

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas  
The Honorable Doyet A. Early, III Circuit Court Judge

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Appellate Case No. 2019-000362

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**RECEIVED**  
OCT 21 2019  
SC Court of Appeals

Adele J. Pope, Appellant

v.

Estate of James Brown and The James Brown 2000 Irrevocable Trust, Defendants

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**APPELLANT'S RETURN AND MEMORANDUM OPPOSING RESPONDENTS'  
MOTION TO STRIKE INITIAL BRIEF AND DESIGNATION OF MATTER TO THE  
RECORD ON APPEAL**

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Appellant Adele J. Pope ("Appellant") opposes Respondents' Motion to Strike her Initial Brief and Designation of matter. The grounds for her opposition are set out below.

**Summary of Objections to Respondents' Motion to Strike Brief and Designations**

In January 2019, after a lengthy non-jury trial, the circuit court issued its ruling in this 2013 case (Aiken 1337). Aiken 1337 relates to Appellant's share of a joint 2009 claim presented to Respondents by Robert L. Buchanan, Jr. and Appellant for payment for their past and future services to the estate and 2000 Trust of entertainer James Brown. Those services ended on May 8, 2013.

The voluminous lower court record was substantially expanded before trial began in 2017

by action of Respondents, the Attorney General and others in discovery matters; a mediation consolidated *sua sponte* by the circuit court<sup>1</sup> with mediation in Richland County Case 2010-CP-40-4900 (Richland 4900), a case which has fifteen parties who are not parties to Aiken 1337. It was further expanded by two separate attempts of Respondents to consolidate discovery<sup>2</sup> in Aiken 1337 with discovery in Richland 4900, which, in turn, had already been consolidated with a 2011 FOIA case.

By the time Appellant made her second partial summary judgment motion in 2017, more than twenty-five depositions and scores of affidavits and documents were before the lower court for consideration.

The trial transcript is nearly 3000 pages long, and the trial record contains testimony and documents of more than twenty-five witnesses and experts, including the Governor, the Attorney General, the Solicitor General and others.

This is an appeal of the circuit court's final order holding that Buchanan and Appellant are not entitled to any pay except their 2007 SA fees. It is also an appeal of various other orders and rulings of the circuit court since 2013.

The October 2019 motion of Respondents to strike is a transparent attempt to delay the Court's consideration of this appeal and restrict the proper record before the Court. The motion to strike should be denied and assessed for what it is: a continuation of the long pattern of Respondents, through Bauknight, to prevent a fair review of Appellant's claim for services to the estate and 2000 Trust of James Brown.

#### **Summary of the Record Presented to the Aiken 1337 Lower Court**

In July 2009 Buchanan and Appellant timely filed a claim for their past and future

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<sup>1</sup> See Exhibit C to the Notice of Appeal on file herein, (joint) Order Directing Mediation.

services to the estate and 2000 Trust of entertainer James Brown.<sup>3</sup>

On May 8, 2013 the Supreme Court issued its final decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). The Supreme Court voided Bauknight's appointment as PR/Trustee and voided a 2008 settlement brokered by the Attorney General, finding it a dismemberment of James Brown's estate plan. The Court did not specifically address Bauknight's role as trustee of the James Brown Legacy Trust. (Legacy Trust).

On May 10, 2013 Bauknight was reinstated as Brown's fiduciary by the Attorney General, Tommie Rae Hynie Brown (Tommie Rae), and other beneficiaries of the Legacy Trust.

At a status hearing on May 29, 2013 Tommie Rae and a majority of the Legacy Trust beneficiaries announced to Judge Early their intention to disregard the Supreme Court's decision in *Wilson* and reinstate the Attorney General's 2008 settlement. With Bauknight, they asked the circuit court to prevent Buchanan and Pope from participating in James Brown cases.<sup>4</sup>

After the May 29 hearing, Bauknight, through William Newsome, Esq., later trial counsel in Aiken 1337, served Appellant with the disallowance and notice of impending bar. By serving the Notice of Disallowance on Appellant, *Respondents* forced Appellant to commence this action within 30 days or to have all of her claim to be paid forever barred.<sup>5</sup>

On June 10, 2013 Appellant filed Aiken 1337, which consists of a lengthy complaint

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<sup>2</sup> See **Exhibits A and B, Orders dtd. 2/6/17 and 7/15/17, attached hereto.**

<sup>3</sup> The joint claim was supported by affidavits and an accounting showing the delivery of more than \$99 million in assets to Bauknight as successor PR/Trustee. More than 200 pages of documentation confirmed that they had brought in over \$7.8 million in 18 months; defeated about \$34 million in claims against Brown's estate; and reduced Brown's debt to the New York Teachers Assn. (TIAA) to about \$11.3 million (with a \$2 million escrow to be applied to the final payment). The record also included a receipt signed by Bauknight which described the contents of 145 boxes of documents deliver to him immediately after he was appointed successor PR/Trustee.

<sup>4</sup> **See Exhibit C, Trial Transcript pp. 335-338; 2300-2302.**

<sup>5</sup> **See Exhibit D, Notice of Disallowance, dated May 29, 2013.**

describing the service of Buchanan and Pope, including between 2009 and 2013, and a petition for allowance of the claim. The case was removed to circuit court, and remained with Judge Early until its conclusion.<sup>6</sup>

On June 13, 2013 the circuit court directed that Aiken 1337 be assigned a separate number, raising issues about what would be the record in Aiken 1337.<sup>7</sup> A direction by the circuit court in the June 13 orders that Buchanan and Appellant not be allowed to participate in any James Brown case except their own fee claims raised questions about the record the circuit court would consider in Aiken 1337.

At Appellant's request, the circuit court took broad judicial notice of all James Brown matters.<sup>8</sup>

In 2015 the circuit court provided the Supreme Court with a status report of the numerous James Brown cases, including those from which Appellant and Buchanan had been excluded by the June 2013 orders. The circuit court affirmed that it had approved Buchanan's payment of his full SA fee; a partial PR/Trustee fee paid before May 26, 2009; and \$500,000.00 paid in 2012. The circuit court's status report, however, contained various errors. It praised Bauknight and Peter Afterman and denigrated Appellant, even claiming that Appellant's \$47,972 unpaid SA fee claim was for \$2 million. In addition, the circuit court failed to report the announced intention to disregard *Wilson* and reinstate the Attorney General's 2008 settlement, stating there had been no discussion of settlement by anyone.<sup>9</sup>

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<sup>6</sup> See Exhibit O to Notice of Appeal on file herein, Order dtd. 1/16/19.

<sup>7</sup> See Exhibit B to Notice of Appeal on file herein, Status Report.

<sup>8</sup> **See Exhibit E, Transcript 8/25/14 Hearing, pp. 1, 26-28, attached.**

<sup>9</sup> See Exhibit B to Notice of Appeal on file herein, Status Report. Buchanan and Appellant were not invited by the Supreme Court to respond to errors in the circuit court's status report, and they did not. The June 10, 2015 order relied on by Respondents in their motion to strike was issued based on that status report and the record, as reported by the circuit court, including cases from

In 2016 the Aiken Court issued an administrative order which appeared to limit the scope of Aiken 1337. Appellant moved for reconsideration of the order<sup>10</sup>, and later actions of the circuit court, Respondents and the Attorney General expanded the record and were inconsistent with it.

In late 2016 Respondents, the Attorney General, the Legacy Trust and its beneficiaries moved to consolidate discovery in Aiken 1337 and Richland 4900. While declining to consolidate discovery, the circuit court allowed members of the firm of Kenneth Wingate, Esq. (Wingate), counsel for the Attorney General and others in Richland 4900, to participate in Aiken 1337 depositions of the Attorney General's staff, expanding their scope and the record. [ ]

By the end of 2016, the Aiken 1337 record included the deposition or affidavit testimony and documents of Governor McMaster; Judge (Ret'd) Walter Williams, a member of the 2000 Trust's advisory board; Stephen Lambert, designated as a charitable organizations expert; SA/ST David Sojourner, Esq.; expert Rita Caughman, Esq.; *pro bono publico* lead appellate counsel in *Wilson*, James Richardson, Jr., Esq.; Sr. Asst. AG Havird "Sonny" Jones; Asst. AG Mary Frances Jowers; and others. Protective orders sought and obtained by some of the deponents further expanded the record in the circuit court.

In late 2016 Respondents named nine experts in Aiken 1337, and asked jointly with the Attorney General, Tommie Rae, the Legacy Trust, and its other beneficiaries to consolidate expert discovery in Aiken 1337 and Richland 4900.

In 2017 the record was further expanded by the depositions and numerous documents of seven of Respondents' nine experts; the Attorney General; the former Chief Deputy; the Solicitor General; Wingate; and some of the many experts and fact witnesses designated by Appellant. Additional motions for protective orders, hearings and orders issued by the circuit court further

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which Buchanan and Appellant were excluded in 2013.

expanded the record below.

In addition to the voluminous record before the first summary judgment hearing in 2014, more than twenty-five depositions and thousands of pages of additional documents were presented to the circuit court by Appellant in support of her 2017 motion for partial summary judgment.

After the close of discovery in April 2009 Respondents named Louis Levenson, Esq., as a fact witness, and he was deposed prior to his appearance at trial as Respondents' fact witness.

At trial, Appellant presented her claim case with only herself and a handful of witnesses.<sup>11</sup> In response, Bauknight and more than ten fact and expert witnesses were presented to support Bauknight's claim that he, Peter Afterman, and numerous experts and attorneys hired on a deferred-pay basis had benefitted Brown's estate and 2000 Trust from 2009 until 2018, while Buchanan and Pope had damaged them and were not entitled to be paid.<sup>12</sup>

In reply to the claims about Bauknight and Afterman, Appellant presented testimony and documents of more than fifteen witnesses, including Wingate; Wingate's partner Everett Kendall, Esq.; Governor McMaster, Attorney General Wilson, Solicitor General Cook; former Chief Deputy Attorney General John McIntosh, Sr. Asst. AG Havird "Sonny" Jones; tax and estate and trust expert Hardin; designated IP expert Wallace Lightsey, Esq.; designated charitable foundation expert Lambert; philanthropist and advisory board member Judge (Ret'd) Walter Williams; Asst. Attorney General Mary Frances Jowers; and Attorney General auditor Sandra Matthews.

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<sup>10</sup> See Exhibit D to Notice of Appeal on file herein, Order dtd. 9/21/16.

<sup>11</sup> See Exhibit B to Notice of Appeal on file herein, Status Report. Judge Early had approved all payments to Buchanan in 2013, without objection of Respondents, at an informal hearing with no witnesses or experts other than Buchanan's informal testimony.

<sup>12</sup> See Exhibit O to Notice on Appeal on file herein, Order dtd. 1/16/19.

The record at trial was further expanded when the circuit court ordered, then discarded, the *ex parte* filing by Respondents of their entire attorneys' fees and litigation costs records. The expansion included admissions by Respondents, through Bauknight, in a U.S. District Court case filed in 2018 that tens of millions of dollars in litigation costs had been spent since 2007 from the worldwide music empire Bauknight and Afterman valued at \$4.7 million.<sup>13</sup>

The circuit court allowed Respondents to further expand the record below by introducing a confidential settlement proposal made by Appellant in 2018 to the Legacy Trust, Tommie Rae, the Attorney General and other Legacy Trust beneficiaries in Richland 4900. See **Exhibit C, Trial Transcript pp. 2298-2300.**

*Wilson* directed more than six years ago in 2013 that the claims of all fiduciaries and their attorneys' fees be examined by the lower court. Respondents and the circuit court gave this opportunity to Buchanan in 2013, and fully approved his service and payments based on the full record in Aiken 1647, which became *Wilson*. The disallowance and June 2013 orders forced Appellant to rebuild the voluminous record in Aiken 1337, which was rebuilt over more than five years.

Respondents' motion continues their years-long practice of using the Supreme Court's 2013 opinion in *Wilson* and its June 10, 2015 Order related to other cases to support Respondents' assertion that Appellant must somehow litigate the cases to which she *is a party* without making any reference to the actual administration of the Estate of James Brown and the James Brown 2000 Irrevocable Trust. Respectfully, Appellant submits that neither the *Wilson* opinion nor the 2015 Order lends any support to Respondents' motion to strike.

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<sup>13</sup> See Exhibit C, Trial Transcript pp. 2295-2296.

## Argument

### **I. The *Wilson v. Dallas* Decision Does Not Support any of Respondents' Arguments.**

Since 2013, Respondents and those with whom they are aligned have presented the single quoted passage from *Wilson* to multiple courts more than a dozen times. As with the instant motion, they have continued to take the position that the Supreme Court's declining to reinstate Appellant and Buchanan serves as some basis for Appellant to be deprived of every potential right she may have in cases *to which she is a party*. As with the previous attempts to use this one paragraph of a lengthy opinion, it lends no basis to the argument made in Respondents' motion.

Respondents assert that Appellant's filings "demonstrate her attempt to relitigate. . . issues which she has already lost." [Motion at 3.] Appellant's brief speaks for itself, and nowhere in that document is any request made to undo or modify a prior order other than those appealed in this case.

The argument presented that *Wilson* is somehow *res judicata* to any issue presented in this appeal is a red herring. "Res judicata's fundamental purpose is to ensure that no one should be twice sued for the same cause of action." *Yelsen Land Co. v. State*, 397 S.C. 15, 22, 723 S.E.2d 592, 596 (2012) (citation and quotation marks omitted). As Respondents point out, the cause of action litigated in this action is one for payment of fiduciary commissions and costs. The *Wilson* Court did not decide any claim for payment; instead, it specifically directed that the matter be remanded for the lower court to review and direct payment of all fees earned by fiduciaries. *Wilson, supra*.

In fact, the lower court's order – drafted by Respondents – makes clear that the lower court felt free to reconsider the portions of *Wilson* which militated against the lower court's

finding that Appellant was due no compensation:

The Supreme Court's opinion in *Wilson v. Dallas* is, the law of the case for this proceeding. Nevertheless, this Court is not required to turn a blind eye to the fact that Mrs. Pope did not seek advice regarding the benefits of the settlement agreement vis-à-vis termination rights before her appeal attacking the settlement. Moreover, every appellate decision is, of course, limited to the facts before the Court. The Supreme Court's decision in *Wilson v. Dallas* did not have the benefit of the testimony and evidence the Court received during this trial. The Court is likewise not required to turn a blind eye to the fact that the settlement agreement put an end to litigation among the heirs. [Ord. 1/16/19 at 42]

It is disingenuous for Respondents to now assert that Appellant is barred from litigating issues which the lower court explicitly revisited in the primary order on appeal herein. This continues a pattern that began in January 2011, when Respondents first moved for sanctions against Appellant in another case. In the years since, they have repeatedly moved for sanctions (often relying on *Wilson* and the June 10, 2015 Order), though no court has granted a single one of these motions.

## II. The Supreme Court's June 10, 2015 Order has No Applicability to this Case.

On June 10, 2015, the Supreme Court issued an Order disposing of certain appellate matters.<sup>14</sup> In that Order, the Court included the following passage:

Pope is hereby prohibited from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, such as the above [captioned] actions, in which she clearly has no standing. We caution Pope that continued attempts to involve herself in the resolution of the Estate and Trust may result in contempt charges. Ord. 6/10/15, Appellate Case Nos. 2013-001649, 2014-000250, 2014-001279 and 2009-142286.

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<sup>14</sup> The June 10, 2015 Order, though completely inapplicable to Respondents' argument in their motion, was based on several inaccurate facts presented by the lower court (based on information presented by Respondents and others in cases from which the lower court had excluded Appellant) to the Supreme Court in a May 10, 2015 Status Report. As Appellant testified at trial, that report incorrectly indicated that Appellant sought \$2 million in fees for her service as Special Administrator (when that claim was actually less than \$48,000) and that Mr. Bauknight had reduced the TIAA debt by over \$14 million (when the actual reduction was about \$9 million). See Exhibit B to Notice of Appeal on file herein, Status Report p. 6 and **Exhibit C, Trial Transcript pp. 2131-2134; 2295-2298, attached hereto.**

In the years since, Respondents have repeatedly presented this Order to various Courts in an effort to hobble Appellant's ability to litigate the cases *to which she is a party*. "A party has standing if the party has a personal stake in the subject matter of a lawsuit and is a 'real party in interest.'" *Ex parte Gov't Emp.'s Ins. Co.*, 373 S.C. 132, 138, 644 S.E.2d 699, 702 (2007) (quoting *Bailey v. Bailey*, 312 S.C. 454, 458, 441 S.E.2d 325, 327 (1994)). Appellant is the Plaintiff below, and no party has or could suggest that she is not the real party in interest.

On its plain and unambiguous terms, the June 15, 2010 Order has no applicability to this case, in which Appellant indisputably *has* standing. "[I]f the language employed is plain and unambiguous, there is no room for construction or interpretation, and the effect thereof must be declared in the light of the literal meaning of the language used." *Weil v. Weil*, 299 S.C. 84, 382 S.E.2d 471 (Ct.App. 1989) (citing 49 C.J.S. Judgments Section 436 (1947)). Respondents appear to present this Order, as they have historically, in an attempt to suggest that *Respondents* have the right to control what Appellant may use in litigating the cases to which she is a party. Appellant respectfully asks that this Court deny Respondents' attempt to misuse the Supreme Court's Order in a case to which it is clearly inapposite.

**III. All Facts and Documents in Appellant's Initial Brief and Designation of Matter are Relevant, Properly Presented and Presented to the Lower Court.**

As an initial matter, Appellant notes that Respondents' motion, other than complaining of the length of the statement of the facts, does not identify any particular inclusion in the brief or designation which is objectionable and therefore sets forth no specific argument as to why any portion of either should be struck.

Respondents are correct that this action involved the determination of fiduciary commissions for Appellant's service to the Estate/2000 Trust. Although they state that this case

was tried over 13 days with more than 200 exhibits, their motion appears to suggest that this appeal could somehow be conducted without inclusion of or reference to the broad factual history of the Estate/2000 Trust.

Appellant would show that the record in the lower court is massive, including but not limited to thousands of pages of trial exhibits and transcripts, as well as the rebuttal testimony of the Governor, the Attorney General, the Solicitor General, Wallace Lightsey, Esq. and others. The lower court's January 16, 2019 Order disposing of Appellant's claims is sixty (60) pages long and includes extensive factual findings regarding the history of the Estate/2000 Trust.

That Order finds that Appellant put up her case-in-chief over three (3) days, but that Respondents' case took six (6) days and included testimony from at least eleven (11) witnesses. [Ord. 1/16/19 at 14] The breadth of testimony presented by Respondents required Appellant to spend two further days presenting her rebuttal. Included in the testimony offered on rebuttal and designated for the record herein is testimony by the Governor, the Attorney General, the Solicitor General, Wallace Lightsey, Esq. and others.

Respondents' motion is inconsistent with their position at trial. The lower court's order notes that Appellant had in fact moved to exclude evidence beyond her service as a fiduciary, and Respondents opposed that motion, instead presenting broad testimony on the service of Russell L. Bauknight from 2009 until 2018, and other matters. [Ord. 1/16/19 at 27-28] As stated in the Order, Appellant's argument was based in part on the lower court's January 8, 2008 Order for payment. **See Exhibit F, Order dtd. 1/8/08.**

Additionally, Appellant objected to testimony by Mr. Bauknight regarding his opinion that Appellant and Buchanan had caused damage to the Estate, based on matters he conducted after her replacement. Respondents' counsel answered the objection, stating in part, "it's just

going to the reasonableness of the fee [Appellant]'s asking for what [Appellant] failed to do.” **See Exhibit C, Trial Transcript p. 803.** The lower court overruled the objection and allowed Mr. Bauknight to testify regarding his subsequent service as PR/Trustee. Appellant interposed several additional objections on the grounds of relevancy of Mr. Bauknight’s subsequent actions, but most were overruled; as a result, Mr. Bauknight testified extensively to matters taking place after Appellant and Buchanan were replaced as fiduciaries. Mr. Bauknight ultimately testified that he has “done a good job and [he has] done the things necessary to properly administrate [sic] this estate and trust.” **See Exhibit C, Trial Transcript p. 897.**

Now Respondents appear to argue that it is inappropriate for Appellant to address the extensive factual history which Respondents presented and the lower court addressed at great length in the various orders appealed from, including the principal sixty (60) page order determining that Appellant was entitled to no fee for her service to the Estate/2000 Trust except her 2007 SA fee.

Respondents further argue vaguely that Appellant should be required to “identify all designated materials, showing that they were in fact submitted to the circuit court in” this case. Pursuant to Rule 209(b), Appellant has clearly identified the documents designated, and all were “presented to the lower court” as required by Rule 210(c). Appellant is unaware of any requirement that she provide a detailed narrative of how and when each document was presented, especially where Respondents identify no specific document which they claim was not presented to the lower court.

In attempting to respond to Respondents’ vague argument, Appellant would show that, although Respondents note that Appellant references “more than thirty (30) orders,” but does not provide “any explanation of *how* those orders are relevant (or even where they came from),”

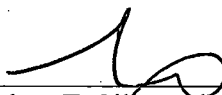
Appellant's trial exhibit #1 was in fact a notebook containing forty (40) orders from various James Brown cases, which were entered into evidence at trial without objection from Respondents. **See Exhibit C, Trial Transcript pp. 45-46.**

For the sake of brevity, Appellant will not attempt to anticipate or divine any further potential unstated bases for Respondents' motion, but submits that the above sufficiently shows that Respondents' motion is without merit and, in several instances, inconsistent with their statements and positions in the lower court.

#### **Conclusion**

For the foregoing reasons, Appellant requests that this Court deny Respondents' motion to strike in its entirety and direct that the briefing proceed in this matter.

Respectfully submitted,



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*Counsel for Appellant*

October 21, 2019

# EXHIBIT A

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2010-CP-40-4900/2013-CP-02-1337

Adele J. Pope

Adele J. Pope

v.

v.

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

Estate of James Brown, Deceased, and the James Brown 2000 Irrevocable Trust.

2010-CP-40-4900

2013-CP-02-01337

|               |  |
|---------------|--|
| Submitted by: | Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant |
|               | or   |
|               | <input type="checkbox"/> Self-Represented Ligitant                                   |

DISPOSITION TYPE (CHECK ONE)

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

RICHLAND COUNTY  
 FILED  
 2016 JUL 20 AM 10:01  
 JEANETTE W. HOSBRIE  
 CLERK, C.P.F. & C.S.

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

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court: Based on the facts and arguments presented, the Motion to Consolidate 2010-CP-40-4900 with Adele Pope v. Est. of James Brown, et al., case number 2013-CP-02-1337 is hereby DENIED.

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk :

| INFORMATION FOR THE JUDGMENT INDEX   |  |  |
|--|--|--|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. |  |  |
| Judgment in Favor of<br>(List name(s) below)   | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|  |  | \$   |
|  |  | \$   |
|  |  | \$   |
| If applicable, describe the property, including tax map information and address, referenced in the order:  |  |  |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest

*[Signature]*  
Circuit Court Judge

0136  
Judge Code

July 15, 2016  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 21 day of July, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

\_\_\_\_\_  
\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter:

CLERK OF COURT  
*Jeanette W. McBride*

# EXHIBIT B

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Russell L. Bauknight, et al.

and

ALAN WILSON, in his capacity as Attorney  
General of the State of South Carolina; et al.  
Plaintiffs

v.

Adele J. Pope,  
Defendant

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,  
Plaintiffs

v.

Estate of James Brown and The James Brown  
2000 Irrevocable Trust,  
Defendants

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

ORDER DENYING MOTION TO  
CONSOLIDATE DEPOSITIONS OF  
EXPERTS

2017 FEB 13 AM 8:56  
JEANNETTE W. MCBRIDE  
C.C.P. & C.S.  
RICHLAND COUNTY  
FILED

IN THE COURT OF COMMON PLEAS

FOR THE SECOND CIRCUIT

Civil Action No. 2013-CP-02-1337

ORDER DENYING MOTION TO  
CONSOLIDATE DEPOSITIONS OF  
EXPERTS

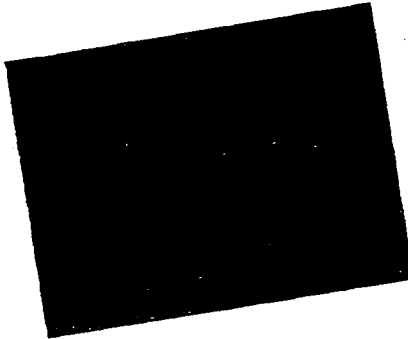
Plaintiffs in Richland Case 4900 and Defendants in Aiken Case 1337 moved this Court for an order consolidating the cases for the limited purpose of the depositions of certain experts jointly named by Case 4900 Plaintiffs and Case 1337 Defendants. A hearing was held on the motion on January 23, 2017, at which time all parties were heard. The Defendant in Case 4900 and Plaintiff in Case 1337 opposed the motion on various grounds. After having considered the arguments, the court denies the motion to consolidate the cases for the limited purpose of the depositions of the jointly named experts.

IT IS SO ORDERED.



Doyet A. Early, III  
Presiding Judge

Feb 6, 2017  
Bamberg, South Carolina.



# EXHIBIT C

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State of South Carolina )  
County of Aiken )

In the Court  
Of Common Pleas

Docket No. 2013CP0201337

Adele J. Pope, )  
Plaintiff, )  
vs. )  
Estate of James Brown, )  
Defendant. )

Transcript of Record  
Volume I

September 5-7, 2018  
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Walter Bundy, Esquire  
Adam Silvernail, Esquire  
Attorneys for the Plaintiff

Burl F. Williams, Esquire  
William Newsome, Esquire  
David Black, Esquire  
Attorneys for the Defendant

Brenda J. Sigwald, Circuit Court Reporter  
To The Honorable Doyet A. Early, III  
P.O. Box 206, Jackson, South Carolina 29831

## Adele Pope - Direct Examination by Mr. Bundy

1 know what they all are until it's over with.

2 MR. BUNDY: Okay. That way I don't have to go into  
3 all that now and we can forgo that. Okay.

4 BY MR. BUNDY:

5 Q Just a few more exhibits, Ms. Pope.

6 I'd like to now look at Exhibit 5, please.

7 MR. BUNDY: May I approach, Your Honor?

8 THE COURT: Certainly.

9 MR. BUNDY: In evidence without objection, Your  
10 Honor.

11 THE COURT: Thank you.

12 BY MR. BUNDY:

13 Q All right. What is this document, Ms. Pope?  
14 Exhibit 5?

15 A This is from Mr. Buchanan's deposition, but it is a  
16 copy of our protective statement and notice of creditor's  
17 claim which we filed, I think it was the 24th of June,  
18 2009, just after we were replaced; and it is consistent  
19 with the document we've just looked at that outlined our  
20 time and claims.

21 Q Well, in fact, it says amount of claim: Full --  
22 the full PR/Trustees commission in the amount of 4,993,151.

23 A It does. It -- the interest, we're doing it --  
24 we've got a little slightly different date for the  
25 interest, but essentially it's the same.

## Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay.

2 A The total claim.

3 Q And is this a requirement of -- a statutory  
4 requirement to file such a document?

5 A We weren't sure whether we had to file it or not.  
6 So we -- that's why we filed it as a protective claim. It  
7 -- it has to do with when your service is terminated and we  
8 didn't believe our service had been finally terminated, but  
9 we filed a protective claim, just in case.

10 MR. BUNDY: Your Honor, may I approach?

11 Plaintiff's Exhibit 6 is in without objection.

12 BY MR. BUNDY:

13 Q All right. Ms. Pope, what is Plaintiff's Exhibit  
14 6?

15 A Well, on May 29th of 2013, I was hand-delivered a  
16 notice of disallowance with impending bar, asserting that I  
17 was not entitled to any payment and that -- and there were  
18 certain allegations made in there. But what was  
19 significant about it is it did refer to impending bar,  
20 which meant that if I did not file the lawsuit about which  
21 we're here today, I would have lost all possible claim to  
22 my earned commissions, the discretionary commissions and  
23 perhaps even faced alleged discroachment of the modest  
24 special administrator commission, partial special  
25 administrator commission I had been paid in 2007.

## Adele Pope - Direct Examination by Mr. Bundy

1 Q So once you received the notice of disallowance,  
2 you were statutorily required to file this lawsuit;  
3 otherwise, you would have waived all of this or wouldn't  
4 have been able to prosecute?

5 A The notice of disallowance forced me to do that.

6 Q And is the -- was there any time requirement within  
7 which the notice of disallowance had to be filed?

8 A No. It -- our claim had been sitting since June of  
9 2009.

10 Q Okay.

11 A And this was four years later.

12 Q Okay. All right?

13 THE COURT: Mr. Bundy was there an order? I'm  
14 looking at the --

15 And Ms. Pope, you can help me out.

16 January 8, 2008, that's where -- ordered that you be paid  
17 on the time basis. I thought there was some order,  
18 somewhere that set the amount of time per hour. I think 3  
19 -- or was there.

20 THE WITNESS: Well, Your Honor, I've tried to go  
21 back and look at that and I -- what I found is we -- it is  
22 discussed somewhat within the record, but my rate was \$300  
23 an hour in 2007, 325 in 2008, and 350 in 2009. But our  
24 request just uses 325, although as you can --

25 THE COURT: Okay. So you went up from 3, to 325,

**Adele Pope - Direct Examination by Mr. Bundy**

1 350 over a period of time, which is certainly --

2 THE WITNESS: And, you know, at the time Your  
3 Honor, we had very -- Your Honor did find that our rate for  
4 the special administrator had been fair and commensurate  
5 with other attorneys and we had all of the information  
6 about the other attorneys who were making claims. And at  
7 rates of anywhere from about 275 to about \$500 an hour.

8 THE COURT: But when we were talking about fees and  
9 things during the course of the litigation, it went 325,  
10 350, 300 as time progressed, it moved up.

11 THE WITNESS: Yes. And our claim is, again, based  
12 on 325. The 1,473,550.

13 THE COURT: Excuse me. That 1 million 473 is on  
14 325 an hour plus costs?

15 THE WITNESS: It is. Plus my staff --

16 THE COURT: I understand.

17 THE WITNESS: -- at rates that are shown on the  
18 chart. Very modest rates shown on the chart.

19 THE COURT: All right. Mr. Bundy? You may move  
20 forward. I didn't mean to interrupt.

21 BY MR. BUNDY:

22 Q All right. Ms. Pope, what I want to talk to you  
23 now is this order, this payment order, your time ends in  
24 May in terms of keeping up with your time, right?

25 A I felt that we had been replaced and certainly --

## Russell Bauknight - Direct Examination by Mr. Newsome

1 getting these settlements negotiated?

2 A Well, the calculation I did is as I described, if  
3 this process of analyzing revenue streams --

4 MR. BUNDY: Your Honor, I object to relevance.

5 THE WITNESS: -- being taken care of --

6 THE COURT: What do you mean you object the  
7 relevance?

8 MR. BUNDY: Because there's no setoff or no  
9 counterclaim in this case.

10 THE COURT: Overruled.

11 MR. NEWSOME: And just to clarify, Your Honor,  
12 we're not asking you to find a damage amount against  
13 Ms. Pope, it's just going to the reasonableness of the fee  
14 she's asking for what she failed to do.

15 THE COURT: Okay.

16 THE WITNESS: If the process that I went through as  
17 a fiduciary had been followed 554 days earlier when  
18 Ms. Pope came on board, these settlements could have been  
19 arrived at just as quickly with someone else handling it as  
20 they were with me. I'm not a miracle worker by any stretch  
21 of the imagination. This was simply part of my fiduciary  
22 process.

23 BY MR. NEWSOME:

24 Q And just to clarify, so you're saying there's an  
25 additional \$643,000 of interest that was paid on the bonds?

## Russell Bauknight - Cross-Examination by Mr. Bundy

1 in court she said it's worth \$40 million. So she lost \$40  
2 million in six months according to that. I don't think  
3 that's an accurate picture. I think her \$84 million is  
4 clearly in error. It was not based on anything and my  
5 valuation was based on clear documents and records done by  
6 a professional valuation firm. It's not that I've done  
7 something that shows that she lost \$80 million. It was  
8 never worth what she said it was to start with. You can't  
9 lose something you don't have.

10 Q And you can't take credit for something you didn't  
11 do, can you?

12 A Well, she didn't do anything so she cannot take  
13 credit, Mr. Bundy. That's why I've asked the Court to  
14 award her no fee.

15 Q But you're taking credit for the increase in value?

16 A Mr. Bundy, I have done a very good job. This Court  
17 has said I have done a good job. The Supreme Court said  
18 I've done a good job. I have done a good job and I've done  
19 the things necessary to properly administrate this estate  
20 and trust. I have done the things that caused it to go up  
21 in value, Mr. Bundy, so yes, I'm not patting myself on the  
22 back, that's just my job. That's what I do.

23 Q Are you aware that this same Court has also held  
24 that Mr. -- that Judge Buchanan and Ms. Pope did a good  
25 job?

## Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay.

2 A I can't --

3 Q Any --

4 A -- remember meeting with him before.

5 Q Anything else on the tax issues?

6 A Yes. And I'm sorry, I don't have a lot of copies,  
7 but here's the proof of claim on that -- on the 2004, '5,  
8 and '6 issues that get filed in the probate court on  
9 December 9th, right in the middle of this. And that is my  
10 only copy. And I didn't even realize I had it, but it  
11 would be in the public record. And that's the same 2006  
12 issue, plus smaller issues in 2005 and 2004.

13 Q All right.

14 (Plaintiff's Exhibit Number 61 was marked for  
15 identification.)

16 BY MR. BUNDY:

17 Q All right. You've identified what's now been  
18 marked 61.

19 MR. BUNDY: You object?

20 MR. NEWSOME: Without objection.

21 (Plaintiff's Exhibit Number 61 was entered into  
22 evidence.)

23 BY MR. BUNDY:

24 Q What is the relevance of Plaintiff's Exhibit 61 to  
25 these tax of issues, proof of claim? What's the relevance

## Adele Pope - Direct Examination by Mr. Bundy

1 of that position?

2 A Well, this is the IRS filing it in the probate  
3 court. I guess. It says clerk of court, but either with  
4 the clerk or -- so this is, they're making a public record  
5 and it looks to me like it got faxed to me --

6 Q So this is a claim of the IRS against the estate?

7 A Yes.

8 Q All right.

9 A Related --

10 Q All right.

11 A -- to these same three years of income.

12 Q Okay.

13 A 2004, '5 and '6.

14 Q Okay. All right. So any other issues on the  
15 taxes?

16 A Oh, it keeps going.

17 So then -- so then Mr. Bauknight got appointed --  
18 limited only to the recommendations and studying of the  
19 settlement, but that did not leave us -- that left us with  
20 -- us and now the attorney general who said he had all the  
21 authority with the problems.

22 Q Okay.

23 A And so here's another letter on February 2, 2009,  
24 and -- and let me see, it looks like I might have two  
25 copies of it.

**Adele Pope - Direct Examination by Mr. Bundy**

1 Oh, no, no, this is a single letter to Attorney  
2 General McMaster, dated February 2, 2009. And it had some  
3 attachments. I didn't realize that, I'm sorry.

4 Q Are these just one letter or two?

5 A It's one letter to -- Attorney General McMaster  
6 with some attachments.

7 (Plaintiff's Exhibit Number 62 was marked for  
8 identification.)

9 BY MR. BUNDY:

10 Q February 2nd, 2009 letter to the attorney general  
11 and Mr. Jones from the Estate and Trust of James Brown,  
12 February 2.

13 MR. BUNDY: Exhibit 62, Your Honor. I'd move to  
14 introduce it into evidence.

15 (There was a pause in the proceedings.)

16 MR. NEWSOME: Your Honor, we don't object to the  
17 admission of this into evidence, but I do want to put on  
18 the record that this has been highlighted, so we'd like to  
19 at least have a copy substituted in the record that  
20 doesn't --

21 THE WITNESS: I'm sorry, I think we can --

22 MR. BUNDY: No problem, we'll take care of that.  
23 Thank you.

24 (Plaintiff's Exhibit Number 62 was entered into  
25 evidence.)

## Adele Pope - Direct Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q All right. Ms. Pope, Exhibit 62, in evidence  
3 without objection, what's the relevance of this letter to  
4 your tax issues and why you handled the taxes the way you  
5 did?

6 A Well, it's just -- again, now we know that  
7 Mr. Bauknight's appointment was limited. We know we don't  
8 have an accountant. We know the attorney general has taken  
9 over. And so we're writing the attorney general to, you  
10 know, continue to be concerned about the tax things, but  
11 also to raise an issue which I thought we hadn't raised  
12 until mar -- that we apparently began to raise in February.

13 And that is the fear of the devaluation since he  
14 just gave Terry Brown a right of first refusal. So it  
15 deals with that. And it deals with estate tax issues.

16 It says -- it talks about -- there's a procedure  
17 for trustees who don't agree with what's going on to  
18 decent. And so we were dealing with the issue of, Do you  
19 want to -- Do you want to do something with the tax return  
20 and we'll quietly decent and let you take the position  
21 that's most favorable -- the most favorable legal position  
22 you can take because we aren't looking to increase  
23 anybody's taxes. We just didn't want to be personally  
24 liable for saying under perjury X when we knew a pretty  
25 good amount about why.

**Adele Pope - Cross-Examination by Mr. Newsome**

1 details, but I know that people were aware of those issues  
2 in 2008 and particularly -- but, but that said, if any tax  
3 had been due in March, there was no money to pay.

4 Q Okay.

5 A There was no money in March to pay it.

6 Q And the --

7 A So it wouldn't have done any good because as you  
8 may recall the Christies money did not come in until the  
9 fall and by then we were begging the settling parties and  
10 the attorney general to get an accountant -- there wouldn't  
11 have been money to pay it. And as you know too, taxes are  
12 important. They must be paid, but they're not high  
13 priority in the world of priorities, keeping the -- doing  
14 what it takes to keep the estate from giving away a million  
15 five a year every year in perpetuity is more valuable than  
16 paying this year's taxes.

17 Q Right. So there was no money to pay taxes because  
18 you used the money to pay yourself; isn't that true?

19 A Not -- no, no, no. Not in March of 2008. That is  
20 absolutely false. That is absolutely false. False.

21 Q It's when the money came in, that's when you spent  
22 it?

23 A Mr. Newsome, for lawyers who charge \$800,000 a year  
24 to represent this estate, it surprises me that you are here  
25 criticizing me about paying myself nearly all of my 2007 SA

**Adele Pope - Cross-Examination by Mr. Newsome**

1 fee. And if you had not filed documents ex parte with the  
2 Court, we would all know today who has really wasted  
3 attorney's fees in this case. We would know that. And we  
4 should know it because -- because the probate law says that  
5 the combination of both your fee and the expenses that you  
6 incur, must be reasonable and -- and your client, you, the  
7 estate and trust have told a California court that you have  
8 spent tens of millions of dollars in legal fees, just --  
9 you said that in February of 2018. And in a deposition in  
10 2007, Mr. Bauknight said he had spent more than a million  
11 dollars on this claim case.

12 So if we could see those records, the Court would  
13 know who had been reasonable and who had not been  
14 reasonable.

15 Q Okay. But the Court's also admonished you to stay  
16 out of the rest of the James Brown's cases; haven't they?

17 A You know, I'm glad you mentioned that.

18 (Looking for a document.)

19 THE WITNESS: Yeah, I want to talk about that. I  
20 want to talk about why they did that. I want to talk about  
21 the status report. And of course Judge Early had the right  
22 to say I didn't have standing in the James Brown case. You  
23 know, that was just an issue. But what happened after I  
24 was not in that case for two years when your firm and  
25 Mr. Bauknight were given access to the Court without Mr.

**Adele Pope - Cross-Examination by Mr. Newsome**

1 Buchanan and me, the Court was misled in many of the same  
2 ways that it was misled in the decision that made Wilson  
3 versus Dallas.

4 And, for example. I'm just going to read you a  
5 little bit of what Judge Early told the Court about me in  
6 2015, May 8th 2015. And I don't fault Judge Early, but  
7 this is what Judge Early said.

8 I am not sure if my interpretation of her, that  
9 would be me, statement is correct, but she appears to claim  
10 in excess of \$2 million for SA fees for service through May  
11 26, 2007.

12 Now, my claim was \$27,000. And that's all it had  
13 ever been.

14 And then he said, she claims since May 26, 2007,  
15 she has spent more than 4,000 hours in connection with the  
16 Wilson Dallas appeal -- which was correct -- and other  
17 matters which protect the estate plan. She stated her  
18 hourly rate was 325 to 350. She states the amount exceeds  
19 the request she made for a full commission of 2,845,930.  
20 Her claim remains unresolved. It appears that she claims  
21 approximately \$5 million in fees.

22 Now, where did that come from? That came from  
23 Nexsen Pruet telling everybody that -- the attack against  
24 Bob Buchanan and Adele Pope began with David Cannon saying  
25 they want -- they're just trying to oust me because they

**Adele Pope - Cross-Examination by Mr. Newsome**

1 want a \$5 million commission on \$100 million estate. And  
2 then it became Alan Medlin and Sonny Jones who viciously  
3 claimed that we just defended this estate to jack up a fee  
4 and get a \$5 million claim on a \$5 million estate.

5 That was false. False. A violation of 62-1-106.  
6 That was a false statement made to the Court knowing it was  
7 false to benefit themselves. And then --

8 Q Excuse me.

9 A May I finish.

10 And then when Bob Buchanan dropped out, it became  
11 Adele Pope wants a \$5 million fee and Judge Early had not  
12 -- had not had me in his court when he made this report on  
13 May 8th, 2015. He did not have me in his court, had not  
14 had me in his court for almost two years. And he was  
15 continuing to be told that James Brown's worldwide music  
16 empire was worth \$5 million while you continued to spend  
17 10's of millions of dollars in legal fees.)

18 The Supreme Court, of course, didn't like that.

19 Q \$5 million is false because you're trying to take  
20 \$19 million from the estate; isn't that true?

21 A I don't understand what you mean. I have to see  
22 this.

23 (Defendant's Exhibit Number 87 was marked for  
24 identification.)

25 ///

## Adele Pope - Cross-Examination by Mr. Newsome

1 BY MR. NEWSOME:

2 Q I hand you what's marked Defendant's 87 and ask if  
3 you recognize that.

4 A I do.

5 Q Okay. What is that document?

6 A You know --

7 MR. BUNDY: Your Honor, before this is published, I  
8 think this is clearly inadmissible under the rules. It's  
9 an offer of settlement and I would object.

10 THE COURT: How do y'all -- what's your grounds for  
11 admission of this?

12 MR. NEWSOME: Your Honor, Rule 408 of evidence,  
13 rules of evidence is applicable in this case. It provides  
14 this rule does not require the exclusion of any evidence  
15 otherwise discoverable merely because it is presented  
16 during the course of compromised negotiations. This rule  
17 also does not require exclusion when the evidence is  
18 offered for another purpose, such as proving bias or  
19 prejudice of the witness. Negating a contention of undue  
20 delay or proving an effort to obstruct a criminal  
21 investigation.

22 Ms. Pope, yesterday, testified this estate should  
23 have been closed a long time ago. And if -- under the  
24 probate code, you can't close an estate when there's an  
25 outstanding claim like a \$19 million claim against the

**Adele Pope - Cross-Examination by Mr. Newsome**

1 estate. So it is admissible under Rule 408.

2 MR. BUNDY: I object, Your Honor. I don't see any  
3 reason to argue it. The statute said -- the rule says what  
4 it says and in my reading of the rule it doesn't apply.

5 THE COURT: I'll allow it.

6 MR. NEWSOME: Thank you, Your Honor.

7 (Defendant's Exhibit Number 87 was entered into  
8 evidence.)

9 BY MR. NEWSOME:

10 Q Isn't it true you're trying to take \$19 million  
11 away from this -- the charity in your actions against the  
12 estate?

13 A Absolutely not. And I need to explain. If you  
14 look back to when I moved for partial summary judgment, way  
15 back in 2014 -- or if you even look back to the claim, if  
16 anybody had been prudent in the management of this claim, I  
17 know one of your experts said that the estate had no choice  
18 but to disallow it. And you know, we faced that same issue  
19 as PR's and we disallowed a number of claims that we knew  
20 were going to be paid. And so if it was proved that back  
21 in 2009 the estate and trust believed that this claim  
22 needed to be disallowed, either because it wasn't proper or  
23 because it was just too hot to pay without the Court's  
24 determination, all they needed to do was disallow it.

25 And there was a stay, but nobody would have minded

**Adele Pope - Cross-Examination by Mr. Newsome**

1 lifting the stay and to have this heard. And everybody  
2 knew that, that my claim was earning \$133,000 a year in  
3 interest. And so really what should have happened in 2009,  
4 that should have happened. So this never should have been  
5 anything more than, we'll determine what you were owed as  
6 of May 26, and if we want to we'll wait until the  
7 conclusion. And in fact, the record will show that's  
8 exactly what Bob Buchanan and I asked the judge to do back  
9 in the summer of -- of -- in the Summer of '09. Because in  
10 March of '09, James B. had filed a petition to review our  
11 compensation.

12 And -- and I would ask the Court to look at this  
13 record because our answer was this: Judge, please either  
14 look at the record and determine our fee based solely on  
15 the record or let's wait until the end because we're too  
16 busy saving this charity. But when the estate took over,  
17 if they had determined either Bob or I was not owed any  
18 portion of the claim we made, all they had to do was  
19 disallow it. And it could have been heard in 2009, but let  
20 me tell you what happened.

21 That didn't happen. Instead, a year later in a  
22 court where they knew that the Court was wholly unfamiliar  
23 with the work we had done, a suit was filed against Mr.  
24 Buchanan and me, not for the benefit of the estate -- this  
25 is very important -- but for the benefit of the James Brown

**Adele Pope - Cross-Examination by Mr. Newsome**

1 Legacy Trust, the attorney general's new entity. And his  
2 new charity, which he didn't even -- hadn't even formed  
3 yet.

4 So that suit was brought in another court because  
5 they knew Judge Early knew what good work we had done. And  
6 they knew -- they being the James Brown Legacy Trust which  
7 had a dozen Nexsen Pruet lawyers working for them starting  
8 one month after the settlement. They brought it not for  
9 the benefit of the estate now, but for the benefit of all  
10 of Tomi Rae, the Levinson clients, Terry, and the attorney  
11 general's new charity.

12 And then they waited until May 29, of 2013, the  
13 very day that Mr. Levinson and Tomi Rae announced to Judge  
14 Early, which he had forgotten by 2015, but did announce in  
15 open court their intention to reinstate the settlement  
16 which had dismembered the "I Feel Good" Charity, May 29,  
17 2013, you handed me the disallowance. You once again  
18 claimed that I had valued the assets wrong in the  
19 disallowance, something you could have cleared up back in  
20 2009, but didn't.

21 All right. Then, if -- from there, I asked for  
22 summary judgment. And you remember what your summary  
23 judgment response was? We can't decide what Ms. Pope is  
24 owed until case 4900 is over. Now, back then you said you  
25 didn't know what was going on in 4900, but you just knew

# EXHIBIT D

Exhibit 2

STATE OF SOUTH CAROLINA )  
COUNTY OF AIKEN )  
IN THE MATTER OF: JAMES BROWN )

IN THE PROBATE COURT  
NOTICE OF DISALLOWANCE OF CLAIM  
CASE NUMBER: 2007 ES02 0056

TO:

Name: Adele J. Pope  
Address: 1228 Walnut St.  
Newberry, SC 29108-3554

The undersigned, as the Special Administrator, appointed to administer this estate, disallows all of your claim for \$4,993,151, plus any requests for attorney's fees, costs or other ancillary costs associated with your claim presented on July 17, 2009.

Your claim was disallowed for the following reason(s):

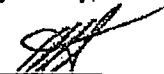
This claim was filed jointly with Robert L. Buchanan, Jr., who has settled his claim against the estate. You only served as Co-Personal Representative and Co-Trustee of the James Brown 2000 Irrevocable Trust for a relatively short period of time. During the period of approximately 18 months that you served as Co-Personal Representative and Co-Trustee, there is no way that \$4,993,151.00 in fees and commissions could have been legitimately earned. The affidavits you submitted to substantiate your claim describing the hours you spent in these roles confirm this. Further, your claim is based on an overinflated, unsubstantiated and self-serving valuation of the probate estate as of the date of Mr. Brown's death.

You petitioned the court and obtained an Order dated January 8, 2008 allowing payment to yourself and Mr. Buchanan toward your commissions for service as Special Administrators in the amount of \$317,000, plus costs. This payment may now be subject to disgorgement pursuant to the Supreme Court's opinion in this matter dated May 8, 2013, in which the Court found that you were properly removed as Co-Personal Representative and Co-Trustee for cause.

This claim is disallowed on the basis that the requested fees and commissions were not earned and therefore are not due and owing, and further that the Estate is entitled to an offset for any damages suffered as a result of any maladministration during your service as Co-Personal Representative and Co-Trustee.

Failure to protest this disallowance of your claim, (that is, failing to file your petition for its allowance (form #373PC) in the Probate Court and failing to commence a proceeding on the claim within thirty days after the service of this Notice of Disallowance of Claim), shall result in your claim or the disallowed portion of your claim being forever barred.

Executed this 29<sup>th</sup> day of May, 2013.

Signature:   
Name: Russell L. Bauknight  
Address: 1517 Gervais St.  
Columbia, SC 29201  
E-mail: rbauknight@bpscpas.com  
Telephone (O): 803.771.8943  
Telephone (H): \_\_\_\_\_

# EXHIBIT E

State of South Carolina  
County of Aiken

Court of Common Pleas

|                        |   |                      |
|------------------------|---|----------------------|
| Adele Pope             | ) |                      |
|                        | ) |                      |
| Plaintiff,             | ) | Transcript of Record |
| v.                     | ) | 2013-CP-02-1337      |
|                        | ) |                      |
| Estate of James Brown, | ) |                      |
| et al.                 | ) |                      |
|                        | ) |                      |
| Defendant.             | ) |                      |

August 25, 2014  
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Adele Pope, Esquire  
Attorney for the Plaintiff

William George Newsome, III, Esquire  
Attorney for the Defendant

Bethanie K. Creppon  
Circuit Court Reporter

1 a judgment against me when it won't proceed with  
2 the --

3 THE COURT: I haven't said one way or the  
4 other. That's the whole point of your motion for  
5 partial summary judgment, which I'm going to hear  
6 and --

7 MS. POPE: That's true, Your Honor.

8 THE COURT: All you're asking me to do is  
9 strike the affidavit.

10 MS. POPE: That's true. And finally, Your  
11 Honor -- and I agree. I did not mean to move to  
12 argue the motion, Your Honor, I certainly did not.  
13 I apologize.

14 Third though -- and this is important, Your  
15 Honor -- in terms of judicial economy and my own  
16 economy, which is of some importance to me, Your  
17 Honor --

18 THE COURT: I understand.

19 MS. POPE: As Your Honor may remember, in April  
20 of 2009, James B -- I April of 2009, James B. asked  
21 Your Honor to review our commissions, our payments.  
22 And then if you'll recall, as Your Honor was  
23 approving the settlement on May 26th, 2009,  
24 Mr. Rosen and some other people were wanting to  
25 start discovery on our payment and we said, you

1 know, either please just award us or what you're  
2 going to award us or wait until it's over. That was  
3 the gist of it. But the discovery issue related to  
4 that is, in those cases, Your Honor was looking at  
5 all the records. In this case, I ask Your Honor to  
6 consider, under the Rules of Evidence, as you, I  
7 hope, are required to do, all of the James Brown  
8 public filings so that I won't have to serve  
9 Mr. Buchanan -- I mean, Mr. Newsome and  
10 Mr. Bauknight who know everything that's happened in  
11 every case the Estate and Trust is in so that when I  
12 come to my partial summary judgment, I can bring and  
13 quote only from those items I need, rather than  
14 having to serve documents, have Mr. Bauknight say he  
15 doesn't want them seen. I don't have a -- with the  
16 possible exception of those two documents I  
17 discussed, everything I will refer to is public,  
18 everything I will refer to, Mr. Bauknight either  
19 holds the original or a copy also, because we  
20 delivered him 150 boxes --

21 THE COURT: You just want me to take judicial  
22 notice of --

23 MS. POPE: I do, right. And I'd like to know  
24 before I come so I won't have to stack my desk high  
25 with --

1 THE COURT: Obviously I'll take judicial notice  
2 of it, of what all I've been involved in.

3 MS. POPE: I'm sorry, Your Honor?

4 THE COURT: Of all that I have been involved  
5 in.

6 MS. POPE: You've always let all in. Correct?  
7 Yeah.

8 And that's the record I simply wanted to remind  
9 Your Honor of. And because my case has been given a  
10 separate number, I didn't want to have the burden of  
11 that. And I thank you, Your Honor.

12 THE COURT: Thank you very much.

13 Mr. Newsome.

14 MR. NEWSOME: Thank you, Your Honor. I was  
15 prepared to argue everything in 15 minutes. On  
16 the --

17 THE COURT: All you got to argue is why the  
18 affidavit should or should not be stricken.

19 MR. NEWSOME: Right. Well, I would ask, are we  
20 going to -- she spent a lot of time on the  
21 jurisdictional issue of the Wingate suit and --

22 THE COURT: I don't have anything to do with  
23 that suit. That's been my position the whole time.  
24 The Wingate suit is in Judge Manning's court.

25 MR. NEWSOME: Right. I will just ask, can we

# EXHIBIT F

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS  
SECOND JUDICIAL CIRCUIT

COUNTY OF AIKEN )

CIVIL ACTION NO. 2007-CP-02-0122

IN RE: )

ORDER DIRECTING PAYMENT  
OF FEES AND COSTS OF SPECIAL  
ADMINISTRATORS AND OTHER RELIEF

THE ESTATE OF JAMES BROWN )  
A/K/A JAMES JOSEPH BROWN )

This matter comes before me on Motion of Robert L. Buchanan, Jr. and Adele J. Pope, as Personal Representatives of the Estate of James Brown; Trustees of the James Brown 2000 Irrevocable Trust; and former Special Administrators of the Estate of James Brown. They seek an order approving payment of fees of \$317,000.00 and costs for their services as Special Administrators for the period from March 7, 2007 through November 20, 2007. They also seek approval of continued payments on a "time plus costs" basis while they serve as Personal Representatives and Trustees. Their unreimbursed costs for the period are \$2,415.38. They ask that the "time plus costs" payments be a deposit towards, and without prejudice to, their right to receive full commissions as Personal Representatives and Trustees.

*Handwritten initials*

The motion was supported by affidavits of Robert L. Buchanan, Jr. and Adele J. Pope, with detailed attachments outlining their work as Special Administrators for the period from March 7, 2007 through November 20, 2007, and as Personal Representatives and Trustees since that time. For the 8 1/2 month period they served as Special Administrators, the two attorneys worked more than 950 hours. Their staffs and law clerks worked more than 680 hours.

Since, by limitation in this Court's ~~County Rules~~, the Special Administrators were not fiduciaries during the period before November 20, 2007, the Court finds that the guidelines for

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
I, Liz Godard, Clerk of Court of Common Pleas and Sessions for Aiken County, South Carolina do hereby certify that this is a true and correct copy of the original documents which have been filed in this

JAN 09 2008

*Liz Godard*  
C.C.P. & S.A., Aiken County, S.C.  
*Abraham Jones*  
Deputy Clerk

1-9  
8.  
8:30

determining reasonableness of fees for attorneys is an appropriate standard by which to measure their request as Special Administrators. The factors to be considered are:

1. The nature, extent and difficulty of the case;
2. The time necessarily devoted to the case;
3. Professional standing of counsel;
4. Contingency of compensation;
5. Beneficial results obtained;
6. Customary legal fees for similar services. See Donahue v. Donahue, 299 S.C. 353, 384 S.E.2d 741 (1989).

Considering such factors, the Court finds that the fees and costs requested by Mr. Buchanan and Mrs. Pope are fair and reasonable. Both Mr. Buchanan and Mrs. Pope are attorneys with substantial experience. This has been an extremely difficult case, and has required that they devote a large portion of their day almost every day to the task. Their discovery of the inappropriate August, 2006 deposit of \$900,000, which should have been applied to Mr. Brown's debt at M&T Bank, alone, has been of substantial value to the Estate. With the help of family members and their counsel, the Special Administrators investigated numerous areas of concern. As Personal Representatives and Trustees, they are continuing their work.

In addition to their own work, the Special Administrators were required to use staff in a way which was not anticipated at the time of their appointment. Mr. Buchanan's office became the home address of the James Brown Estate, the James Brown 2000 Irrevocable Trust, and the Brown Entities. Mrs. Pope's office became the repository for more than 80 boxes of documents. With the assistance of the staff of former counsel for the Personal Representatives, after August 10, 2007, Mrs. Pope and her staff made documents and records available to counsel for all Interested Parties, as well as for the work of the Estate.

The payment requested by Mr. Buchanan and Mrs. Pope is also consistent with their standing and services performed by other counsel of similar standing. They are consistent with the hourly rate of other lawyers in this case, as demonstrated in various filings.

With respect to their request to receive periodic payments on a "time plus costs" basis, with right to receive full commissions as Personal Representatives and Trustees, I find that it is entirely reasonable under the circumstances. Based on their affidavits, it is clear that the work of Mr. Buchanan and Mrs. Pope has approximately doubled since they became Personal Representatives and Trustees. In less than a month of service, they have filed the Application for Recognition of the James Brown "I Feel Good" Trust as a 501(c)(3) charitable educational organization. They have also begun to address the substantial tax issues facing the Estate, the Trust, and Brown Entities. Further, they are now actively involved in both the administration of Mr. Brown's assets and entities and also the defense of his Estate Plan.

Under these circumstances this Court finds it appropriate for Mr. Buchanan and Mrs. Pope, as Personal Representatives and Trustees, to continue to receive fees and costs on an hourly basis, as a deposit only, to any full commissions to which they may be entitled as Personal Representatives and Trustees. I specifically find that such payments are reasonable and should be made without prejudice to (but as a deposit toward) their full commissions.

I find it premature to determine whether such fees should be charged to the Estate, the 2000 Irrevocable Trust, or James Brown Enterprises, Inc. A glance at the claims filed against the Estate of James Brown shows that more than twenty attorneys (in at least 4 law firms) performed services for Mr. Brown, James Brown Enterprises, Inc., and the Trust. Most did so without attempting to allocate the services among them. Further, there is litigation pending in at least three states (Illinois, New York and South Carolina) which is and must be conducted

simultaneously by the Estate and one or more of James Brown Enterprises, Inc., the 2000 Irrevocable Trust and other Brown Entities.

The Personal Representatives and Trustees under Mr. Brown's Estate Plan, have abundant authority to make a reasonable allocation, at the appropriate time, of their commissions. Should any party prevail in the challenges now pending to the Estate Plan of Mr. Brown, or any other circumstances dictate, it may become the duty of the Court to review any such allocation.

Based on the foregoing, IT IS ORDERED, ADJUDGED AND DECREED:

1. Robert L. Buchanan, Jr. and Adele J. Pope shall be paid \$317,000 plus costs, for service as Special Administrators from March 7, 2007 through November 20, 2007.
2. Robert L. Buchanan, Jr. and Adele J. Pope shall receive continuing payment on a "time plus costs" basis for themselves and their staff, commencing November 21, 2007. This shall be a deposit toward, and without prejudice to, their full commissions as Personal Representatives and Trustees.
3. To the extent not paid within 60 days, the above amounts shall be subject to interest at the legal rate.
4. Robert L. Buchanan, Jr. and Adele J. Pope shall be reimbursed for all costs as shown, and all reasonable costs in the future.

AND IT IS SO ORDERED.

January 8, 2008  
*J. L. ...*, South Carolina

*Doyet A. Early, III*  
\_\_\_\_\_  
Doyet A. Early, III  
Resident Judge, Second Judicial Circuit

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas  
The Honorable Doyet A. Early, III Circuit Court Judge

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Appellate Case No. 2019-000362

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**RECEIVED**

OCT 21 2019

SC Court of Appeals

Adele J. Pope, Appellant

v.

Estate of James Brown and The James Brown 2000 Irrevocable Trust, Respondents

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**PROOF OF SERVICE**

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The undersigned hereby certifies that he has served a copy of Appellant's Return and Memorandum Opposing Respondents' Motion to Strike on counsel for Respondents by hand-delivering a copy of the same on the date shown below to Respondents' counsel, addressed as follows:

J. David Black, Esquire  
Nexsen Pruet, LLC  
1230 Main Street  
Columbia, SC 29201



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Adam T. Silvernail  
*Attorney for the Appellant*

October 21, 2019