

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

JUN 18 2019

APPEAL FROM RICHLAND COUNTY

SC Court of Appeals

Court of Common Pleas

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

Appellate Case No. 2018-002229

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, and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is Appellant.

APPENDIX TO REPLIES TO RETURNS TO MOTIONS TO
STRIKE

STATE OF SOUTH CAROLINA,

COUNTY OF AIKEN

Deanna Brown Thomas

Petitioner,

vs.

Estate of Venisha Armaa Brown

Respondent(s).

IN THE PROBATE COURT

SUMMONS

CASE NO. 2018-ES-02-1137

TO THE RESPONDENT(S) ABOVE NAMED:

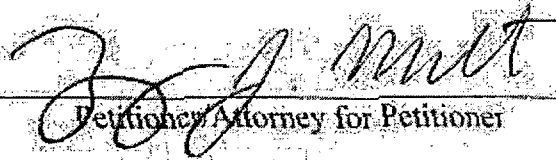
YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

Aiken, South Carolina

Dated: January 7, 2018

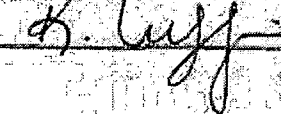
Address:

P.O. Box 1115
Aiken, SC 29802


Petitioner's Attorney for Petitioner

Filed: 1-8-2019

Tonya L. Marchant
Probate Court Judge

By: 

STATE OF SOUTH CAROLINA

COUNTY OF: AIKEN

IN THE MATTER OF:
VENISHA ARMAA BROWN
(Decedent)

IN THE PROBATE COURT

CASE NUMBER: 2018-ES-02-1137

Amended Petition

***COMPLETE THIS SECTION ONLY IF FILING PETITION
FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT**

*DEANNA BROWN THOMAS,
Petitioner(s)
vs.

*ESTATE OF VENISHA ARMAA BROWN,
Respondent(s)

Filed: 1-8-2019
Tonya L. Marchant
Probate Court Judge

By: H. Cuff

APPLICATION FOR INFORMAL

☐ PROBATE OF WILL
☐ APPOINTMENT

(check any that apply)

***PETITION FOR FORMAL**

☐ TESTACY
☒ APPOINTMENT

If this is a formal filing, please explain on page 3 or attach pleadings pursuant to SC Rules of Civil Procedure.

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE
A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE
PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): Deanna Brown Thomas
Address: PO Box 652, Clearwater, SC 29822
Telephone (Work): _____
(Home): (803) 652-1718
(Cell): _____
Email: dsweetieb@aol.com
Relationship to Decedent: Sister

2. Decedent Information:

Full Legal Name
(including all known names): Venisha Armaa Brown
Date of Birth: January 22, 1965
Date of Death: September 19, 2018
Age at Date of Death: 53

3. Venue for this proceeding is proper in this County because:

☐ Decedent was domiciled in this County at date of death:
Address: 430 DOUGLAS DRIVE, BEECH ISLAND, SC 29842 County: AIKEN State: South Carolina
☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this County
at date of death at:
Address: _____ County: _____ State: South Carolina

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STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE MATTER OF
VENISHA ARMAA BROWN
(Decedent)

IN THE PROBATE COURT

ORDER FOR APPOINTMENT OF
GUARDIAN AD LITEM (GAL)

CASE NUMBER 2018-ES02-1137

I HEREBY APPOINT LEON GREEN, ATTORNEY AT LAW as Guardian Ad Litem to represent the interest(s) of JAMES BROWN II in proceedings relating to the above matter. This Court has determined representation would be otherwise inadequate for the following reason(s):

- ☒ Minor (under the age of 18)
- ☐ Incapacitated Adult (alleged)
- ☐ Incapacitated Adult (adjudicated)
- ☐ Incarcerated Person (in state)
- ☐ Incarcerated Person (out of state)
- ☐ Unknown identity of heirs/devisees
- ☐ Unknown address of heirs/devisees
- ☐ Unborn heirs/devisees
- ☐ Other:

Executed this

22nd

day of

January

2019

Tonya L. Marchant
HONORABLE TONYA L. MARCHANT, Probate Court Judge

ACCEPTANCE

I agree to serve as Guardian ad Litem in this matter.

I am: ☒ Licensed to practice law in the State of South Carolina (SC Bar No. 64116)
☐ Family Member (list relationship):
☐ Other (list relationship):

Signature:

Leon E. Green

Print Name:

LEON GREEN

Address:

223 CHESTERFIELD STREET

AIKEN, SC 29801

Telephone (Work):

803-648-2025

(Home):

(Cell):

Email:

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE MATTER OF
VENISHA ARMAA BROWN
(Decedent)

IN THE PROBATE COURT

ORDER FOR APPOINTMENT OF
GUARDIAN AD LITEM (GAL)

CASE NUMBER 2018-ES02-1137

I HEREBY APPOINT LEON GREEN, ATTORNEY AT LAW as Guardian Ad Litem to represent the interest(s) of MICHAEL BROWN in proceedings relating to the above matter. This Court has determined representation would be otherwise inadequate for the following reason(s):

- ☐ Minor (under the age of 18)
- ☐ Incapacitated Adult (alleged)
- ☐ Incapacitated Adult (adjudicated)
- ☐ Incarcerated Person (in state)
- ☒ Incarcerated Person (out of state)
- ☐ Unknown identity of heirs/devisees
- ☐ Unknown address of heirs/devisees
- ☐ Unborn heirs/devisees
- ☐ Other:

Executed this 22nd day of January, 2019

Tonya L. Marchant
HONORABLE TONYA L. MARCHANT, Probate Court Judge

ACCEPTANCE

I agree to serve as Guardian ad Litem in this matter.

I am: ☒ Licensed to practice law in the State of South Carolina (SC Bar No. 64116)
☐ Family Member (list relationship):
☐ Other (list relationship):

Signature: Leon E. Green
Print Name: LEON GREEN
Address: 223 CHESTERFIELD STREET
AIKEN, SC 29801
Telephone (Work): 803-648-2025
(Home):
(Cell):
Email:

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE MATTER OF:
Venisha Armaa Brown
(Decedent)

IN THE PROBATE COURT

ORDER FOR HEARING

CASE NUMBER: 2018-ES02-1137

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: Thursday, March 21, 2019

TIME: 1:30 p.m.

PLACE: AIKEN COUNTY PROBATE COURT, 109 PARK AVENUE, SE, AIKEN, SC 29801

Petition For Formal Appointment of Deanna Brown Thomas and Request/Petition of Adele J. Pope.

Pursuant to SCPC 62-1-401, Petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing date.

Executed this 23rd day of January, 2019.



Honorable Tonya L. Marchant, Probate Court Judge

NOTE: Probate Court recommends that all interested parties be represented by counsel licensed to practice law in South Carolina. If any interested party wishes to represent him/herself, he/she will be required to adhere to the *South Carolina Rules of Civil Procedure* and *South Carolina Rules of Evidence*.

Levenson & Associates

Attorneys At Law
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000
(404) 659-1355 fax
www.levensonlaw.com

Louis Levenson*
George Lott

* Also admitted in NY, SC & TX

Writer's Email: louis@levensonlaw.com

January 28, 2019

Kim R. Griffin, Judicial Assistant
Aiken County Probate Court
109 Park Avenue
Aiken, SC 29802

In Re: Estate of Venisha Armaa Brown
Probate Court Of Aiken County
Case No. 2018 ES 02 1137

Dear Ms. Griffin,

Enclosed for filing please find one (1) original and one (1) copy of Louis Levenson's ANSWER TO PETITION AND REQUEST FOR APPOINTMENT OF PERSONAL REPRESENTATIVE TO PROTECT CREDITORS; and check for \$25.00 payable to the Clayton County Probate Court for applicable filing fees.

Please file the originals in your usual and customary manner, and return the file-stamped copy to me in the enclosed, self-addressed, stamped envelope. If you have any questions, please do not hesitate to contact me at (404) 659-5000 or email: louis@levensonlaw.com.

Thank you for your assistance in this matter.

Sincerely,


LOUIS LEVENSON

Enclosures:

Cc: Zachary J. Moulton, Esq.
Deanna Brown Thomas
Yamma Brown
Terry Brown
Larry Brown
Daryl Brown c/o Pope D. Johnson, Esq.
Jeanette M. Bellinger
James J. Brown, II
Michael Deon Brown
Ciara Pettit
Sarah LaTonya Fegan
Cherquarius Williams

Filed: 1-31-2019
Tonya L. Marchant
Probate Court Judge

By: 

ELECTRONICALLY FILED - 2019 Feb 11 1:30 PM - AIKEN - COMMON PLEAS - CASE#2019CP0200320

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Deanna Brown Thomas,

Petitioner,

v.

Estate of Venisha Armaa Brown

Respondent(s)

IN THE PROBATE COURT

Case No. 2018 ES-02-1137

**ANSWER TO PETITION
AND REQUEST FOR
APPOINTMENT OF
PERSONAL REPRESENTATIVE
TO PROTECT CREDITORS**
(Subject to Motion to Dismiss)

The undersigned Respondent, a creditor of the Estate of Venisha Armaa Brown hereby answers the petition of Petitioner; submits his Statement of Creditor's Claim as Exhibit A, hereto; respectfully requests a hearing at the Court's earliest convenience; and petitions this Court for the appointment of the undersigned or another creditor either as either temporary or permanent Personal Representative or Special Administrator with a mandate to properly administer the estate; marshal assets; pay proper expenses of administration; defend the interests of the estate in the pending litigation brought by Decedent; protect the creditors and taxing authorities; and properly identify Decedent's heirs for final distribution if funds remain after the payment to valid creditors.

For First Defense

1. Each assertion in the Petition not hereby admitted or explained is hereby denied, but this Respondent, while opposing the appointment of Petitioner, joins in the request for the appointment of a Personal Representative who will marshal the asset of Decedent; pay proper expenses of administration; and protect the interest of creditors.
2. Admits the allegations of paragraphs 1, 2, and 3 of Section I of the claim.
3. Admits, on information and belief, the allegations of Paragraph 4(a).
4. As to Paragraph 4(b), admits that the persons named are claimed half siblings and half-nieces of Venisha Brown, but lacks sufficient information to know whether the names and addresses are complete.
5. As to the allegations Paragraphs 4(c), 5, 6, 7, and 8, lacks sufficient information to form a belief and demands strict proof.
6. As to the allegations of Paragraph 9, this Respondent is informed and believes that Petitioner was on notice of demands of various creditors not listed in the Petition.

Filed: 1-31-2019

Tonya L. Marchant

Probate Court Judge

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15. On Information and belief, the undersigned or another person competent to marshal Decedent's assets, including intellectual property assets, should be appointed to pay proper expenses of administration.

Aiken, SC, Case Nos. 2007-CP-02-0122 and 2008-CP-02-0872.

Battery; and (3) Contingent Fee Contract based upon a will contest in re: Estate of James Joseph Brown, Carolina, Probable Felony Offenses: Leaving The Scene Of An Accident & First-Degree Assault And South Carolina vs Venisha Armaa Brown A/K/A Venisha Brown, North Augusta, Aiken County, South 2012RCCR01497; Offense: Possession Of A Stolen Vehicle/Felony Theft By Taking; (2) In Re: State Of Armaa Brown A/K/A Venisha Brown, Augusta, Richmond County, Georgia (Felony), Case No. decedent in the two (2) criminal cases and multiple probate matters of (1) In Re: State of Georgia vs Venisha

14. Respondent is informed and believes that, by virtue of assignment by decedent in 2009 of her assets, including Termination Rights proceeds, to the James Brown Legacy Trust, Respondent is entitled to payment from said assets under the lien established by attorney fee contracts for legal services rendered for

13. This Respondent incorporates Paragraphs 1-12 fully as if set out herein.

Request for Appointment of Personal Representative

to be half-siblings of Decedent, but is uncertain as to Decedent's position as to some.

12. As to Section III, admits on information and belief that Petitioner and the named persons claim

11. Admits on information and belief Paragraphs 1-5 of Section II.

not protect the interest of creditors, who are entitled to a substantial portion, if not all, of Decedent's estate. that Petitioner, based on conflict of interests, should not serve as Personal Representative and cannot or will 10. As to the explanation for questions in Sections I and II, this Respondent is informed and believes

9. Lacks information as to Paragraph 12, and demands strict proof thereof.

which is the subject of a South Carolina Court of Appeals case. has an interest in certain tangible property formerly owned by entertainer James Brown and in a settlement transferred in 2009 to the James Brown Legacy Trust in exchange for a 4.79% interest. In addition, decedent Copyright Act, 17 USC 101 et seq. (Termination Rights), which Termination rights and their proceeds were Termination interest in U.S. royalties to at least 246 U.S. Copyrights under Sections 203 and 304 of the US believes that decedent has an interest in substantial property, both real and personal, including vesting 8. As to the allegations of Paragraph 11(a) and 11(b) of Section II, this Respondent is informed and

7. Admits the allegations of Paragraph 10.

conduct the litigation in which Decedent placed herself; protect the assets for the benefit of creditors and taxing authorities; properly determine heirs, and deliver the remaining assets, if any, to heirs, should be immediately appointed and should be charged with the following tasks:

- a. To substitute for Decedent in all pending litigation and conduct said litigation for the benefit of Decedent's estate;
- b. To pay all reasonable expenses of administration of Decedent's estate, including reasonable attorneys' fees and all other costs associated with marshaling and protecting Decedent's assets;
- c. To marshal all assets of Decedent, including Termination Rights and proceeds, and all other property, real and personal;
- d. To confirm the determination of heirs of Decedent;
- e. To determine the priority of creditors and, where questions exist as to the priority among creditors, to seek guidance from the Court;
- f. After payment or provision for all taxes and expenses of administration, and claims, to distribute the assets to Decedent's properly determined heirs.

Request for Hearing at Court

17. This Respondent requests that the Court conduct a hearing at its earliest convenience.

This 28 day of JANUARY, 2019.

Respectfully submitted,

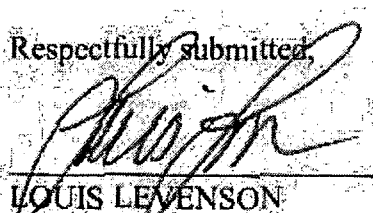

 LOUIS LEVENSON
 SC Bar No. 7395
 Levenson & Associates
 125 Broad Street, S.W.
 Atlanta, Georgia 30303
 Office: (404) 659-5000
 Fax: (404) 659-1355
 Email: louis@levensonlaw.com
 Plaintiff *Pro Se*

Exhibit - A

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF AIKEN

STATEMENT OF CREDITOR'S CLAIM

IN THE MATTER OF:
VENISHA ARMAA BROWN
(Decedent)

CASE NUMBER: 2018-ES-021137

Decedent's Date of Death (if known): SEPTEMBER 19, 2018
Decedent's Last Mailing Address: PO BOX 652, CLEARWATER, SC 29822

Creditor:	LOUIS LEVENSON
Address:	125 BROAD STREET, SW ATLANTA, GA 30303
Telephone:	(404) 659-5000
Email:	LOUIS@LEVENSONLAW.COM
Original Creditor:	LOUIS LEVENSON, ATTORNEY & LEVENSON & ASSOCIATES
Address (if different from above)	
Claim Amount Due:	\$ SEE BELOW
Account Number:	NOT APPLICABLE
Other Reference Number:	1. IN RE: STATE OF GEORGIA VS VENISHA ARMAA BROWN A/K/A VENISHA BROWN, AUGUSTA, RICHMOND COUNTY, GEORGIA (FELONY), CASE #2012RCCR01497; OFFENSE: POSSESSION OF A STOLEN VEHICLE/FELONY THEFT BY TAKING - AMOUNT DUE \$25,000.00 2. IN RE: STATE OF SOUTH CAROLINA VS VENISHA ARMAA BROWN A/K/A VENISHA BROWN, NORTH AUGUSTA, AIKEN COUNTY, SOUTH CAROLINA, PROBABLE FELONY OFFENSES: LEAVING THE SCENE OF AN ACCIDENT & FIRST-DEGREE ASSAULT AND BATTERY - AMOUNT DUE \$25,000.00 3. IN RE: ESTATE OF JAMES JOSEPH BROWN, AIKEN, SC, CASE NOS. 2007-CP-02-0122 AND 2008-CP-02-0872 - SETTLEMENT OF UNDUE INFLUENCE CLAIMS. FEES DUE ARE 30% OF \$50,000.00 FOR CLIENT.
Basis of claim (Ex: Contract, Services Rendered for decedent, etc):	ATTORNEY FEE CONTRACTS FOR LEGAL SERVICES RENDERED FOR DECEDENT IN THE CRIMINAL MATTERS OF: 1. IN RE: STATE OF GEORGIA VS VENISHA ARMAA BROWN A/K/A VENISHA BROWN, AUGUSTA, RICHMOND COUNTY, GEORGIA (FELONY), CASE #2012RCCR01497; OFFENSE: POSSESSION OF A STOLEN VEHICLE/FELONY THEFT BY TAKING 2. IN RE: STATE OF SOUTH CAROLINA VS VENISHA ARMAA BROWN A/K/A VENISHA BROWN, NORTH AUGUSTA, AIKEN COUNTY, SOUTH CAROLINA, PROBABLE FELONY OFFENSES: LEAVING THE SCENE OF AN ACCIDENT & FIRST-DEGREE ASSAULT AND BATTERY 3. CONTINGENT FEE CONTRACT - WILL CONTEST IN RE: ESTATE OF JAMES JOSEPH BROWN, AIKEN, SC, CASE NOS. 2007-CP-02-0122 AND 2008-CP-02-0872 (SEE ATTACHED)

Filed: 1-31-2019
Tonya L. Marchis
Probate Court Judge

By: Danny L. [Signature]

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE MATTER OF:
VENISHA ARMAA BROWN
(Decedent)

IN THE PROBATE COURT

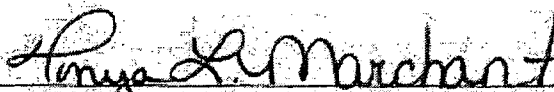
ORDER FOR APPOINTMENT OF
GUARDIAN AD LITEM (GAL)

CASE NUMBER: 2018-ES02-1137

I HEREBY APPOINT LEON GREEN, ATTORNEY AT LAW as Guardian Ad Litem to represent the interest(s) of UNKNOWN HEIRS OF LEROY FAIR, JR. in proceedings relating to the above matter. This Court has determined representation would be otherwise inadequate for the following reason(s):

- ☐ Minor (under the age of 18)
- ☐ Incapacitated Adult (alleged)
- ☐ Incapacitated Adult (adjudicated)
- ☐ Incarcerated Person (in state)
- ☐ Incarcerated Person (out of state)
- ☐ Unknown identity of heirs/devisees
- ☐ Unknown address of heirs/devisees
- ☐ Unborn heirs/devisees
- ☒ Other: UNKNOWN HEIRS OF LEROY FAIR, JR.

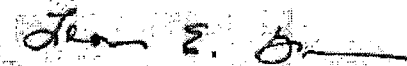
Executed this 5th day of February, 2019.


HONORABLE TONYA L. MARCHANT, Probate Court Judge

ACCEPTANCE

I agree to serve as Guardian ad Litem in this matter.

- I am: ☒ Licensed to practice law in the State of South Carolina (SC Bar No. 064116)
- ☐ Family Member (list relationship):
- ☐ Other (list relationship):

Signature: 
Print Name: LEON GREEN
Address: 223 CHESTERFIELD STREET
AIKEN, SC 29801
Telephone (Work): 803-648-2025
(Home):
(Cell):
Email:

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF AIKEN)

ORDER

IN RE: Venisha Armaa Brown)

Probate Case No. 2018-ES02-1137)

Pursuant To Code of Laws of South Carolina Section 62-1-302(d) as amended, upon this Court's Motion, this case is hereby removed to the Court of Common Pleas by Order of this Court.

IT IS SO ORDERED THIS 7th DAY OF February, 2019.


Honorable Tonya L. Marchant, Judge of Probate
Aiken County, South Carolina

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF AIKEN)

RETURN OF THE PROBATE JUDGE

IN RE: Venisha Armaa Brown)

Probate Case No. 2018-ES02-1137)

The above-entitled matter is being removed to the Aiken County Court of Common Pleas. As Probate Judge of Aiken County, South Carolina, I herewith make my return as follows:

1. Certificate of Cremation and Receipt of C. A. Sr. Memorial Funeral Home filed on October 18, 2018.
2. Georgia Death Certificate filed on November 6, 2018.
3. Correspondence from Zachary J. Moulton, Attorney At Law and Summons and Petition For Formal Appointment filed on November 6, 2018.
4. Correspondence from Zachary J. Moulton, Attorney At Law filed on November 13, 2018.
5. Correspondence from Levenson and Associates filed on December 10, 2018.
6. Demand For Notice of Adele J. Pope filed on December 12, 2018.
7. Correspondence and Answer To Petition And Request For Appointment of Personal Representative To Protect Creditors (Subject To Motion To Dismiss) filed on December 21, 2018.
8. Correspondence of Adele J. Pope, Attorney At Law filed on December 27, 2018.
9. Summons and Amended Petition For Formal Appointment filed on January 8, 2018.
10. Affidavit of Due Diligence and Motion For Service By Publication filed on January 11, 2019. Order For Publication dated January 15, 2019.
11. Memorandum to Creditor dated January 14, 2019.
12. Order For Appointment of GAL dated January 22, 2019.
13. Order For Appointment of GAL dated January 22, 2019.
14. Order For Hearing dated January 23, 2019.

15. Correspondence from Adele J. Pope, Attorney At Law filed on January 28, 2019.
16. Answer To Petition And Request For Appointment Of Personal Representative To Protect Creditors (Subject To Motion To Dismiss) Filed on January 31, 2019.
17. Order For Appointment of GAL dated February 5, 2019.


Honorable Tonya L. Marchant, Judge of Probate
Aiken County, South Carolina
February 7th, 2019

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT
	)	
COUNTY OF AIKEN	)	
	)	Case No. 2019-CP-02-
Deanna Brown Thomas,	)	
Petitioner,	)	
v.	)	Affidavit of Adele J. Pope
	)	
Estate of Venisha Armaa Brown	)	
	)	
Respondent(s)	)	
_____	)	

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

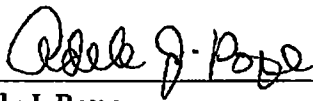
1. The Statements made in the Motion for Summary Judgment, and all filings I have made in this matter, are true and correct to the best of my knowledge.

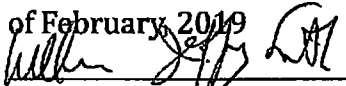
2. I am over 21 years old and, if appointed by the Court, will faithfully serve as a fiduciary of the Estate of Venisha Armaa Brown.

3. I am informed and believe the personal representative of this estate should understand S.C. probate law and its relationship to termination rights under the Federal Copyright Act because of the estate's substantial interest in termination rights.

4. I am informed and believe, as Louis Levenson, Esq., has agreed, that the Termination Rights proceeds of Venisha Brown are now held by The James Brown Legacy Trust or its successors in interest.

FURTHER DEPONENT SAYETH NOT.


Adele J. Pope

SWORN TO BEFORE ME THIS 25th Day
of February, 2019
 (LS)
Notary Public for South Carolina
My Commission Expires: 2/27/2027

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	Circuit Court Case No. 2019-CP-02-00320
	)	(Formerly Probate Court No. 2018-ES-02-1137)
Deanna Brown Thomas,	)	
Petitioner,	)	
	)	MOTION TO CORRECT CAPTION
v.	)	NAMING CREDITORS
	)	LEVENSON AND POPE AS DEFENDANTS
	)	AND
Estate of Venisha Armaa Brown	)	RESPONSE TO MOTION TO WITHDRAW
	)	AND REQUEST FOR
Respondent(s)	)	EXPEDITED HEARING TO APPOINT
	)	PERSONAL REPRESENTATIVE

TO: PETITIONER, AND HER COUNSEL AND LOUIS LEVENSON, ESQ.:

Responding to the MOTION TO WITHDRAW AS COUNSEL OF RECORD WITHOUT SUBSTITUTION, of Zachary Moulton, Esq., dated February 28, 2019, Defendant Adele J.

Pope respectfully requests that this Court take the following, expedited action:

1. Conduct a hearing to determine why Plaintiff advised Zachary J. Moulton, Esquire in November 2018 that Venisha Brown died on September 19, with little or no assets; allowed him to make that representation to the Probate Court for Aiken County; then allowed her Copyright Counsel, Douglas Fretty, Esq., to present to the Honorable Michelle Childs, U.S. District Court, the innocently-sent letter of Mr. Moulton to the Probate Court in an effort to secure Plaintiff's substitution for Venisha in U. S. District Court, when both Plaintiff and counsel Fretty had actual knowledge that a representation that Venisha Brown died with little or no assets was incorrect.
2. Find that Mr. Moulton correctly sought to be relieved as counsel after gaining

knowledge from Louis Levenson, Esq., and the undersigned that, in fact, Venisha Brown, at her death had an interest in a Rolls Royce and thousand of items of Tangible Personal Property formerly owned by her father, James Brown, which Venisha had assigned to the James Brown Legacy Trust on or before January 30, 2009.

3. Find that at her death Venisha Brown, by virtue of representation of creditor Louis Levenson, Esq., had secured on August 10, 2008, and by Amendment of January 30, 2008, a 4.79% interest in The James Brown Legacy Trust, which Trust is, at this time, the legal and/or equitable owner of the following assets:

1. The Rolls Royce and thousands of items of Tangible Personal Property shown on a 2019 filing in Aiken County Case No. 2008-CP-02-1647;
2. A right to all of the vested Termination Rights proceeds of Tommie Rae Brown, Venisha Brown, Deanna Brown, Tonya Brown, Yamma Brown, Terry Brown and others in the U.S. royalties to 246 copyrights, as noticed by Venisha and others in 2016 and filed in the U.S. Copyright Office in 2018, prior to her death, and payable between 2018 and 2026.
3. All of the remaining interest of the "Beneficiary Plaintiffs" named in the Complaint in Richland County Case No. 2010-CP-40-4900 in all Termination Rights proceeds, including those which are not yet vested.

4. Find that the August 2008 settlement secured by Mr. Levenson for Venisha Brown (Venisha) dismembered James Brown's Estate Plan, but was extremely beneficial to Venisha, and particularly her Estate as a result of her early death, and that Venisha's Estate, if properly administered, will continue to have at least a 4.79% interest in the U. S. Copyright royalties, proceeds of the Termination Rights of Tommie Rae, Deanna and others, despite her death on September 19, 2018, which Termination

Rights of all heirs of Venisha's father, according to Venisha's Richland 4900 expert Brad Sharp, relying on Venisha's Richland 4900 expert Roger Miller, valued at \$8.8 Million dollars in testimony given in 2018.

5. Find that Mr. Moulton's representation that Venisha had little or no assets at death, and the use of Mr. Moulton's statement by others, has had far-reaching effects, requiring a hearing and Mr. Moulton's brief testimony both to clear his name and to clarify the irreconcilable conflicts which prevent Plaintiff from serving as Personal Representative (PR) for Venisha.

6. Find that more than \$3 million of claims have been filed against Venisha's Estate; all potential heirs related to Venisha through her father other than Deanna Thomas had actual knowledge of Venisha's death and failed to seek appointment; Plaintiff should not serve as PR; and Pope, who understands Termination Rights, the duties of a Creditor/PR with respect to the Court, other Creditors, Taxing Authorities and heirs, either alone or with creditor Louis Levenson, Esq., if he consents, should be appointed immediately as PRs of Venisha's Estate, subject to the terms requested by this Defendant.

7. Direct that the caption of this Case be changed to correctly reflect its status, as follows:

Deanna Brown Thomas, Plaintiff, vs. Louis Levenson, Esq., and Adele J. Pope, Defendants.

8. Find that the only legally certain heirs of Venisha under South Carolina law are the currently-unidentified legitimate issue of Leroy Fair, Jr., deceased; that

Venisha's sworn statements, and statements made on her behalf, with respect to heirs on her natural father's side have been conflicting and have overlapped with the different determination of heirs of her father under the U.S. Copyright Act; and a proper investigation of Venisha's heirs under South Carolina law should be undertaken by her PR.

This motion is based on the South Carolina Probate Code, U.S. Copyright Act, the Motion for Summary Judgment filed by the undersigned herein on February 27, 2019; the proposed contract of Toberoff filed herewith; and the Affidavit of Adele J. Pope which supports the Motion for Summary Judgment. It is also based on the following facts:

- a. In January 2009, Venisha, Deanna and others engaged Louis Levenson, Esq. (Levenson) and agreed to pay him \$150,000 and 30% of what he could secure for them from assets of their deceased father.
- b. On December 26, 2007 Levenson filed suit for Venisha and others against the Estate of her father.
- c. On August 10, 2008 Venisha and others, through Levenson, reached a settlement with Tommie Rae Brown (Tommie Rae), her son James B., and others which they agreed would be binding on all individual "Beneficiary Plaintiffs" of the James Brown Legacy Trust, whether or not approved by a Court.
- d. Venisha, Plaintiff and others agreed in August 2008 to stipulate that Tommie Rae was James Brown's surviving spouse "for all purposes" even though they had actual knowledge that she was married, lived with her husband; and was possibly pregnant before meeting Brown; concealing her marriage; and conducting a marriage ceremony with him.
- e. Venisha, Plaintiff and others agreed with Tommie Rae to irrevocably place their Termination Rights proceeds and other assets in the James Brown Legacy Trust as a collective investment vehicle in order to minimize Termination Rights proceeds which might be payable to James Brown's real DNA-proven heirs under the U.S. Copyright Act, including but not limited to LaRhonda Pettit, Jeanette Mitchell, and Michael Deon Brown.

f. By January 30, 2009 Terry Brown had joined the August 2008 settlement; Venisha's interest in the James Brown Legacy Trust had been reduced from 5% to 4.79%; and Venisha and all other individual Beneficiary Plaintiffs of the James Brown Legacy Trust had irrevocably assigned their interest in Brown's Rolls Royce and many additional items of Tangible Personal Property to Russell Bauknight (Bauknight),

g. Concealing that he was already trustee of the James Brown Legacy Trust, Bauknight, acting as an "independent" SA/ST, urged the Circuit Court to approve the 2008 Settlement, with Terry as a party.

h.. To induce the Aiken Circuit Court to approve the 2008 Settlement, Tommie Rae represented to the Court that Termination Rights were purely a federal matters, which was false. This representation, while false, benefitted Venisha.

i. In April 2009 Bauknight confirmed under oath that if the Aiken Court approved the AG's settlement and he were appointed PR/Trustee under Brown's will and 2000 Trust, he would be loyal to the James Brown Legacy Trust – and not to Brown's Will and 2000 Trust.

j. On May 26, 2009 the Aiken Court approved the settlement, but that approval was not necessary for Venisha's Estate, today, to have the benefit of her binding August 2008 Agreement with Tommie Rae, Deanna and others.

k. From and after May 26, 2009 Venisha was repeatedly incarcerated and institutionalized, but Levenson and Deanna continued to act on her behalf, even though neither had a valid power of attorney to act for her, and both had actual knowledge that, although competent, she was a vulnerable adult as defined in the South Carolina Code.

l. In an August 2009 hearing, when Bauknight, the Attorney General and Tommie Rae began to make vicious, false attacks on Robert Buchanan, Jr., (Buchanan) and Pope, Levenson, for Venisha and others, urged moderation. But that was soon abandoned.

m. Between August 2009 and September 2010, for Venisha, Deanna and others, Levenson condoned and supported a proposal by Tommie Rae and Bauknight, aided by Peter Afterman, to devalue Brown's music empire by \$79 million in IRS filings to discredit "Bobadele" and, by getting away with it, shifting nearly 1/3 of the "I Feel Good" Charity's assets out of Brown's "I Feel Good" Charity and into a trust for family members if they lost the appeal being taken by Buchanan and Pope of the settlement.

n. In March 2010, with knowledge that there was no basis to sue Buchanan and Pope, Levenson, for Venisha, Deanna and others, joined in threats by Tommie Rae's advisors to sue Buchanan and Pope if they did not drop the appeal which became *Wilson v. Dallas*.

o. In May 2010, in direct violation of ethical rules, Levenson committed Venisha to a contract to pay Sweeny, Wingate and Barrow, PA, (SWB) a share of the costs incurred and her share of a 40% contingency fees in a suit Tommie Rae's counsel and AG Sonny Jones proposed to bring against Buchanan and Pope.

p. On information and belief, the claimed SWB contract with Venisha is void: Venisha does not owe any fee or costs, or portion thereof, to SWB or her father's estate; and if any is found due, it must be taken out of the Levenson contingency fee, which can only be paid after issues related to the Legacy Trust's lawsuit hereafter discussed are resolved.

q. On May 19, 2010, SWB filed a frivolous suit against Buchanan and Pope, Richland County Case 2010-CP-40-4900 (Richland 4900) in Venisha's name even though Venisha did not authorize the contingency fee contract or the use of her name as a Plaintiff, and Levenson lacked legal authority to expose Venisha to a 40% contingency fee; a 4.79% commitment to pay costs to SWB; or the counterclaims of Buchanan and Pope.

r. From May 2010 until Venisha's death, SWB, Deanna and Levenson continued their pursuit of Richland 4900 on Venisha's behalf with knowledge, as defined in the S.C. Trust Code, that its continuation was detrimental to Venisha, and their damage to Venisha was exacerbated by their blatant refusal to allow a GAL to be appointed for Venisha. They even allowed SWB to reject a settlement beneficial to Venisha which would have ended her involvement in Richland 4900 and helped provide Venisha with the care and help she needed in 2012.

s. Since 2011, acting for Venisha, SWB, Levenson, Bauknight and Deanna, have increased the damage they caused Buchanan and Pope by falsely accusing them of overstating the value of Brown's music empire by nearly \$80 million to secure at \$5 million commission on what they claim was Brown's \$5 million estate.

t. In addition, Bauknight reported Venisha's interest in Brown's Rolls Royce and other Tangible Personal Property at zero, or near zero, in IRS filings, and failed to file other proper income tax returns for her father's estate, and he should be liable for any loss incurred by Venisha's estate by these error and omissions, in addition to his attempts to dissolve the James Brown Legacy Trust and allowing Tommie Rae to be paid \$1 million with no accounting to the Legacy Trust beneficiaries.

u. In 2011, Deanna and Levenson condoned the planting by Forlando of a false narrative about the Grammy© with an Atlanta law firm, although BOTH had actual knowledge that the story was false because both were present at the July 17, 2008 Christie's sale where Buchanan and Pope properly withdrew the Grammy©, which had been properly placed in the sale, with Levenson present, and despite urging of Christie's counsel to leave it in the sale. Buchanan and Pope properly did so to avoid a \$5,000 legal fee to defend a proper sale of a \$20,000 item.

v. Both Deanna and Levenson had actual knowledge of the false filings and other dirty tricks of Forlando and his counsel, David Bell, Esq., but went along with the false story, to the detriment of Venisha, Buchanan and Pope.

w. In 2011, without Venisha's knowledge or consent, SWB moved on Venisha's behalf to intervene in a FOIA suit to prevent public release of the improper SWB contract, and thereafter Bauknight moved to intervene in other FOIA suits.

x. On November 1, 2011, Venisha, through Levenson, supported Bauknight's claims to the Supreme Court, through counsel, that Tommie Rae's elective share claim was a "slamdunk;" that Brown's estate and 2000 Trust had no corpus to speak of; that if the AG's settlement were not approved there would be nothing in the "I Feel Good" Charity by 2023; and that Tommie Rae and her son controlled the Termination Rights.

y. In 2012 Venisha was involved in the event which resulted in a \$2.4 million tort default judgment against her in Georgia, which has now been enrolled in South Carolina, the circumstances of which must be investigated by Venisha's Estate, based on the filed creditor's claim. No person acting on behalf of this creditor has sought appointment as PR of Venisha's Estate.

z. In 2012 Bauknight began trying to intervene in a journalist's FOIA suit to prevent release of Tommie Rae's handwritten notes confirming she was not Brown's spouse; and did so while acting as agent for Venisha.

aa. In 2012 SWB committed Venisha to pay 4.79% of a settlement with Buchanan the terms of which settlement other than the \$500,000 payment to Buchanan from the Estate of James Brown, on information and belief, should be declared void.

bb. In 2012, Deanna and Levenson, through SWB moved to strike an offer of judgment by Pope to Venisha in Richland 4900 which would have ended her participation in the frivolous Richland 4900 without damage to her.

cc. In October 2012 Levenson attended a court-ordered mediation as Venisha's representative; did not act in her interest; and worked not to have a GAL appointed

for her.

dd. On May 8, 2013, the Supreme Court in *Wilson v. Dallas* voided the 2008 Agreement as it relates to the AG; voided Bauknight's appointments under Brown's Will and 2000 Trust; but did not disturb the James Brown Legacy Trust. By 2016 Tommie Rae's lawyer claimed to the Aiken Circuit Court that the Legacy Trust still exists, and that Bauknight should be knighted for his service to Tommie Rae and its other beneficiaries.

ee. Since May 2013 Bauknight, at times, has claimed that the James Brown Legacy Trust does not exist, but at the same time has spent more than ten million dollars on a dozen lawyers he hired, and numerous others, to try to damage Buchanan and Pope in order to keep Tommie Rae and the AG in 75% control of the James Brown assets.

ff. On May 10, 2013 the AG, Venisha, Tommie Rae and others Beneficiary Plaintiffs of the James Brown Legacy Trust asked the Richland Circuit Court to stay Richland 4900 until the Aiken Court concluded all James Brown matters.

gg. On May 29, 2013, just after the remittitur was handed down in *Wilson v. Dallas*, Levenson and Alan Medlin, Esq., counsel for Tommie Rae, announced in open court to Judge Early (the "Aiken Court") their intention to ignore the Supreme Court's decision in *Wilson v. Dallas* and reinstate the 2008 settlement which dismembered James Brown's estate plan. Levenson and Tommie Rae joined Bauknight in urging the Aiken Court to exclude Buchanan and Pope from any James Brown cases.

hh. In administrative orders issued on June 13, 2013 the Aiken Court, as requested by Tommie Rae, Levenson and Bauknight, excluded Buchanan and Pope from any participation in James Brown cases except their own claim cases and directed the Clerk of Court not to accept, and to return, any documents filed by Buchanan or Pope in any case except their own claims cases. Despite this, the Aiken Court "double approved" all of Buchanan's service, which was joint with Pope at all times; found he should keep all funds paid; and left open the possibility of his re-entry into Richland 4900.

ii From 2013 until 2018 Buchanan and Pope were excluded by the Aiken Court from any participation – even as witnesses and experts -- in the announced second dismembering of Brown's estate plan, as set out to Judge Early in open court jointly by counsel for Tommie Rae and Levenson for Deanna Venisha and others on May 29, 2013, and from the real and fabricated extreme discord they had (and pretended to have) in multiple courts while spending tens of millions of dollars of James Brown's fortune.

jj. On information and belief, the goal of Bauknight, Tommie Rae and Levenson was to continue to denigrate and discredit Buchanan and Pope; prevent release of the documents which showed there was no basis for their settlement; and waste so much of Brown's "I Feel Good" Charity that it would appear necessary to approve another settlement which dismembered Brown's estate plan.

kk. Among the mandates of *Wilson v. Dallas* which Tommie Rae and the Levenson clients ignored, with the blessing of the Aiken Court, was the mandate to review all of the expenses incurred in relation to the 4-year effort to dismember Brown's estate plan, and Buchanan's and Pope's efforts to defend the estate plan.

ll. Buchanan and Pope, with their counsel, properly reported all of their fees and costs, while Bauknight has never properly accounted for what he now confirms are expenditures of tens of millions of dollars since 2007 from Brown's "I Feel Good" Charity.

mm. Bauknight has never filed a proper accounting, and has not filed any accounting since 2016, despite his 2018 admission to a Federal Court that tens of millions of dollars have been spent from James Brown's "I Feel Good" Charity in litigation costs since 2007.

nn. During the 4 years (2009 – 2013) when the stay was lifted, Bauknight was responsible to Venisha and the Legacy Trust beneficiaries to account for at least \$16 million which came in, but never did, and now claims it does not exist.

oo. On July 25, 2013, Toberoff & Associates, P.C. (Toberoff), according to a filing by Tommie Rae in U.S. District Court Case No. 1:18-cv-02191-JMC, made a proposal to engage Tommie Rae, Venisha, Deanna and others in which he proposed to take 40% of the gross sums from Venisha's and others' "rights and claims in and to the intellectual property of James Brown, including without limitation, the exercise and Enforcement of Clients' recapture or termination rights under 17 U.S.C. § 304 (c) and § 203(a), copyrights to both musical compositions and master recordings, trademarks and right of publicity (collectively, the "claims"), and to pay a portion of that to Levenson. The Toberoff proposal is attached to this filing.

pp. Levenson and Deanna, on information and belief, purported to –but could not – bind Venisha to the Toberoff contract because Venisha, like Deanna, had already placed the rights she attempted to assign to Toberoff in the James Brown Legacy Trust, and neither had legal authority to act for Venisha.

qq. In July 2013 Bauknight filed an *ex parte* an ethics opinion which the Aiken Court stated gave it comfort about potential conflicts of Bauknight. The Aiken Court and

Bauknight refused to disclose its contents.

rr. In August 2013, Peter Afterman, despite being paid hundreds of thousands of dollars by Bauknight (from Brown's "I Feel Good" Charity) for his work since 2009 to secure assets for the James Brown Legacy Trust, filed Termination Notices in an effort to help Tommie Rae and James B. siphon off U.S. royalties to more than 100 copyrights between 2013 and 2026 for Brown's heirs – including those who had just announced their intention on May 29, 2013 to disregard *Wilson v. Dallas*.

ss. By then, Bauknight was simultaneously claiming the James Brown Legacy Trust did not exist in FOIA cases, and continuing to pursue Richland 4900 for the benefit of the James Brown Legacy Trust and its "Beneficiary Plaintiffs," Tommie Rae 23.75%, the AG's (New) Charity, 47.5%, Venisha, 4.79% and others.

tt. In September 2013, a letter in which Toberoff protested that Peter Afterman had a direct conflict of interest in being the Estate's representative while helping Tommie Rae and James B. siphon of royalties, was filed with the Aiken Court.

uu. In September 2013 the Aiken Court appointed Bauknight PR under Brown's Will after a "hearing" in which only the Aiken Court was allowed to ask questions. The Aiken Court failed to question Bauknight, who praised Afterman, about his siphoning off of royalties from the "I Feel Good" Charity for Tommie Rae. The Aiken Court accepted, for example, without question Bauknight incorrect statement that he had reduced the TIAA debt from \$14 million to zero. In fact, the TIAA debt was only \$11.3 million, with an approximate \$2 million escrow to be applied to the last payment, when Bauknight accepted his VOID appointment as PR/Trustee on May 26, 2009.

vv. With knowledge of Afterman's actions, Deanna nominated Bauknight as PR/Trustee.

ww. By October 2013 the Aiken Court had appointed David Sojourner, Esq., a tax lawyer who does not like to be involved in litigation, to defend the estate plan and the estate against Tommie Rae and James B.

xx. Over the next 18 months, Sojourner refused Pope's *pro bono publico* offer to help him understand Termination Rights; took one deposition; charged (with his law partner) nearly \$1.4 million; and allowed Tommie Rae to be declared Brown's spouse on summary judgment without even proffering her handwritten admissions that she was married; living with her husband; and possibly pregnant before her ceremony with Brown.

yy. After allowing Sojourner not to proffer the handwritten notes, which they

should have presented, Deanna and Yamma Brown fired Levenson and hired Toberoff, who later filed a Federal Court in 2018 to reverse their positions and claim that it was Sojourner's fault alone that Tommie Rae was declared to be Brown's spouse.

zz. On information and belief, the Federal lawsuit was solely intended to deprive the South Carolina State Court, in the appeals from Richland 4900, of the jurisdiction the Richland County Court has had over the Termination Rights proceeds of Venisha, Tommie Rae and others since 2010. This is important because Tommie Rae and James B. now claim to be residents of London, UK, and beyond the jurisdiction of South Carolina Courts, but the South Carolina Court of Appeals now has jurisdiction over the Termination Rights proceeds they assigned to the James Brown Legacy Trust, and left behind.

aaa. Neither the claimed Toberoff engagement nor the Federal Suit has provided any benefit to Venisha comparable to that which she will have through: a reasonable settlement with Levenson; a reasonable settlement with Pope; voiding any claimed contract with Toberoff; assessing the Campbell default judgment and acting accordingly; securing the assets which have not been accounted for in the James Brown Legacy Trust, and holding the now-missing Tommie Rae and James B., with Deanna and others, to their contract to pay at least 4.79% of the Termination Rights proceeds to Venisha's estate through the Legacy Trust.

bbb. With no objection by Bauknight, Tommie Rae was already paid \$1,875,000 in 2015 which should have gone to the James Brown Legacy Trust, and in 2016 the Aiken Court awarded James B.'s lawyer and GAL \$700,000 in legal and GAL fees that have damaged Venisha's Estate, and as to which, on information and belief, she did not give valid consent.

Conclusion

The Court should set a hearing at its earliest convenience; take Mr. Moulton's brief testimony; correct the caption; release Mr. Moulton after his sworn testimony clarifies his lack of participation in attempt to persuade the State and Federal Courts that Venisha's Estate little or no assets; and immediately grant the relief set out in this Defendant's Motion for Summary Judgment filed February 27, 2019.

March 1, 2019

Respectfully submitted,
s/ Adele J. Pope
Adele J. Pope
1228 Walnut Street
Newberry, SC 29108
(803) 413-0753
S.C. Bar No. 4501
adele@popelawfirm.com
Defendant *Pro Se*

CERTIFICATION

I certify that I have consulted with opposing counsel about the above motion or that such consultation would serve no useful purpose.

s/ Adele J. Pope

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. 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 children Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown,

and

ALAN WILSON, in his capacity as Attorney General of the State of South Carolina; TOMMIE RAE BROWN, individually and on behalf of her minor child, JAMES B. 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 children SYDNEY L. and CARRINGTON L.; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs,

v.

Adele J. Pope,

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No. 2010-CP-40-4900

**[Appellate Case Nos.
2017-001899 and 2018-002229]**

**ORDER DENYING DEFENDANT'S
MOTIONS TO LIFT STAY PURSUANT
TO RULE 241, SCACR, AND DENYING
PLAINTIFFS' MOTIONS TO STRIKE
DEFENDANT'S MOTIONS TO LIFT
STAY, ALL IN CONNECTION WITH
APPELLATE CASE NOS.
2017-001899 AND 2018-002229**

These matters came before the Court pursuant to Defendant's motion to lift automatic stay pursuant to Rule 241, SCACR, filed on October 30, 2018, in this Court in connection with

Appellate Case No. 2017-001899, and pursuant to a separate motion of Defendant to lift automatic stay pursuant to Rule 241, SCACR, filed on January 22, 2019, in this Court in connection with Appellate Case No. 2018-002229. For the reasons set forth herein, the Defendant's motions are DENIED.

In connection with Defendant's motion to lift stay filed on October 30, 2018 (re: Defendant's appeal of five (5) Orders in Appellate Case No. 2017-001899), the following were filed in this Court:

1. [Defendant's] Supplemental Motion for Order for Limited Lifting of Stay (filed on October 30, 2018)
2. [Plaintiffs'] Motion to Strike Adele J. Pope's Supplemental Motion for Order for Limited Lifting of Stay (filed on November 9, 2018)
3. [Plaintiffs'] Return to Adele J. Pope's Supplemental Motion for Order for Limited Lifting of Stay (filed on November 9, 2018)
4. [Defendant's] Return of Appellant to Motion of Attorney General and Other Respondents to Strike Motion to Lift Stay (filed on November 20, 2018)
5. Plaintiffs' Reply to Pope's Return to Motion to Strike Pope's Supplemental Motion for Order for Limited Lifting of Stay (filed on November 29, 2018)
6. [Defendant's] Supplemental Memorandum in Support of Lifting Stay (filed on December 6, 2018)
7. [Defendant's] Affidavit in Support of Supplemental Motion to Lift Stay for Limited Purposes (filed on December 17, 2018)

In connection with Defendant's separate motion to lift stay filed on January 22, 2019 (re: Defendant's appeal of twenty-five (25) Orders in Appellate Case No. 2018-002229), the following were filed in this Court:

1. Pope's Petition for Order Lifting Stay (filed on January 22, 2019)
2. [Plaintiffs'] Motion to Strike Adele J. Pope's Petition for Order Lifting Stay (filed on February 1, 2019)
3. [Plaintiffs'] Return to Adele J. Pope's Petition for Order Lifting Stay (filed on February 1, 2019)

4. [Pope's] Return and Opposition to Motion to Strike Petition to Lift Stay (filed on February 6, 2019)
5. [Pope's] Reply to Return by SWB to Motion of Appellant to Lift Stay (filed on February 6, 2019)

A hearing was held on these matters on February 7, 2019. Attorney Adam T. Silvernail was present for the Defendant, and attorneys Kenneth B. Wingate and Paul D. Kent were present for the Plaintiffs.

Upon consideration of the pleadings and the arguments of counsel for the parties, I make the following findings of fact and conclusions of law:

a. "As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, decree or decision." Rule 241(a), SCACR. "After the service of the notice of appeal, any party may move for an order lifting the stay in cases which involve the general rule." Rule 241(c)(1), SCACR. "In determining whether an order should issue pursuant to this Rule, the lower court . . . should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." Rule 241(c)(2), SCACR.

b. In Defendant's motions and related pleadings, and except for the routine procedural substitution of a party in connection with the recent death of Venisha Brown, Defendant is moving this Court¹ to lift the stay so that this Court will take actions she has listed and numbered as 2-16

¹ A year prior to Defendant's filing of the 2 motions to lift stay currently before this Court, Defendant filed a motion to lift stay on October 24, 2017, pursuant to Rule 241, SCACR, and therein requested an expedited hearing and Order lifting the stay. Defendant subsequently filed an Affidavit of Adele Pope on November 8, 2017. Plaintiffs (Respondents in Appellate Case No. 2017-001899) filed a Memorandum of Law in Opposition to Motion to Lift Stay on November 13, 2017. Defendant filed a document entitled "Appellant's Reply to Respondents' Memorandum in Opposition to Lifting Stay" on November 13, 2017. A hearing was held on November 14, 2017. This Court denied Defendant's motion to lift stay pursuant to an Order Denying Defendant's Motion to Lift Stay While on Appeal (dated December 6, 2017, and filed on December 8, 2017).

on pages 2-5 of her motion to lift stay filed on October 30, 2018. Those actions are sought solely for the benefit of Pope's litigation strategies, and they are in no way necessary in this case ("Case 4900") to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.

c. Defendant's request for seeking an order lifting the automatic stay is primarily for the Court to take specific action in connection with many of the parties' assets. Defendant has requested that certain assets of many of the parties be marshaled and secured, enjoined from transfer, frozen, and (regarding Venisha Brown's estate) marshaled and secured by a receiver. In connection with that specific action, she has requested (1) the appointment of a Guardian ad Litem for a party, (2) the addition of a party to Case 4900, (3) an accounting by the Personal Representative of the Estate of James Brown, (4) that the Court poll certain parties to determine if they ratify action taken for them, (5) that the Court determine the successors in interest to the James Brown Legacy Trust, and (6) that a transfer to a party be enjoined.

d. Pursuant to this Court's Order dated June 23, 2017 (filed on July 8, 2017), Defendant's counterclaims have been barred by collateral estoppel based on the Supreme Court's holding in *Wilson v. Dallas*, and the Plaintiff's motion for summary judgment as to Defendant's counterclaims was granted. This Court filed on November 26, 2018, an Order Denying Defendant/Counter-Claim Plaintiff's Motion to Alter, Amend, Reconsider and/or Vacate Order Granting Plaintiffs' Motion for Summary Judgment.

e. Defendant's stated reason for her motions to lift stay is to seek this Court's assistance in freezing "funds that may be needed to fund [Defendant]'s counterclaims." Defendant's motion to lift stay filed on October 30, 2018, at p. 19. Though Defendant's counterclaims are barred by collateral estoppel and summary judgment has been granted in favor of the Plaintiffs as to Defendant's counterclaims (*supra*), she has stated to this Court: "They [the

Plaintiffs] seek to deprive the Court of jurisdiction over their persons and over the millions of dollars of distributions and payments which are lower priority than [Defendant's] counterclaims against them. Defendant's motion to lift stay filed on October 30, 2018, at p. 19. The only conclusion to be drawn is that Defendant clearly believes that her now dismissed counterclaims are valued at millions of dollars.

f. Defendant has not presented any facts or issues that demonstrate to the Court that lifting the stay is necessary to preserve jurisdiction of the appeal or that lifting the stay is necessary to prevent a contested issue from becoming moot. Therefore, this Court finds that there is no basis for lifting of the automatic stay pursuant to Defendant's motions.

g. In connection with Defendant's motions to lift stay, Plaintiffs moved the Court to strike Defendant's motions to lift stay and Defendant's pleadings of Pope entitled:

- A. Return of Appellant to Motion of Attorney General and Other Respondents to Strike Motion to Lift Stay (filed on November 20, 2018)
- B. Supplemental Memorandum in Support of Lifting Stay (filed on December 6, 2018)
- C. Affidavit in Support of Supplemental Motion to Lift Stay for Limited Purposes (filed on December 17, 2018)

Plaintiffs argued the basis for striking these pleadings, but in exercising my discretion, I deny the Plaintiffs' motions to strike.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant's motions to lift the automatic stay during appeal are DENIED, and Plaintiffs' motions to strike are DENIED.

IT IS SO ORDERED.

_____, 2019

Doyet A. Early, III
Presiding Judge



Richland Common Pleas

Case Caption: Russell Bauknight , plaintiff, et al vs Adele J Pope , defendant, et al

Case Number: 2010CP4004900

Type: Order/Lift Automatic Stay

So Ordered

s/D.A. Early III 2136

Electronically signed on 2019-02-26 08:42:48 page 6 of 6

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

RECEIVED

JUN 18 2019

SC Court of Appeals

Appellate Case No. 2018-002229

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, and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is Appellant.

CERTIFICATE OF SERVICE OF APPENDIX TO REPLIES TO
RETURNS TO MOTIONS TO STRIKE

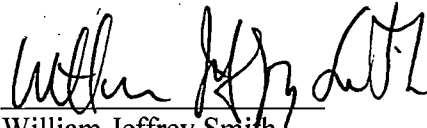
I certify that on June 18, 2019 I have served the **OF APPENDIX TO REPLIES TO RETURNS TO MOTIONS TO STRIKE** by hand delivery on counsel listed below:

Alan Wilson
Attorney General
Robert D. Cook
Solicitor General
J. Emory Smith, Jr., Esquire
Deputy Solicitor General
Office of the Attorney General
1000 Assembly Street
Columbia, South Carolina 29201

Kenneth B. Wingate, Esquire
Mark V. Gende, Esquire
Sweeny, Wingate, and Barrow, P.A.
1515 Lady Street
Columbia, SC 29201

Charles E. Carpenter, Jr.
Carpenter Appeals & Trial Support, LLC
4825 Portobello Rd.
Columbia, SC 29206
Telephone: (803) 758-2886
charlie@carpenterappeals.com
SC Bar No. 1133

Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 7995
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernaillawfirm.com
SC Bar No. 80219


William Jeffrey Smith
1216 Crenshaw Street
Newberry, SC 29108
Telephone: (803) 597-0209
Email: wjstv@mindspring.com
SC Bar No. 0005225

Daryl L. Williams
Gertz & Moore, LLP
1416 Laurel Street (29201)
Post Office Box 456
Columbia, SC 29202
SC Bar No. 6121

Attorneys for the Appellant