000 Trust's monthly bank statements and whatever additional documents she requested to see. Jones, and then Robbie McNair, were assigned to the David Cannon criminal matter, which was handled by the Attorney General, and not the Barnwell solicitor. Chief Deputy John McIntosh and now-solicitor Robert Cook appeared on pleadings with the Attorney General. J.C. Nicholson II was involved in the Attorney General's rejection of the 2009 CORBIS/GreenLight Publicity Rights contract protected to bring in about \$2 Million per year for two years, in addition to the copyright royalties.

19 Documents obtained in a FOIA request made after the Cannon plea show that in 2009 NP lawyer Freddie Kingsmore, Esq. was interviewed by SLED, which was investigating takings from James Brown by Cannon. Kingsmore produced an Inventory of the many boxes made by Buchanan and Pope, and annotations compiled by NP with the assistance of Attorney General. Neither the Attorney General nor Kingsmore notified SLED of the \$5

In the fall of 2009 the Attorney General and others secured an order of Judge Early which prevented Buchanan and Pope from receiving even costs as they pursued the appeal of the McMaster Settlement. Bauknight and the NP lawyers, now poised to be paid from funds Brown gave his Private Foundation, became the spokesmen for the Attorney General and settling parties.

It was becoming clear that Buchanan and Pope, even without funds to do so, would carry out their duty to appeal the McMaster Settlement. The Attorney General, Medlin and Levenson needed to destroy their credibility. Medlin came up with an idea.

c. Devaluing the James Brown Assets to Discredit Buchanan and Pope In August 2009 Medlin suggested that a ruling related to the Estate of Harlan Howard could be used by the Settling Parties to discredit Buchanan and Pope.

Ignoring overwhelming evidence that Brown's assets had been properly valued at about \$100 Million less the \$15 Million TIAA debt, Medlin suggested that Brown's worldwide music empire should be valued at 6 - 8 times annual royalties²⁰. He suggested Brown's Publicity Rights – the right to exploit his famous image and persona – should be valued at zero.

A year later, ignoring the *Gigniliatt* decision and the facts, Jones told the Court of

Million "check to nobody" Cannon cashed in 1999.

In 2010 Cannon was charged with taking more than \$12 MM and a 2008 forgery. He was not charged with taking the \$5 Million "check to nobody." The Attorney General's office, not the local solicitor, handled the Cannon criminal matter until his October 2011 *Alford* Plea. He was designated as a witness against Buchanan and Pope in Richland 4900.

20 Howard was a country music writer. His accountant valued Howard's copyrights on the estate tax return at 6-8 time annual revenues – the time each song was expected to last. The IRS accepted the appraisal. About 850 of Brown's 900 copyrights had been valued in 2006 by the Royal Bank of Scotland at \$42 million, about 14 times annual revenues. Professor Einhorn, with whom Buchanan consulted – but who had not been hired when the McMaster Settlement was reached – suggested that 15 - 20 x annual revenues was more appropriate for Brown.

Appeals in the *Wilson v. Dallas* appeal that Bauknight had reviewed a draft appraisal that would show that Brown's assets were worth less than \$12 Million when he died. He said that the final "appraisal" which would support this valuation would come within a few weeks.

The appraisal did come. It was even lower than Jones had predicted: \$4.7 Million. Supported by the Attorney General, NP lawyers Rick Reames, Esq., and Kingsmore, presented this startling devaluation to the IRS. They told the IRS that Tommie Rae was Brown's spouse. They told the IRS that James Brown's "I Feel Good" Charity was worth about \$3 Million when he died. They did not tell the IRS that \$2 Million of that \$3 Million would be taken out for private individuals.

In the fall of 2010 NP, Bauknight, the Attorney General and other Settling Parties decided to withhold the September 2010 "appraisal" and the claimed \$4.7 Million from the appellate court until all the briefs had been filed. Eight months would elapse between the arrival of the "appraisal" in September 2010 and its disclosure to the Supreme Court in May of 2011. By then Wilson would be Attorney General.

d. Attempts by Buchanan and Pope to Stop Richland 4900

In March 2010 Medlin threatened that Jones had already hired Wingate. He said Wingate was already working on the complaint that would become Richland 4900. He said Buchanan and Pope would be sued if they did not drop the appeal.²¹

A similar threat was made to Buchanan's and Pope's *pro bono publico* lead attorney,

²¹ The Medlin threat is documented in Buchanan's and Pope's records. It was made to Elizabeth Van Doren Gray, who represented Buchanan in the Forlando Federal Suit. Buchanan reported the threat to Pope the following day.

James B. Richardson, Jr., by Kingsmore.²²

In response, Buchanan and Pope presented the Attorney General and Settling Parties with a detailed Agreement Among Successors to Decedent which gave the Attorney General everything he got in his settlement, with only two conditions:

1. GALs needed to be appointed for the minors whose \$285,000 Education Trusts were affected; and
2. The proposal had to be approved by the Appellate Court.

Despite repeated prompting of Kingsmore by Richardson, the Attorney General, and Settling Parties refused to respond to the proposal.

Instead, they sued.

e. The Attorney General's Multiple Roles in Richland 4900

Documents made public after 2013 show that between May 12 and May 19, 2010, Wingate, the Attorney General's staff, NP and other Settling Parties were deeply involved in revisions to the Richland 4900 complaint, as well as who would sign the complaint; and the form of the Wingate Litigation Agreement.

In the end, neither the AG nor most of the seventeen Plaintiffs signed the Wingate Litigation Agreement. It was, instead, signed by Bauknight, Levenson, Bell and Medlin.²³ McMaster signed a letter approving the suit.

²² By March 2010 NP and the Attorney General had tried to stop the McMaster Settlement appeal by securing a September 2009 Order from Judge Early preventing all payments to fiduciaries. Richardson, however, advised the Court in 2010 he would be serving *pro bono publico* as lead counsel. This reduced the cost of the 4-year appeal to about \$50,000.00.

²³ There is growing evidence that most Richland 4900 individual Plaintiff/CC Defendants were not even aware that Richland 4900 was filed until after it was filed. Wingate did not comply with the requirements for a contingency fee contract. And the Attorney General, for the first time in the history of the State – so far as Defendants could ascertain – became a Plaintiff in a tort lawsuit against a S.C. citizen in which he shares a private lawyer with nonresidents and in which he was not a signatory on the pleadings.

The Attorney General has multiple roles in Richland 4900, as does Bauknight. The Attorney General is a named party. He also controls Bauknight through his power over the Legacy Trust. And Bauknight is also a named party "on behalf of" the Attorney General.

f. The Status of Richland 4900 When McMaster Left Office²⁴

The negative impact on Buchanan and Pope of being sued by the Attorney General was immediate. Their professional negligence insurance – already strained from the Forlano Federal Suit – would be cancelled. They were sued by Cincinnati, which denied coverage.

Pope, in a position to serve as a consultant and expert, was rendered worthless to clients by a lawsuit by the Attorney General claiming she had breached her fiduciary duty and committed breaches of trust.

But Richland 4900 had defects.

Wingate had failed to timely respond to the counterclaims of Buchanan and Pope, and had filed a motion for relief from default.

Judge L. Casey Manning had denied Buchanan's and Pope's Motion to Dismiss, which was made on multiple and detailed (and correct) grounds, including Due Process and other grounds related to the Attorney General's using a private law firm with Tommie Rae and

²⁴ In his 2016 deposition in Aiken 1337, Jones refused to (and was directed by Wilson's staff not to) answer questions about transactions and communications with Tomirae, the Levenson clients, Bauknight and their attorneys from 2008 to May 8, 2013. He based his refusal on the Joint Interest Doctrine the Attorney General's office claims with all Richland 4900 Plaintiff/CC Defendants and their counsel from the time they joined the McMaster Settlement Deal until it was finally overturned.

Jones further asserted that the Common Interest Doctrine shields transactions and communications with Bauknight and his dozen NP lawyers for the above period, and, in addition, since Judge Early reappointed Bauknight before the remittitur from *Wilson v. Dallas* was handed down.

In his August 2016 deposition in this case, McMaster testified he knows almost nothing about what happened during this period; relied on Jones; and did not authorize Sweeney, Wingate & Barrow, P.C. ("Wingate") to file Richland 4900 on behalf of the State/Attorney General.

others. But Buchanan and Pope would be seeking early appellate review in an effort to avoid the costs of litigation of a suit they believed to be improper.

McMaster had named indicted felon Cannon, Dallas and others as witnesses. The October 2010 Witness List produced by the Attorney General indicated there was no evidence to support Plaintiffs' claims.

The Attorney General's \$12 Million value claim made in the Appellate case, in addition to being incorrect, directly contrasted with the claim in Richland 4900 that Buchanan and Pope should have accepted a \$100 Million offer made for Brown's assets in 2007.²⁵

Buchanan and Pope wanted to save the "I Feel Good" Trust. They wanted to be reinstated because they had become the only two people who fully understood the litigation and wanted to protect the "I Feel Good" Charity. They had made clear to the Attorney General that they wanted to stay only long enough to defend the estate plan; protect the "I Feel Good" Charity's copyrights; and set up a healthy board – hopefully with one of the three seats reserved for a descendant of James Brown.

With a new Attorney General, there seemed to be hope of resolution. It did not come.

²⁵ The offer referenced in the Richland 4900 Complaint was made by TJBL, an entity to be formed, on October 12, 2007. At the time Dallas and Al Bradley were PR/Trustees. It was the first of three TJBL Letters of Intent proposing to purchase the Brown assets for between \$90 Million and \$100 million, the last being in March 2008. All required that the Estate/2000 Trust be able to give good title. Both the December 2007 Will/Trust challenges and the January 2, 2008 Forlando Federal Suit, were impediments to giving good title at the time.

Cannon and Dallas were pushing a sale because from a \$100 Million sale each had documented an expectation to receive more than \$5 Million and options or a "kickback" from the IPO to be floated.

It was later learned that on December 5, 2007 – less than a month before he sued to enjoin the 2000 Trust and reinstate the Cannon Trustees – Forlando was given a 39% stake in TJBL without making any contribution.

TJBL was represented by PG, which simultaneously represented Forlando, with Bell, in the Federal Suit.

II. Richland 4900 Under Attorney General Alan Wilson

a. The Legacy Trust's Amendments and Wilson's Alliance With Forlando ²⁶

Just before leaving office McMaster, with Terry Brown and others, secretly amended the Legacy Trust to allow Bell's client Terry Brown to begin due diligence on a sale of the James Brown assets under the rights of first refusal ("ROFR") McMaster had given him. Four days later, Terry assigned the ROFR to Forlando.

Within days Attorney General Wilson, through Jones, was distributing documents and arranging meetings with PG and others related to a sale. Forlando would later say that Bauknight showed no interest in a potential sale of as much as \$200 Million to agents of Oprah Winfrey. The Attorney General and Bauknight would tell the Courts the \$4.7 Million value was correct and there were never any offers. In 2013 Bauknight would even claim that the assets could not be sold.

b. Wilson Seeks Sanctions Against Buchanan/Pope for Cannon Brief

In January 2011 one of Attorney General Wilson's first acts in James Brown was to seek sanctions against Buchanan and Pope for filing a brief that would have helped collect from Cannon for the benefit of Brown's Charity the approximately \$1.2 Million cost of the 2007 suit ("Case 122") which resulted in the resignations of the Cannon PR/Trustees.

The Appellate Court did not grant sanctions. But it did strike the brief. And NP

²⁶ Forlando and Bell have been closely aligned with the Cannon Trustees and PG since 2007. In July 2007, just before Buchanan and Pope discovered the first \$900,000.00 of the approximately \$17 Million David Cannon took from James Brown, PG lawyer Wm. Shearer sent David Cannon and Buddy "Buddy" Dallas documents to change the situs of Brown's 2000 Trust to Georgia to escape increasing scrutiny by Judge Early and the SAs. The documents were defective, and the move aborted. Bell had been known since 2008 for his dirty tricks, including filing false affidavits and multiple grievances against Levenson. Bell accused Levenson of a forgery on Levenson's 2007 contract with Terry and Forlando Brown and others to be paid \$150,000 + a 30% contingency for what he could get the "family" from Brown's "I Feel Good" Charity.

lawyers, Bauknight and Tommie Rae were emboldened by the aggressive stance the new Attorney General took against Buchanan and Pope.

c. Wilson's False Felony Claims Against Buchanan and Pope

The devaluation of James Brown's music empire to less than 1/15 its real value would have had very little traction in the hands of disgruntled heirs and a claimed spouse. In the hands of Attorney General Wilson the claim that Buchanan and Pope had intentionally devalued Brown's music empire by \$79 Million on a sworn estate tax return for the improper purpose of securing a \$5 Million commission they did not deserve did not just damage their reputations and careers. It was a claim that they had committed a crime.

Anyone with doubt about the impact of a sworn false statement to the IRS which violates 18 U.S.C.A. 1001 need only read *In re Chaplin*, S.C. Supreme Court Op. 27658 (Decided August 24, 2016).

The Attorney General, NP and Bauknight began making the false felony claim in May of 2011. They continue to make it today. It has caused the damage which they were planning to inflict as the Attorney General, Medlin, NP and Bauknight structured Richland 4900.

The false devaluation claim also had the intended effect with the Courts. Buchanan and Pope were not reinstated. The Attorney General was happy with what Bauknight had done. As a result, Judge Early excluded Buchanan and Pope from James Brown proceedings. Wilson remained in control of the Legacy Trust.

d. Attorney General Wilson and James Brown FOIA Requests

Attorney General Wilson is charged with the enforcement of the South Carolina Freedom of Information Act. Since 2011 he has supported Bauknight's and Wingate's

attempts to enter three FOIA suits; have them transferred to Richland County; and have them subordinated to discovery in Richland 4900.

There is no person other than Attorney Wilson who can address these unprecedented acts.

e. Attorney General's Suppression of the So-Called Hynie "Diary"

In his August 2016 deposition McMaster, who had reviewed the so-called Hynie "diary" recalled that his office had concluded that Tommie Rae was not Brown's spouse. He was not the only one. The same conclusion has been reached by six other James Brown fiduciaries and at least eight of Brown's claimed children. The so-called Hynie "Diary" supports that conclusion.

The Hynie "Diary" was public from 2007 until 2008. It is public again. It shows that Tommie Rae was married and living in Texas before she met Brown. It shows that after Brown discovered she was married during their 2001 ceremony he refused to marry her, and she was upset.

Between 2011 and its release in 2015, Wilson worked with Tommie Rae and Bauknight - who is a fiduciary for Tommie Rae under the Legacy Trust - to conceal this important document. He even subpoenaed a reporter's notes and sources. Wingate withdrew the subpoena only after Wilson received harsh criticism from the national media.

In 2015 Attorney General Wilson advised Defendant he would not seek reconsideration of the Tommie Rae spousal decision.

The Attorney General remains a Co-Plaintiff in Richland 4900 with Tommie Rae. Questions about his relationship with her are not simply relevant. They are essential to this case. Only Wilson can answer these questions.

f. False Representations About Federal Copyright Act Termination Rights

In 2011 the Attorney General and Bauknight made representations to the Supreme Court about the Federal Copyright Act which are simply not correct.

In 2015, apparently as a result of the application of these incorrect principles, Tommie Rae and other Will/Trust contestants were paid \$2 Million on the sale of three of James Brown's Charity's 900 songs.

The information about the sale came from Tommie Rae. It is not privileged. It is essential. Only Wilson can answer about his actions.

g. The \$700,000 Award to James B's GAL and the GAL's Attorney

In 2007 Tommie Rae entered into a contingency fee contract with the lawyer who would become the lawyer for her son's GAL.²⁷ This relationship was not disclosed for eight years.

In 2013 the attorney for the GAL filed a Petition for Rehearing in *Wilson* detailing how Brown's assets were worth only \$5 Million at death. He explained in detail how the still-secret "appraisal" arrived at a \$4.7 Million value for Brown's worldwide music empire.

In 2013, after he had refused the \$300 DNA test for six years, James B. and Tommie Rae filed Termination Notices attempting to terminate royalties payable to Brown's "I Feel Good" Charity from about 90 songs over ten years.

In 2014 the GAL was allowed to enter his mother's spousal proceeding, even though

²⁷ By 2016 Judge Early, in addition to the contingency fee Peter Shahid had contracted with Tommie Rae, awarded the GAL and Shahid approximately \$700,000.00 in fees for James B. from what James B., the Attorney General and Bauknight had told the Supreme Court was a \$5 Million estate. The award included \$5,000 for each of 40 depositions Shahid planned to take. Neither the Attorney General nor Bauknight challenged the \$700,000 award.

his potential interest in both Brown's Estate and Termination Rights (if he is a child) would be reduced by up to half if Tommie Rae is successful.

In 2015 the GAL and attorney asked Judge Early to approve a payment to them estimated to be about \$700,000.00. Even though he had refused a paid-for DNA test in 2008, and James B's maximum correct share of the Estate (if he succeeds in having his mother declared Brown's spouse) is 1/24 or less, the GAL said he and the attorney were entitled to \$500,000.00 for their work to date. And another \$5,000 for each of the 40 depositions they intended to take.

Judge Early granted the request. Bauknight, an agent for James B. in Richland 4900, did not complain. The Attorney General, who had not presented a scintilla of evidence of any loss caused by Buchanan and Pope, did not complain about this payment to his Co-Plaintiff.

An inquiry into the Attorney General's relationships with James B., his co-Plaintiff, and these expenses is essential to this case. Only Wilson can answer.

h. Wilson Meets with Pope Between Wilson Decisions

Wilson and Pope have unique and essential knowledge about her visit to him on March 6, 2013, between the two *Wilson* decisions. Pope requested the conference. She drove from Spartanburg where she was helping care for an ill daughter. She urged Wilson to save the "I Feel Good" Trust. She explained how crucial it was to correct the false IRS filings. She urged that Buchanan be replaced, only to resign with dignity after the meritless attacks. She asked only to stay to finish defending the estate plan.

Wilson excused himself to have lunch with someone from NP.

Wilson called Pope a few days later to say he would be seeking to get out of Richland

4900.

Years later the vitriolic attacks have continued. The false felony claim is still being lodged. Pope's career remains in shambles. She cannot obtain professional insurance.

Only Wilson can testify about this meeting; the call; and his continued, false attacks.

III. The Attorney General Must be Deposed to Prevent Injustice

a. The *Morgan* Rule is Inapplicable to Richland 4900

The Attorney General asserts that *United States v. Morgan*, 313 U.S. 409, 422 (1941) and the cases which follow support the prohibition of his deposition. Neither *Morgan* nor its progeny lends support to the Attorney General's position under the extraordinary circumstances of this case.

Morgan involved an attempt to depose the U.S. Secretary of Agriculture to probe intra-governmental policies developed by the Department. The case stressed not only the fact that this high official was busy, but that allowing such depositions would impair the necessary free flow of information with the government in its communications related to the establishment of its policies.

Attorney General Wilson's deep involvement in this case in three capacities over five years simply has nothing to do with government policy. Particularly troublesome, and an essential subject of inquiry, is why the Attorney General has allowed Bauknight to continue to speak on his behalf long after he has claimed Bauknight has no authority to do so.

Also, since January 2011, Attorney General Wilson has had absolute authority under the Wingate Contract to bring this suit to an end by terminating Bauknight; properly dissolving the Legacy Trust; and correcting false IRS filings and criminal accusations against Buchanan and Pope. Attorney General Wilson's testimony is essential. It cannot

come from anyone else.

Attorney General Wilson asserts that *Carl Zeiss Stiftung v. V.E.B. Carl Zeiss, Jena*, 40 F.R.D. 318, 325-26 (D.D.C.1966), aff'd, 384 F.2d 979 (D.C.Cir.), cert. denied, 389 U.S. 952 (1967) suggests that he should be exempt from being deposed because he is a high ranking government official with greater constraints than other witnesses. He asserts the judiciary is not authorized "to probe the mental processes of an executive or administrative officer."

The proposed deposition is about the actions of Wilson as a party and in multiple roles.

In *Zeiss* the government was not a party. Here the Attorney General is a Plaintiff; a Trust he controls is a Co-Plaintiff; and the Trustee of that Trust has been allowed for years to claim he speaks "on behalf of" the Attorney General while also serving as fiduciary for Tommie Rae and Will contestants.

In *Zeiss*, after producing 4,500 documents in a case in which it was not a party, the government claimed executive privilege as to 49. The Attorney General provided an Affidavit stating that the information sought consisted of intra-departmental memoranda and inter-departmental documents. In the affidavit the Attorney General stated his conclusion that production of the 49 documents would be contrary to public policy.

The Attorney General is a party. He has produced no affidavit. The circumstances related to the deposition of Wilson in this case bear no relation to *Zeiss* Court, which stated:

Here, unlike the situation in some cases, no charge of governmental misconduct or perversion of governmental power is advanced. Since the Government is not a party to the New York action, no problem of an unfair litigating advantage is presented. All that is involved is a collision

between what the claimants feel they need to see and what the Government conceives is a must defend from outside scrutiny.

The problems cited by the Zeiss Court as missing from that case do exist in Richland 4900.

In re United States (Kessler), 985 F.2d 510, 512 (11th Cir.1993) (per curiam) (quoting *Simplex Time Recorder Co. v. Secretary of Labor*, 766 F.2d 575, 586 (D.C.Cir.1985)) stands, under its facts, for the proposition that if other persons can provide the information sought, discovery will not be permitted against such an official. *Id.* at 513; see also *In re FDIC*, 58 F.3d 1055, 1062 (5th Cir.1995). The March 6, 2013 interview with Wilson; his personal call; and his acts described above make clear that only he can give the essential testimony.

The Attorney General cites *In re U.S.*, 197 F.3d 310, 313-14 (8th Cir. 1999) for the proposition that "exceptional circumstances" must exist before the involuntary depositions of high agency officials are permitted. *In re Office of Inspector General*, 933 F.2d 276, 278 (5th Cir.1991) (per curiam) (citing *EEOC v. K-Mart*, 694 F.2d 1055, 1067-68 (6th Cir.1982)). For the proposition that "[h]igh ranking government officials have greater duties and time constraints than other witnesses" he cites *In re United States*, 985 F.2d 510, 512 (11th Cir.) (per curiam), cert. denied, 510 U.S. 989, 114 S.Ct. 545, 126 L.Ed.2d 447 (1993). The facts of Richland 4900; the false felony claim; the false claims to the Supreme Court about the Federal Copyright Act; and the unconstitutional nature of Richland 4900 are just some of the exceptional circumstances present here.

A review of the cases shows that the alliance of two Attorneys General with private individuals, many non-residents to destroy the careers and reputations of two attorneys is

more extraordinary than any of the circumstances of the cited cases. When added to the fact that the Attorney General has allowed his attack on these people to be paid for, in large part, by a charity he had a duty to protect, the facts are clearly both exceptional and compelling.

The entire record of Richland 4900; the false felony claim; the \$2 Million payment of Will contestants; and the FOIA interference to prevent release of public documents to prevent disclosure of the Hynie "diary" all make a clear showing that the deposition is needed to prevent injustice to the Defendant who is seeking the deposition. Discovery by interrogatory and requests for admissions are not an adequate means of discovery in this unprecedented case.

The Attorney General is suing in a representative capacity, but also through a Trust created by the use of public power and a citizen he has empowered to act "on his behalf."

This deposition does not involve annoyance, embarrassment, oppression, or undue burden. The opposite is true. It is the Attorney General who, for five and a half years, has used his high office to burden and oppress Defendant.²⁸

Citing *United States v. Northside Realty Associates*, 324 F.Supp. 287 (N.D.Ga.1971), the Attorney General suggests the purpose of the deposition is to probe the mind of Wilson, "to determine why he exercised his discretion as he did in regard to a particular matter." The bulk of the Wilson deposition is expected to probe not his mind, but his actions. This testimony is necessary to prevent injustice to the Defendant. The trial court should

²⁸ An egregious example to the harassment is the career-threatening claim Attorney General Wilson has lodged against Buchanan and Pope intentionally since 2011: that they overstated James Brown's assets on a sworn Estate Tax Return by \$7 Million to secure a \$5 Million commission. Just this week the Supreme Court has confirmed that such a claimed violation of 18 U.S.C. A § 1001 can destroy a legal career. See *In re Chaplin, supra*.

consider the SCRCP, to which the Attorney General subjected himself when he brought this case. It should consider those rules with other factors, including [1] the substantiality of the case in which the deposition is requested; [2] the degree to which the witness has first-hand knowledge or direct involvement; [3] the probable length of the deposition and the effect on government business if the official must attend the deposition; and [4] whether less onerous discovery procedures provide the information sought." *Id.* at 613-14, 563 A.2d at 632.

In that light it will be clear that Wilson should be deposed.

The depositions (in another case) of the two assistants who have worked on James Brown matters for nine years were lengthy only because deponents refused, were directed not answer; or were directed to limit their answers to most questions. The directions not to answer did not come only from Attorney General Wilson. They came from private NP lawyers who serve Tommie Rae and the Levenson clients.

It is patently in the public interest that the Attorney General who has *personally* worked for five years to destroy the only two persons who worked continuously for six years to save the James Brown "I Feel Good" Charity be deposed.

The Attorney General cites *Wirtz v. Local 30, International U. of Operating Engineers* (S.D.N.Y. 1963) 34 F.R.D. 13, 14, for the proposition that "... common sense suggests that a member of the Cabinet and the administrative head of a large executive department should not be called upon personally to give testimony by deposition ... unless a clear showing is made that such a proceeding is essential to prevent prejudice or injustice to the party who would require it." Common sense shows that a deposition is necessary here to prevent prejudice and injustice.

b. The Attorney General's Action Makes His Deposition Essential

The Attorney General's opposition to Defendant's Motion to Disqualify Wingate, a private lawyer, from being sole counsel to the Attorney General, Tommie Rae and others stated: "this is a tort action plain and simple." Attorney General Wilson said, quoting Judge Couch in his order in *Eli Lilly*:

if Defendant Pope still challenges the Attorney General's place in a private tort action against private, individual defendants, Plaintiffs will reiterate the law set forth by Judge Couch in his prior Order.

There are plain and simple rules applicable to the parties to a private tort action the Attorney General has chosen to bring against private citizens. He cannot ignore the Rules of Civil Procedure. The standard for taking a deposition or discovery in general is "reasonably calculated to lead the admissible evidence."

While Defendant does not waive her position that this suit is illegal and has been used to violate her Due Process, Equal Protection and First Amendment Rights, those matters have been temporarily decided in favor of the Attorney General. Now he must follow the rules. Defendant has found no other case in the State or nation where an Attorney General joins with non-residents of the State to bring a tort suit against his own citizens, using solely a private lawyer.

Our Supreme Court is clear when the Attorney General enters litigation he must play by the rules. As stated by the Court in *Ex Parte Condon*, 583 S.E.2d 430, 354 S.C. 634 (2003), "this Court has never held that the Attorney General's authority . . . [to protect the public interest] is unlimited or somehow uniquely exempts him from acting in accordance with the Rules of Civil Procedure" [citing *State v. Beach*, 271 S.C. 425, 248 S.E.2d 115

[1978]].

Defendant submits that barring the deposition of Attorney General Wilson would constitute reversible error in this case.

This Memorandum is based on the entire record of this case and the entire record in Aiken Case 2013-CP-02-1337, of which the Court is asked to take judicial notice.

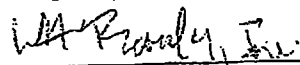
Conclusion

For each of the reasons states herein the Protective Order of Attorney General Wilson should be denied.

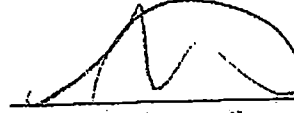
In view of the unprecedented circumstances of this Case, the deposition of Wilson is essential and must be taken to avoid further injustice to the Defendant. Only Wilson can give the required testimony. No substitute person or procedure is reasonable. Because these matters were known when he filed the motion, the Attorney General should pay Defendant's legal fees and costs for the defense of this matter.

[SIGNATURE BLOCK APPEARS ON FOLLOWING PAGE]

Respectfully submitted,

 n/term...
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August 29, 2016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served a copy of the foregoing document on counsel for Movant and Plaintiff/CC Defendants on August 29, 2016, by emailing and depositing a copy of the same into the United States Mail, First-class postage prepaid, addressed as follows:

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Adam T. Silvernail

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM RICHLAND COUNTY

SEP 17 2018

Court of Common Pleas

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

The Honorable L. Casey Manning, Circuit Court Judge

SC Court of Appeals

Case No. 2010-CP-40-4900

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. 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, Respondents,

v.

Adele J. Pope, Defendant,

Of whom Adele J. Pope is the Appellant.

PROOF OF SERVICE

I certify that I have served the Motion to Strike Appellant's Initial Reply Brief to Respondent's Initial Brief by depositing a copy of it in the United States Mail, postage prepaid, on September 13, 2018, addressed to the following attorneys of record:

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The Honorable Alan Wilson
Attorney General

and

The Honorable Robert D. Cook
Solicitor General

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The Honorable J. Emory Smith, Jr.
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September 13, 2018

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The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
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Columbia, South Carolina 29201

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Appellate Case No. 2017-001899
Civil Action No. 2010-CP-40-04900
Our File: 4077-7389

RECEIVED
SEP 17 2018
SC Court of Appeals

Dear Ms. Kitchings:

Enclosed please find the original and two copies of our Motion to Strike Appellant's Initial Reply Brief to Respondent's Initial Brief dated September 13, 2018, in the above-referenced matter. Also enclosed is a corresponding Proof of Service. I would appreciate your filing the originals and returning the clocked copies to me via the enclosed envelope.

Should you have any questions or concerns, please do not hesitate to give me a call.

Very truly yours,

SWEENY, WINGATE & BARROW, P.A.

Everett A. Kendall, II

EAK/dvy
Enclosures

cc: Counsel of Record (with copy of enclosures; via US Mail)



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