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

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 children 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.

INITIAL REPLY BRIEF OF APPELLANT

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Appellant respectfully submits the following reply to the Brief of Respondents filed by Sweeny, Wingate & Barrow, P.C.[1]

Incorporation of Brief and Preservation of Objections

Appellant incorporates and relies upon her brief in responding to the brief of Respondents. Appellant preserves her objection to the commencement and continuation of this case (Richland 4900) on behalf of the Attorney General of South Carolina (Attorney General or "AG"); by the James Brown Legacy Trust (Legacy Trust)[2], which the AG's office has controlled since 2009; and by the private law firm of Kenneth Wingate, Esq. (collectively "Wingate"). The commencement and continuation of Richland 4900 has, and does, violate the Due Process rights of Robert Buchanan, Jr. and Appellant. Contrary to Respondents' assertions on pages 19 (Appealability) and 43 (claimed Abandonment), these jurisdictional issues have been preserved since 2010, and may be addressed by the Court to dismiss the Richland 4900 complaint at any stage. [Appellant's Brief, pp. 31-35]

I. Respondents' Introduction of the January 2019 Order and Aiken 1337 Trial Testimony Provide Additional Support for Reversal of the Orders on Appeal

In three pre-trial appeals from Richland 4900 filed since 2016, and in a separate FOIA appeal[3], the AG, the Legacy Trust controlled by the AG, and other Respondents have tried to limit the Court's review of documents and other evidence which shows that Richland 4900 was

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[1] Appellant denies all allegations of the Brief of Respondents not specifically addressed herein which are inconsistent with her brief herein.

[2] Appellant also challenges as a continuing violation of her Due Process rights the acts of Russell L. Bauknight, who has claimed since May 2010 to be acting on behalf of the Attorney General in Richland 4900 while also acting on behalf of Tommie Rae Hynie Brown (Tommie Rae), Venisha Brown (Venisha), deceased, Terry Brown (Terry) and – since January 2011 -- Forlando Brown (Forlando). Collectively, the AG's (New) Charity, Tommie Rae, Venisha's Estate and Forlando are now more than 80% owner/beneficiaries of Richland 4900 Plaintiff/Respondent Legacy Trust (a/k/a Settlement Entity), of which Bauknight is also trustee. [Ans./CC]

[3] *See* Appellate Cases No. 2016-001708 and Opinion No.5657, dtd. 6/19/19; 2016-001727; and Appellate Case No. 2017-001899.

unconstitutional, illegal and baseless; that the service of Buchanan and Appellant to the estate, 2000 Trust and estate plan of entertainer James Brown from 2007 until 2013 was competent and appropriate; that the claim of Forlando about their appropriate decision not to sell Brown's Grammy© was fabricated to discredit Buchanan and Appellant; that the $79 million devaluation of Brown's worldwide music empire to $4.7 million was likewise fabricated (by Tommie Rae and other Respondents) to discredit them; and that Buchanan's and Appellant's defense of the plan of the AG to dismember Brown's 2000 Trust and take away the $4 million annual royalty stream Brown intended to educate needy students was both measured and reasonable. The efforts of Respondents to prevent review of this evidence have met with success at the circuit court level.[4]

In a dramatic departure from their efforts to restrict the record in this appeal, on pages 33 and 34 of their brief, Respondents ask this Court to increase the record in this appeal with a non-final January 16, 2019 order of the Honorable Doyet A. Early, III, as well as the trial testimony, in Aiken County Case 2013-CP-02-1337 ("Aiken 1337"), all now pending before this Court as Appellate Case No. 2019–000362. Respondents assert that the Aiken 1337 trial testimony of "[n]umerous experts in various disciplines related to fiduciary duties, the entertainment industry, tax and finance matters, and auction of iconic property" supports their position. That is not the case.

[4] *See*, for example, Order, Judge Addy, dtd. 11/22/11 (Wingate contract FOIA consolidated with Richland 4900) [R., pp.]; Order, Judge Early, dtd. 9/16/16 (Failure to Appear, Lindsay Brown (Lindsay) & Janise Brown (Janise)) [R., pp.] ; Order, Judge Early, dtd. 9/21/16, dtd. (protective order, Daryl Brown (Daryl) and Tonya Brown (Tonya)) [R., pp.] ; Orders, Judge Early, 12/27/16 and 1/23/17 (protective orders, Larry Brown) [R., pp.]; Order, Judge Early, 1/24/17, p.2 (linking Richland 4900 with Aiken County Case 2013-CP-02-1337) [R., pp.]; Order, Jg. Early, 3/9/17 (striking Appellant's affidavit without review, and requiring Appellant's affidavits to be filed under seal) [R. pp.]; Order, Judge Early, 3/9/17 (protective order, Tommie Rae) [R., pp.]; Order, Jg. Early, dtd. 6/6/17 (protective order, Wingate and Everett Kendall, Esq.) [R., pp.]; Order, Judge Early, dtd. 12/6/17 (declining to lift stay).

The January 2019 circuit court order, now on appeal, is extraordinary in several respects. In it the circuit court repudiates the unappealed findings, facts and rulings in more than a dozen of the court's own final, unappealed orders and directives issued between 2007 and 2013. Orders repudiated include the circuit court's October 2013 "double approval" of service of Buchanan, all of which was joint with Appellant, and confirmation that no disgorgement was appropriate. *See* status report, Jg. Early 5/6/15 [R., pp.]

More extraordinary, perhaps, is that the January 2019 order simply overlooks Aiken 1337 trial testimony (by deposition) of the Governor of South Carolina, the Attorney General and at least ten additional experts and witnesses whose testimony provides full support for the positions Buchanan and Appellant have asserted in Richland 4900 and elsewhere since their answer and counterclaim in 2010. [Ans., CC] When asked to correct the failure to note the material testimony of a dozen critical witnesses, and provided with excerpts from their testimony, the Aiken 1337 court issued a Form 4 order declining to reconsider the January 2019 order. A brief summary of some of the testimony[5] the January 2019 order overlooks, and its relationship to Richland 4900 follows:

a. **Testimony of Governor McMaster.** Governor McMaster testified emphatically that as AG he did not sue Buchanan and Appellant in Richland 4900; did not authorize Wingate to file Richland 4900 in the name of the State/AG; did not authorize Bauknight to claim to act on behalf of the AG in Richland 4900; and did not even know he, as AG, was a named Plaintiff in Richland 4900 until after leaving office in January 2011. McMaster confirmed that while controlling Respondent Legacy Trust, which holds the U.S. Copyright Act termination rights proceeds of all individual Respondents, he knew nothing about termination rights, Brown's music business, Brown's estate plan, or the Legacy Trust. Yet he allowed, AG Havird "Sonny" Jones and Tommie Rae, with Peter Afterman, to devalue Brown's assets by $79 million and tell the IRS that Brown's worldwide music empire was worth only $4.7 million to discredit "Bobadele." As AG, McMaster also appeared on television with Forlando, helping support Forlando's 4-

[5] The underlying transcripts and filings summarized herein will appear in the forthcoming Record on Appeal in Appellate Case No. 2019-000362, and are part of the Aiken 1337 record. The Court is asked to take judicial notice of the filings in that case pursuant to Rule 201, SCRE.

year federal suit to reinstate felon David Cannon and Albert Dallas as Brown's trustees. He took these positions in reliance on AG Jones.

b. **Testimony of Kenneth Wingate, Esq., and Everett Kendall, Esq.** Over objection, Wingate and his partner Kendall were directed to testify in Aiken 1337. The Wingate 23%- 40% contingency contract confirms that it was not signed by AG McMaster, nor by any individual Respondent except Bauknight. Both Wingate and Kendall refused to answer questions about FOIA intervention and disruption to conceal the Wingate contract; their work with Bauknight to conceal other documents under FOIA; the $79 million devaluation; changes of position of most parties since Richland 4900 was filed; or their refusal to allow GALs to be appointed for the incarcerated Venisha and minor Respondents whose education trusts were destroyed by the AG's 2008 settlement. The circuit court issued a protective order preventing Wingate and Kendall from answering these material questions they had been ordered by acting Judge Jean H. Toal to answer. Order Jg. Toal, 3/6/17 [R.] Order, Jg. Early, 6/6/17 [R.]

c. **Testimony of Attorney General Alan Wilson.** AG Wilson, in control of Respondent Legacy Trust since January 2011, and Brown's assets from 2009 until 2013, testified that he knew nothing about James Brown's estate plan; his wishes; the "I Feel Good" Charity; the $79 million devaluation to $4.7 million by Bauknight and Afterman; the failure of Bauknight and his spouse and CPA to file proper income tax returns; or the incorrect representations made by Bauknight to the IRS and Supreme Court about termination rights, the value of the James Brown assets, or Tommie Rae's claimed "slamdunk" elective share claim. AG Wilson did not even know that all Respondents have repeatedly misrepresented termination rights issues to the circuit court, the Court of Appeals and the Supreme Court since 2009, claiming that there would be nothing in the "I Feel Good" Charity in 2023 if the AG's settlement were not approved, when termination rights will never even apply to about half of James Brown's annual royalties or to his other assets. Of Brown's $4 million annual royalty stream, about $2 million (roughly half) is made up of non-U.S. royalties which will never be affected by termination rights. AG Wilson had not reviewed the claimed $4.7 million Afterman/Bauknight valuation of Brown's music empire, and did not know that it was defective and was being used to falsely accuse Buchanan and Appellant of a federal felony.

c. **Testimony of Solicitor General Cook.** Solicitor General Cook testified that he remembered the March 2013 meeting with AG Wilson, Appellant and then-Chief Deputy AG McIntosh to discuss the damage done by Bauknight's $79 million devaluation and other IRS claims. He believed that Appellant was competent; concerned about the "I Feel Good" Charity; and not greedy, as filings with his name, but not signature, assert. After the meeting Sol. Gen. Cook prepared the *Wilson* petition for rehearing with the Supreme Court, relying on facts from AG Jones and AG Jowers, neither of whom had knowledge about tax, valuation or termination rights issues. By this reliance, he failed to tell the Court that representations made to the Supreme Court by AG Jones, Tommie Rae and all Respondents were incorrect, and that termination rights will never affect about $2 million of Brown's $4 million annual royalty stream.

Solicitor General Cook testified that in his many years he had never seen a case like Richland 4900. He produced more than 120 emails from the period of the filing of Richland 4900 and the preparation of the AG's *Wilson v. Dallas* petition for rehearing, but the circuit court issued a protective order preventing them from becoming a part of the record. *See* Order Ganting Protective Order as to Deposition Documents of Robert Cook, dtd. 6/6/17, Aiken 1337. Solicitor General Cook's sworn testimony fully supports the positions of Appellant.

d. **Testimony of Sr. Asst. AG Jones.** AG Jones testified to his role in the formulation and implementation of the AG's James Brown policy since 2007. AG Jones testified that he had a 5-year "common interest" with Tommie Rae and her son James. His "common interest" with Bauknight had continued since 2008. He praised Bauknight and admitted the AG helped have him reinstated as Brown's fiduciary two days after *Wilson.* He admitted to never reviewing the Bauknight/Afterman $79 million devaluation of Brown's music empire to $4.7 million, which was presented to the IRS and to the Supreme Court, and used by the AG to falsely accuse Buchanan and Appellant of a federal felony. He did not recall that Buchanan and Appellant had secured an order in March 2008 to conduct a proper determination of heirs under the U.S. Copyright Act. [The AG's 2008 settlement stopped the proper heirs determination.] AG Jones never learned about termination rights and supported the false claim to Judge Early, the Supreme Court and other courts that it was good for Brown's "I Feel Good" Charity to "stipulate" that Tommie Rae was Brown's spouse; that there would be nothing left in the "I Feel Good" Charity in 2023 if the AG's settlement with Tommie Rae were not approved; that Brown's estate/2000 Trust had no assets to speak of; and that termination rights are all this estate/case is about. AG Jones has "monitored" the James Brown cases since 2013, but done nothing to stop incorrect representations to multiple courts, including the Supreme Court, by Tommie Rae, Bauknight and other Respondents which are intended to deprive the "I Feel Good" Charity of its assets and the $4 million annual royalty stream Brown left for needy students. Most important is that the Legacy Trust has been the owner of all of Respondents' termination rights proceeds since at least January 2009, although it now claims not to exist. AG Jones did not understand termination rights issues raised by Appellant and her co-author in April 2011 in *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...* , and has done nothing to prevent Afterman and Bauknight from siphoning termination rights proceeds owned by the Legacy Trust from the charity to Tommie Rae and James.

   Like all AG staff, AG Jones appeared by deposition at the Aiken 1337 trial, but was also allowed to appear either voluntarily or by subpoena. None did so.

e. **Testimony of Asst. AG Jowers.** AG Mary Frances Jowers, who has assisted AG Jones in James Brown matters since 2007, testified she knows almost nothing about termination rights, the Legacy Trust, Richland 4900, Brown's assets or their values.

f. **Testimony of Former Chief Deputy McIntosh** – Former Chief Deputy John McIntosh confirmed he did not and could not have authorized Richland 4900, which

Governor McMaster did not authorize. He knew nothing about the Legacy Trust or James Brown assets, even though AG Jones answered to him for a decade. He knew nothing about the Bauknight/Afterman $79 million devaluation of the music empire to $4.7 million to discredit "Bobadele" or the false felony claims lodged by the AG to the Supreme Court and by Bauknight "on behalf of" the AG in Aiken 1337.

g. **Expert Testimony of James Hardin III, Esq.** Hardin, a tax and estate planning expert, introduced his lengthy opinion given in November 2008 in S.C. Dist. Ct. Case No. 3:08-00014-WOB (the "Forlando Suit") outlining the proper actions of Buchanan and Appellant, in contrast with those of felon David Cannon and Albert Dallas. Hardin testified that the factors used by Buchanan and Appellant to value Brown's worldwide music empire at $99 million less the $15 million TIAA debt were those customarily used in professional valuations. Hardin testified that when the AG assumed the right to displace Brown's PR/Trustees and make decisions for the Estate/2000 Trust, he should be liable for the damage to Brown's 2000 Trust and "I Feel Good" Charity. Hardin was aware of the $100 million letters of intent made to buy Brown's music empire, but did not know Bauknight told the Supreme Court nobody was trying to buy the assets, and that Brown's Estate/2000 Trust had no corpus to speak of.

h. **Expert Testimony of Wallace Lightsey, Esq.** Lightsey, an Intellectual Property (IP) expert designated by Appellant testified that termination rights provisions of the Copyright Act were enacted in 1976 but little was known about them in 2006, even among IP attorneys. His testimony fully supported Appellant's testimony that termination rights apply only to U.S. royalties, and thus would never affect about half of Brown's $4 million annual royalty stream; his right of publicity; or the other assets Brown gave the "I Feel Good" Charity. Lightsey confirmed that the probate and litigation experience of Appellant could be as valuable in determining heirs under the Copyright Act as IP skills, and confirmed that the proper determination of heirs was a critical first step in the protection of the $4 million annual U.S. royalties Brown devised to the "I Feel Good" Charity for needy students.[6] Lightsey had read *Private*

[6] Lightsey acknowledged that Brown's heirs present issues of first impression under the termination rights provisions of the U.S. Copyright Act, which should have been resolved as a first step to protect the "I Feel Good" copyright royalties from dissipation from termination rights claims. He agreed with Appellant that there was no basis to declare Tommie Rae as Brown's spouse when there was substantial evidence that she was not, including her own handwritten admissions that she was married, living with her husband, and possibly pregnant before meeting Brown. The claimed heirs of James Brown under the Copyright Act at the time of the AG's 2008 settlement, and since, in addition to 1.Tommie Rae include Venisha Brown 2. (Venisha), who was not a presumed child; acknowledged only in Brown's Will, which she challenged; was later determined to be a biological child; but died in 2018. They also include James Brown II 3. (James) , who is not a presumed child, and had refused a $300 official DNA test offered by Buchanan and Appellant. Larry Brown (4.Larry) and sister Lisa Brown (5. Lisa), who were both born of Brown's first marriage and acknowledged in his divorce settlement, but both were believed by other heirs not to be Brown's biological children; Daryl Brown (6. Daryl) who was acknowledged as an "heir" in Brown's Will, *provided he did not challenge the estate plan, which he did*, but neither a

Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't..., co-authored by Appellant, and agreed that the "splitting heirs" strategy proposed in *Private Foundations*, and other strategies, are available to reduce the impact of termination rights on the "I Feel Good" Charity and other charities. He testified that before 2012 termination rights were known as the "coming storm," and had assumed importance since then for all charities with copyrights.

i. **Testimony of Judge (Retired) Walter Williams.** A philanthropist who has valued hundreds of estates, Williams was a member of the advisory committed to the 2000 Trust; knew James Brown; and talked to trustee Bradley and investment bankers about the value of Brown's assets after his death. In 2007 Williams told a Chattanooga newspaper the "I Feel Good" Charity was worth $100 million, which he knew to be very low.

j. **Expert Testimony of Stephen Lambert.** Lambert, one of three trustees of The Graham Foundation of Greenville, and designated by Appellant as an expert on the operation of private charitable foundations, testified that the approximately $50 million Graham Foundation hired Appellant in 2012 for a self-study and that her work was of high quality and beneficial to the foundation. The Foundation hired Appellant with knowledge of the AG's serious claims against her only because they knew from an earlier engagement of the quality of her work. Lambert testified to the responsibilities and duties of trustees of private foundations which the AG and Bauknight have ignored.

k. **Testimony of "Adverse Expert" David Sojourner, Esq.** Designated by Appellant as an "adverse expert," Sojourner admitted that he and his law partner had charged about $1.4 million to "defend" Brown's estate plan and against claims of Tommie Rae and James. Sojourner testified he knew nothing about the James Brown Estate/2000 Trust assets or their value, and nothing about termination rights. He claimed he had no duty to protect the "I Feel Good" Charity's 900 copyrights from Tommie Rae and James. He allowed Tommie Rae to be found to be Brown's spouse on summary judgment without proffering her handwritten admissions. The Court is asked to take judicial notice that in October 2019 Tommie Rae told the Supreme Court the Estate, through Sojourner and Bauknight, wants Tommie Rae to be Brown's spouse in Sup. Ct. Case 2018-001990. Sojourner did testify in Aiken 1337 that he opposed Judge Early's award of $700,000.00 in legal and GAL fees to the attorney and GAL for James, the same attorney who told the Supreme Court in *Wilson* that Brown's worldwide music empire

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presumed child of Brown nor shown to be a biological child by DNA testing. The AG's 2008 settlement simply disregarded that had three already-DNA-proven heirs under the Copyright Act, LaRhonda Pettit (7. LaRhonda), Nicole Parris (8. Nicole), and Jeanette Mitchell (9. Jeanette). Further, the AG disregarded now-DNA-proven son Michael Brown (10. Michael), who was incarcerated and seeking DNA testing in 2008 and 2009; Respondent Tonya Brown Fegan (11. Tonya) and James Curtis (12. Curtis.) who asked in 2012 to be DNA tested. The only certain heirs of Brown under both state law and the Copyright Act at the time of the AG's 2008 settlement who were "stipulated" by the AG to be Brown's heirs and given a share of the Legacy Trust were Deanna Brown Thomas. (13. Deanna), Yamma Brown (14.Yamma), and Terry Brown (15.Terry).

was worth only $4.7 million, being $23.7 million for the 900 copyrights; zero, or near zero, for all other components of the music empire; and reduced by $19 million for the TIAA debt – a $3+ million overstatement of the TIAA debt.

Sojourner did not know of the IRS proceedings of songwriter Harland Howard, who died in 2002, in which the IRS accepted a non-professional valuation of Howard's copyrights under a formula almost identical to that presented by the SAs, and by Judge Early to the AG and all interested parties, for valuing James Brown's IP on the estate tax return in 2007, and to which no objection was ever made.

m. **Testimony of "Adverse Expert" Rita Caughman, f/k/a Cullum.** Caughman was hired by the Estate (Buchanan and Appellant) in 2008 after AG Jones claimed it was a conflict and possible ethical conflict, for Buchanan and Appellant to serve both as PRs and Trustees under Brown's "unified" estate plan. Caughman agreed with Appellant that there was no such conflict.

In addition to overlooking these important witnesses in the January 16, 2019 order, the Aiken 1337 circuit court also misapprehended the testimony of Bauknight's experts, also experts for Tommie Rae and other Respondents in Richland 4900. Importantly, the circuit court overlooked that Buchanan and Appellant had brought in $7.83 million in royalties in 18 months; that termination rights apply only to U.S. royalties; that it was bad for the AG to "stipulate" that Tommie Rae was Brown's spouse in 2008 despite strong evidence to the contrary; and that it has been bad for Bauknight and Afterman to be working with and for Tommie Rae since May 29, 2013 when she and most individual Respondents announced to Judge Early their intention to disregard *Wilson* and reinstate the AG's 2008 settlement. Some of the material testimony of Respondents' own experts the Aiken 1337 circuit court overlooked is summarized below.

a. Testimony of Expert Roger Miller. Miller confirmed Pope's testimony that termination rights will never apply to the non-U.S. royalties Brown gave the "I Feel Good" Charity, about half of the $4 million annual royalty stream, or to Brown's right of publicity and other assets. Miller testified that at Brown's death, and later, "frothy" investors were seeking to buy "solid gold" music catalogues such as Brown's for 15 – 20 times annual royalties, as much as $80 million when Buchanan and Appellant were PR/Trustees.[7]

[7] In *Wilson v. Dallas* the Supreme Court correctly noted that Brown's three major asset categories were the 900 copyrights; the right of publicity (image and persona) and other property (the TPP,

b. **Testimony of Jonas Herbsman, Esq.** Herbsman, an attorney recommended by Dallas in 2007, testified that he was hired by Wingate and Bauknight in 2016; told that Tommie Rae was Brown's spouse; and knew nothing about termination rights litigation; the differences between state and federal (Copyright law) determinations of heirs, or litigation. Herbsman "saw no evidence" that Buchanan and Appellant had entertainment counsel or took action on publicity rights projects, even though Ray Gonzalez, Esq., now head of Warner Music Legal, became entertainment counsel in January 2008 and even agreed to be named in 2009 as a successor trustee. Gonzalez, Buchanan and Appellant worked on two valuable publicity rights contracts, both of which were disrupted by the AG. The second, GreenLight contract was rejected by the AG and Bauknight, causing a loss of $1 - $2 million a year from 2009 – 2011. Then in 2011 they claimed to the Supreme Court that the right of publicity had a zero, or near-zero value, and later that the Estate/2000 Trust was on the "brink of insolvency" at the exact time the GreenLight contract was rejected.

Herbsman admitted he had read *Private Foundations* but testified he had formed no opinion of it. He was unaware of the Howard IRS estate tax proceeding. He lacked the experience to value Brown's right of publicity, but agreed that Brown was one of the seminal music figures of the 20th Century.

c. Testimony of Brad Sharp. Sharp charged $700 per hour; came from California; and did not value either the Copyrights or the Right of Publicity. Nor was he asked to review the $4.7 million claimed value of the music empire. He confirmed that Miller valued the termination rights of all heirs – not just the settling parties -- in 2017 at $8.8 million – as little as 15% or less of the value of the copyrights even though Bauknight had taken no steps in 9 years to prevent dissipation by termination rights claims, and has paid Afterman from Brown's income while Afterman works to help Tommie Rae and James siphon off U.S. royalties from the "I Feel Good" Trust.

d. Testimony of Laura Woolley. Woolley, also proposed by Dallas in 2007, was not hired for the appraisal of Brown's 10,000 items of tangible personal property (TPP). She testified that Brown's TPP was worth as much as $20 million at his death. Bauknight and Afterman valued the TPP at zero, or near zero, as part of the claimed $4.7 million value. Woolley was unaware of the three court orders approving and directing the 2008 Christies sale of about 350 of the 10,000 items, which sold for about $800,000, or the disruption by Tommie Rae, Dallas, Forlando and clients of Louis Levenson, Esq., of that sale.

e. Testimony of Mark Hobbs, CPA. Hobbs, a CPA designated by Wingate as an expert in 2010, was not told of the failure of Bauknight and his spouse/CPA Beth Bauknight to file two sets of amended income tax returns, in 2009 and 2011 after the AG proposed to

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etc.). Dr. Terry Cox, with the TJBL investors, valued the right of publicity at $45 million or more in 2008. Appellant's expert supported that value, but the circuit court declined to qualify him. Appellant testified to the AG's and Bauknight's refusal to accept the GreenLight 2-year publicity rights contract in 2009 which was projected to bring in as much as $2 million a year, in addition to royalties. In 2010 Bauknight and Afterman valued the publicity rights at zero, or near zero.

give about $2 million a year of income to Tommie Rae and some claimed children, or the tax damage caused under Brown's 2000 Trust's "fractional share" formula by the $79 million devaluation to $4.7 million. AG Wilson was told of the damage in March 2013, at a meeting with Appellant, Sol. Gen Cook, and Chief Deputy McIntosh, and did nothing.

f. **Testimony of Tiffany Provence, Esq.** Provence, a retired probate judge, knew nothing about taxes, circuit court litigation, the "fractional share" formula of Brown's 2000 Trust, termination rights, copyrights or valuation. She opined that Appellant and Buchanan had kept their 100+-page daily time records in "block billing" form, which she found deficient. She opined that Buchanan and Pope had lost their "neutrality" by defending James Brown's estate plan, and criticized Appellant for learning about termination rights. Provence did agree with Appellant that Bauknight's PR/Trustee appointment was voided by the Supreme Court and that the circuit court should pay from Brown's Estate/2000 Trust only those who benefitted the 2000 Trust during Bauknight's 4-year void appointment from May 2009 to May 2013.

g. **Testimony of Ellison Thomas, CPA.** Thomas prepared a chart which overlooked $7.8+ million of royalties Buchanan and Appellant earned in 18 months, but admitted he knew of nothing they had done wrong.

Bauknight testified in Aiken 1337 that, aided by Peter Afterman, he had done a good job, and Buchanan and Appellant a bad job and should be paid nothing – even though Buchanan's payments for joint service with Appellant had been approved in 2013. [Status Report] Yet Bauknight had admitted to a federal court in 2018 that he, Cannon and Dallas had spent tens of millions of dollars in litigation costs since 2007 from a music empire he told the IRS and Supreme Court had a value of only $4.7 million. He told the federal court all would be paid from Brown's charity. Bauknight testified he had no idea of the value of the Estate/2000 Trust assets, and he has never filed a proper accounting.

Bauknight filed an *ex parte* report with the circuit court, on direction of the court, of all of the litigation costs since May 26, 2009. When Appellant objected to the *ex parte* filing, the Aiken 1337 court, after reviewing the filing, discarded it; did not retain a copy for review by the Appellate Court; and rescinded the order for filing. When taken in context, the January 16, 2019 order, Aiken

1337 trial testimony, and other orders in Aiken 1337, now Appellate Case No. 2019-000362, support Appellant's brief.

II. Judicial Notice of Respondents' Supreme Court Filings Since *Wilson* Requested

To understand the defects of the January 16, 2019 order in Aiken 1337, Appellant respectfully requests that the Court take judicial notice of the filings of the Attorney General, his Legacy Trust and its beneficiaries in this Court and the Supreme Court since *Wilson.* These filings in *Wilson* and related cases, especially the actions of the Legacy Trust and the individual Respondents, who all put their termination rights proceeds, if any, into the Legacy Trust in or before January 2009, fully support reversal of all Richland 4900 orders now on appeal.

Most recently, on October 28, 2019 Tommie Rae continued the false claims she and Bauknight have made to multiple courts since 2009: that Brown's "I Feel Good" Charity will "substantially lose the funding to provide scholarships" if Tommie Rae is not declared to be Brown's spouse, which Tommie Rae asserts Sojourner and Bauknight want. After Bauknight, Tommie Rae, the AG and all Respondents told the Supreme Court in 2011 that Brown's worldwide music empire was worth only $4.7 million, the October 2019 filings assert that the termination rights proceeds (owned by the Legacy Trust) are worth "tens of millions" of dollars. Supporting the false claim is an affidavit of Peter Afterman, the "expert" on the $4.7 million claimed value, and the person who is helping Tommie Rae siphon off U.S. copyrights termination rights from the "I Feel Good" Charity.

In ten years neither the AG nor any Respondent has told the Supreme Court that all of the termination rights proceeds of all Respondents are now owned by the Legacy Trust, and that termination rights proceeds affect only U.S. royalties, and will never affect $2 million of Brown's annual $4 million (or greater) royalty stream. Judicial notice of these continuing false claims is

material to this appeal, and related to the circuit court's January 2019 order, which supports the announced plan to ignore *Wilson* and reinstate the AG's 2008 settlement. *See* Mot. to Supp. Record, and oral argument, Sup. Ct. Case 2018-001990, Ct. App., Case No. 2015-002417.

III. Respondents' Brief Overlooks the Material Role of Buchanan in Richland 4900 and *Wilson*

Respondents have elected to set out their own statement of the case on pages 2-9 of the brief. Their statement, however, contains pervasive contested matter[8]; fails to inform the Court of the parties and their positions; and fails to inform the Court of changes in the parties and their positions necessary to an understanding of this appeal. On page 2 of their statement of the case Respondents assert that Buchanan "was a named Defendant" in Richland 4900 but assert that Buchanan settled his claims with all Respondents in 2012. The asserted "settlement" was with Respondent AG, who has since been dismissed under Rule 21 as not a proper party to this case (on appeal); Respondent Estate/2000 Trust, acting through Russell Bauknight during his void appointment as PR/Trustee; Bauknight, as trustee of the Legacy Trust, which claims it does not exist; five former minors who had no guardian *ad litem* (GAL); Terry, who had transferred his interest in Richland 4900 to Forlando; and by the rest of the beneficiary/owners of the claimed non-existent Legacy Trust. [Mot. Enforce Settlement, dtd. 7/24/12] Neither the AG, the Legacy Trust, nor any individual Respondents has repaid the $500,000 settlement funds advanced by Bauknight from Brown's charity.

The statement of the case fails to advise the Court that the Honorable L. Casey Manning issued an order in 2012 directing the settling parties to pay their own attorneys' fees, and none has. Nor was the Court informed that a motion to void most of the Buchanan settlement (other than the

[8] *See*, for example, pages 2 - 9 (Buchanan), 4 (*Wilson),* 6, (Wingate default), and 9 (Due Process claims).

payment to Buchanan) as a violation of the AG's statutory duty has been pending since 2012. [Ret. and Obj. to Mot. Enforce Settlement, dtd. 5/21/12]

Respondents' statement of the case overlooks that all acts of Buchanan and Appellant were joint, and that in October 2013 Judge Early "double approved" all of Buchanan's service; praised it; found there was no basis for any disgorgement under *Wilson*; and left open the possibility of Buchanan's re-entry into Richland 4900 to seek relief against Respondents other than the Estate/2000 Trust of James Brown.

Respondents' statement of the case fails to notify the Court that by May 10, 2013, two days after *Wilson*, the AG, Tommie Rae and Levenson secured an order reinstating Bauknight as Brown's fiduciary, and that on May 29, 2013 Tommie Rae and more than ten Respondents announced to Judge Early in open court their intention to ignore *Wilson v. Dallas* and reinstate the AG's 2008 settlement.

Respondents' statement of the case and brief rely on the status report of Judge Early filed at the direction of the Supreme Court on May 8, 2015, but fail to advise the Court that the status report contained numerous factual errors; praised Bauknight; and repeated several incorrect claims of Bauknight about himself and Peter Afterman. Among the repeated incorrect claims were that Bauknight had filed proper tax returns and that he had reduced the TIAA debt from $14 million to zero after he replaced Buchanan and Pope.[9] The May 2015 status report, in full support of the

[9] The TIAA debt was about $11.3 million on May 26, 2009 when Bauknight was appointed to replace Buchanan and Appellant, but an escrow of approximately $2 million was available to be applied to the last payment, making the actual balance about $9.3 million. Bauknight claimed that the 7.95% TIAA debt was $14 million when he was appointed, and that he had paid it off – from a $4.7 million music empire – by October 2011. The status report repeated this claim. The status report also failed to note that Bauknight and his spouse/CPA had failed to collect the tax file of resigned, court-appointed CPA Sellars, allowing it to be destroyed as abandoned after more than six years, and that they had failed to file proper income tax returns.

announced plan to disregard *Wilson,* denigrated Appellant and Buchanan, even stating that the circuit court believed Appellant's $47,972 SA fee claim from 2007 was for $2 million. Most importantly, the circuit court failed to tell the Supreme Court about the May 29, 2013 announced intention of Tommie Rae and a dozen Respondents to ignore *Wilson v. Dallas* and reinstate the AG's 2008 settlement. The status report told the Supreme Court that there had not been even a whisper of discussion of any settlement.[10]

There are at least forty references in Respondents' brief to joint actions of Buchanan and Appellant as actions of Appellant only. *See* Brief, pages 2 -18, 22, 25, 26, 36, 36 and 38 – 42 This does not give the Court a fair understanding of the case. The Court is not told, for example, that Buchanan never settled with Forlando, a secret part-owner of the Legacy Trust; or that Buchanan and Appellant jointly uncovered much of the fraud on multiple courts perpetrated by Forlando between January 2008 and 2016. Forlando's fraud and dirty tricks included filing false grievances against Levenson in two states; helping Dallas disrupt the Christie's sale in 2008; and planting the false Grammy© story in 2011 which was noted by the Supreme Court in *Wilson v. Dallas* in 2013.

The actions and positions of Buchanan in this case and in *Wilson v. Dallas*, always joint with Appellant, are essential to the Court's understanding of this appeal, and were not correctly set out in Respondents' brief.[11]

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[10] The failure of the status report to inform the Supreme Court of the public announced intention of most Respondents/Richland 4900 Plaintiffs to Judge Early on May 29, 2013 of their plan to disregard *Wilson* and reinstate the AG's 2008 settlement was part of the Aiken 1337 trial testimony.

[11] In 2012 the AG, as a condition of paying Buchanan the partial PR/Trustee fee he was owed since 2009 for work through May 26, 2009, required that Buchanan not file a petition for rehearing in *Wilson.* The Supreme Court was not told of this requirement, and AG and other Respondents made it appear to the Supreme Court that Buchanan had abandoned support for Brown's estate plan. This was not correct.

IV. Respondents and Their Positions When the Motion to Dismiss Was Denied in 2010

At the time of the Richland 4900 Complaint and motion to dismiss in 2010 all Respondents supported the AG's 2008 settlement which put Tommie Rae and the AG in 75% control of James Brown's assets and gave more than 80% of Brown's 2000 Trust to the AG's (New) Charity, Tommie Rae, Venisha and Terry. All wanted Tommie Rae to be Brown's spouse; get about $1 million a year of income; and get about a quarter of the 2000 Trust. All claimed that Buchanan and Pope had both overstated the value of Brown's assets to get a large commission, and failed to sell Brown's music empire for $100 million. [Ans./CC]

V. Material Changes in Respondents and Their Positions as to the Summary Judgment Order

By August 2013, three months after the public announcement by most Respondents of their intention to reinstate the AG's 2008 settlement, Bauknight, under oath in the Forlando Suit, claimed that Appellant had "raped" Brown's estate; testified that Appellant was a liar; and defended the AG's 2008 settlement.

By 2015 Peter Afterman, while working for Bauknight, had helped Tommie Rae and James file termination notices with the U.S. Copyright Office to siphon off the U.S. royalties from five copyrights by 2015 and more than 90 others by 2023. Bauknight made no effort to collect the termination rights proceeds, which are owned by Respondent Legacy Trust.

By 2016 Governor McMaster had confirmed under oath that he did not sue Buchanan and Appellant as AG; did not authorize Wingate to sue them in the name of the State/AG; and did not authorize Bauknight to act on behalf of the AG in Richland 4900. The same year the AG and the Legacy Trust, which was claiming it did not exist, sought summary judgment as to Appellant's counterclaims.

By 2016 Respondents Terry, Daryl and Tonya had repudiated the AG's settlement and claimed support for Brown's estate plan.

In 2018 Venisha, Deanna, Yamma, Tonya and some DNA-proven heirs sued Tommie Rae, James, Bauknight and Sojourner over termination rights proceeds, but nobody told the Federal Court that all of the termination rights proceeds of the four Plaintiffs, Tommie Rae and James had all been put in Respondent Legacy Trust nearly a decade earlier. That year, Bauknight told this Court the Legacy Trust does not exist. [See Appellate Case No. 2016-001727]

In September 2018 Venisha died owning at least 4.79% of the termination rights proceeds of the "Beneficiary Plaintiffs" of Richland 4900, through the Legacy Trust, but Deanna, through counsel, told the Aiken Probate Court that Venisha had little or no assets.

Former minors James, Janice Brown (Janice), Sydney L. (Sydney) and Carrington L. (Carrington) have all reached majority and none has ratified the actions of Wingate or Bauknight "on [their] behalf" as minors. Bauknight's and Wingate's refusal to have a GAL for them has caused serious problems.

Even though the Supreme Court voided his appointment as PR/Trustee under Brown's estate plan, Bauknight was immediately reinstated by the AG, Tommie Rae and other Respondents, and has for six years acted for the Estate/2000 Trust while also acting "on behalf of" Tommie Rae, James and other Legacy Trust beneficiary owners committed to dismembering the estate plan and taking the termination rights proceeds they put in the Legacy Trust to pay for this litigation.

In short, every Respondent had materially changed his or her position between 2010 and the 2016 summary judgment hearing, providing additional support for Appellant's position that

summary judgment should not have been granted. Respondents' brief fails to advise the Court of these material changes.[12]

VI. The Lower Court's Denial of Appellant's Motion to Dismiss is Appealable

Respondents argue at length that the November 9, 2010 Order denying her motion to dismiss Respondents' complaint is not yet subject to this Court's review. Resp. Brief at 10-12. Their argument is misplaced, as this Court has before it multiple orders which are undisputedly appealable. Appellate Courts "may, as a matter of discretion, consider an unappealable order along with an appealable issue where such a ruling will avoid unnecessary litigation. *Morris v. Anderson Cty.*, 349 S.C. 607, 610, 564 S.E.2d 649, 651 (2002). *See also Pitts v. Jackson Nat'l Life Ins. Co.*,352 S.C. 319, 338, 574 S.E.2d 502, 511-12 (Ct. App. 2002) (entertaining an appeal from a denial of summary judgment because it was so closely connected with other issues properly before the court).

This case has been pending just short of a decade. Review is appropriate because of the constitutional issues raised (See Appellant's Brief in Appellate Case No. 2017-1899) and also because, in the first nine (9) years of this case, Respondents have never noticed and completed a single deposition related to their claims.[13] In addition, Respondents actively worked to prevent the circuit court from reviewing documents, and the circuit court has actively worked since May 2013 to help reinstate the AG's 2008 settlement.

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[12] In 2011 all Respondents joined in Bauknight's claims to the Supreme Court that Brown's worldwide music empire was worth $4.7 million or less. They also supported his claims that Tommie Rae and James control the termination rights; that Brown's Estate/2000 Trust had no assets to speak of; and that Tommie Rae's elective share claim is a "slamdunk;" They (except for Tommie Rae) now reject those positions, which valued the TPP, and the personal effects Brown devised to six Respondents, at zero.

[13] Appellant has taken a number of depositions, in which Respondents' counsel has participated, although nearly every deposition taken in this case occurred only after substantial delay by Respondents. See Appellant's Initial Brief at 8, 12.

VII. Respondents' Brief and Aiken 1337 Provide Further Support for Dismissal of the Complaint

On pages 12 through 27 of their brief, Respondents restate most of the arguments they made against dismissal in 2010. As stated above, what is different is that the Governor has now given sworn testimony that Richland 4900 was not authorized. The overriding reason for dismissal of the Richland 4900 complaint is that it was unconstitutional in 2010 for the private Wingate law firm to bring a tort suit against Buchanan and Appellant as sole counsel for the State/AG and sole counsel for Tommie Rae and a dozen individuals, including nonresidents and minors with no GAL. The defect was jurisdictional and constitutional, and can be raised at any time. *See Ex parte Cannon*, 385 S.C. 643, 654, 685 S.E.2d 814, 820 (Ct.App. 2009).

In 2010 the Wingate contract, which supports the Governor's testimony, was concealed by Wingate and Bauknight, who claimed it was the epitome of a private document. [Mot. Prot. Ord., dtd. 8/1/11] The fact that the AG had never signed the Wingate contract was concealed until after *Wilson* both in discovery and by FOIA disruption and noncompliance, lending further support for dismissal of the complaint.

Each of the additional nine grounds for dismissal was also appropriate in 2010, as it is today. Respondents' responses to these grounds were inaccurate and failed to provide any reason to prevent dismissal. Some of the inaccuracies are mentioned briefly below.

On pages 17 through 19 Respondents argue that the Aiken cases, including Case 2008-CP-02-1647, which became *Wilson,* have nothing to do with Richland 4900. Yet today they rely on the same case to support a grant of summary judgment. Their descriptions of Judge Early's orders are simply inaccurate, and the orders speak for themselves, especially the April 8, 2008 order which reviews and approves every action to that date of Buchanan and Appellant.

On Page 19 through 21 Respondents argue for the constitutional authority of the AG to bring Richland 4900, but this was soundly rejected in *Wilson* and is contradicted by the case law cited in Appellant's initial brief herein.

On page 24 Respondents ignore the law as to the appointment of GALs for minors and incarcerated persons and misread the statutes of limitation. Their claims about the statutes of limitation are inconsistent both with facts within the record and the AG's petition for rehearing filed with the Supreme Court in *Wilson*, which claimed (incorrectly) that the case was filed on the last day of the 1-year statute of limitations. [*See* AG's Petition for Rehearing, *Wilson v. Dallas,* Appellate Case No. 2009-142286, p. 26.]

On page 25, Respondents assert that the Richland 4900 complaint "does not involve attempts by beneficiaries to 'contest, claim an interest in or otherwise dispute the disposition of the Grantor's estate...'" This is simply incorrect. The purpose of Richland 4900 was to stop an appeal of the dismembering of James Brown's estate plan by Respondents.

At the time of the motion to dismiss the AG and Bauknight knew that that the AG had not signed the Wingate contract. They also knew that the Wingate contract had not been signed by a single individual Plaintiff, but by Bauknight and attorneys wanting $20 million if they could stop the *Wilson* appeal. At the time Respondents had also received the claimed $4.7 million Afterman "appraisal," but were withholding it from the Supreme Court, the probate court and the Richland 4900 court. The Supreme Court was not advised of the claimed $4.7 million valuation for eight months after it was received. Then the AG, without reviewing the claimed $4.7 million Afterman valuation, used it to falsely accuse Buchanan and Appellant of a federal felony.

In short, the facts Respondents concealed from the Richland 4900 court at the time of the dismissal motion support the Court's dismissal of the Richland 4900 complaint now.

VIII. Respondents' Brief Endorses the Rule 56 Standard Then Fails to Apply It

Respondents' brief endorses the Rule 56 standard of review, then asserts that Appellant's argument and 15-page statement of the facts on pages 14 through 29 does not adequately preserve her argument that summary judgment as to the counterclaims should not have been granted. This is not the case. Appellant position is preserved, as set out in the statement of facts and argument on pages 45 – 48. It is further supported by the testimony of the Governor, the Solicitor General, the Attorney General, IP expert Lightsey, experts Hardin, Sojourner and Caughman, and others.

Respondents assert on pages 29 through 31 that the Supreme Court's statement from *Wilson* quoted on page 31 is adequate to support summary judgment as to all counterclaims of all Respondents. As argued in Appellant's initial brief – and supported by her cited statement of the facts therein – *Wilson* does not bar any of Appellant's counterclaims as a matter of law.

IX. Appellant Has Preserved the Civil Conspiracy Claim With Abundant, Undisputed Facts

In 2009 the AG, Tommie Rae and Bauknight conspired to devalue Brown's copyrights at $24 million or less and his right of publicity at zero to discredit "Bobadele." They had readily available information that the copyrights were worth $60 million or more, and that the IRS had accepted a non-professional valuation of the copyrights of songwriter Harlan Howard in 2002 which was almost exactly the same as the formula Judge Early approved for Brown. They had evidence that the TPP was worth as much as $20 million, and the right of publicity $45 million or more. Yet the State's highest legal officer and Bauknight, claiming to act "on behalf of" the AG and the remaining Respondents, endorsed the $79 devaluation to $4.7 million without even checking the figures. The use of the $4.7 million to then accuse them of being greedy felons worked. They were damaged.

X. Appellant Has Preserved the Abuse of Process Claim with Abundant, Undisputed Facts

Since 2009 the Legacy Trust, its trustee Bauknight and its beneficiaries, including the AG, who has 50% control and the right to remove and replace Bauknight at will, have made the false claims set out above in numerous state and federal court cases.

In 2013 the AG, the Legacy Trust, Tommie Rae, Venisha and other Respondents changed course and began claiming the Legacy Trust, which owns valuable termination rights proceeds to 900 copyrights which will come in over decades, vanished and no longer exists. Aided by Afterman, Levenson and Bauknight, they began to siphon off the termination rights proceeds they had contracted to use to pay not only Appellant's and Buchanan's counterclaims, but the expenses of Richland 4900; the unnecessary taxes Bauknight had incurred; and the twelve lawyers Bauknight engaged from 2009 to 2013 to defend the Legacy Trust. The AG and circuit went along, doing nothing to stop Tommie Rae from siphoning off royalties that should have gone to the "I Feel Good" Trust. In 2016, the circuit court, in a FOIA case, found the Legacy Trust did not exist. Then the same circuit court granted the Legacy Trust summary judgment as to Appellant's and Buchanan's counterclaims in Richland 4900. The 62-1-106 violations, abuse of process, and interference with Appellant's and Buchanan's contract with the Estate/2000 Trust of the Legacy Trust and its beneficiaries are fully explored in Appellant's brief and the Aiken 1337 testimony.

Appellant craves reference to her statement of facts and Abuse of Process argument at page 45 of her brief, and to the testimony of the Governor and others. The filing and continuation of Richland 4900 has been a clear abuse of process for nearly a decade. Respondent's claim on page 37 that the "findings" of the Supreme Court "coincide with the allegations in Respondents' complaint" provides support for the abuse of process claim. *See Pallares v. Seinar,* 407 S.C. 359, 756 S.E.2d 128 (2014) ("[s]ummary judgment was inappropriate on [plaintiff]'s claim for abuse

of process because there are genuine issues of material fact regarding this claim". . . "even if [defendants] had cause to make some complaint against [plaintiff], the fact that those were properly instated does not foreclose an action for abuse of process if [defendants] have, in fact, committed acts outside the normal process that are improper").

Respondents' suggestion on page 38 that the threat that the AG would sue if the *Wilson* appeal was not dropped is "not unusual" is simply incorrect. This was no "mere commencement of a civil action" as asserted on page 37, but a malicious misuse and perversion of the process for an end not lawfully warranted. As Solicitor General Cook testified at trial (by deposition) in Aiken 1337, he has never seen any case like Richland 4900 in his forty years of practice.

XI. Abundant Evidence of Fraud Under §62-1-106 and Damage was Preserved and Presented

Appellant craves reference to her statement of facts and argument on pages 46 and 47 of her brief, and notes that her brief and this reply confirm multiple examples of fraud on the courts and damage to Appellant and Buchanan thereby. Respondents reliance on the claimed removal for cause, as stated on page 39, fails. Likewise, the assertion on page 39 that Appellant's removal in 2013, brought about by fraudulent claims, somehow negates the fraud itself is without merit.

The violations of §62-1-106 continued with Respondents' endorsements of the known false claims of Bauknight to the Supreme Court that Brown's music empire was worth only $4.7 million; that Tommie Rae's elective share was a "slamdunk;" that termination rights were all this estate/case is about; that nobody's trying to buy the James Brown assets; that Tommie Rae and James control the termination rights, which are automatic; that James Brown's estate and 2000 Trust have no corpus to speak of; and that if the AG's 2008 settlement were not upheld there would be nothing in Brown's "I Feel Good" Charity in 2023. It was known then that termination rights

would never apply to about half of Brown's $4 million annual royalty stream, making the statements patently false.

The suggestion of Respondents on page 39 that Appellant is raising the fraud issue as relates to the valuation, as well as other fraud, for the first time simply ignores the 10-year history of this case. [Ans./CC] Likewise, Respondents' attempt on page 40 to apply a statute of limitations to fraud that began before the complaint was filed and continues today is without merit. The Court is asked to take judicial notice of the known incorrect claims made to the Supreme Court by Tommie Rae, and ostensibly Bauknight, in October 2019.

XII. Appellant Has Preserved and Provided Evidence of her Interference With Contract Claim

Respondents' brief argues on pages 40 to 43 that because Buchanan and Appellant were appointed by the Court, their counterclaim for intentional interference with the contract they have with the Estate/2000 Trust for payment of fees, costs, and attorneys' fees must fail as a matter of law. This argument ignores the facts, including that Judge Early already approved partial payments to Buchanan under the contract, which was not with the court. The contract was with the Estate/2000 Trust, but was approved by the court as reasonable on January 8, 2008. [Ord. 1/8/08]

XIII. The Circuit Court and AG Violated the Due Process Rights of Buchanan and Appellant

On page 43 Respondents argue that Appellant has abandoned her position that the AG and circuit court violated her Due Process rights. This is not the case, and the expansion of the record by Respondents makes it even clearer that since May 29, 2013 the circuit court has aided the AG in retaliation against Appellant and Buchanan and denial of their Due Process rights.

Contrary to the arguments on pages 43 – 45 of Respondents' brief, Appellant and Buchanan have been deprived of a level playing field by the AG since 2010. The Due Process violations

increased after the May 8, 2013 *Wilson* decision. By May 10, 2013, the Richland circuit court honored the AG's request for a stay of both FOIA and Richland 4900 which lasted until 2016.

After the May 29 announced intention to disregard Wilson, on June 13 Judge Early ordered Buchanan and Appellant excluded from most James Brown cases and directed the clerk to return any filings by them in those cases. By 2015, when asked by the Supreme Court, he failed to report the May 29, 2013 announced intention to disregard *Wilson,* stating to the Supreme Court:

> The Order requesting this status report inquired whether any proposed settlement agreement has been submitted for Court approval. The answer is an unequivocal no. *No lawyer, party or anyone else has discussed, mentioned, suggested or inquired of me anything about settlement. Neither am I aware of any rumor or "courthouse talk" of any proposed settlement.* Status Report, p. 4. [R., p.][emphasis supplied]

In March 2016 Judge Early was assigned to Richland 4900 and two FOIA cases, and the retaliation by both the AG and the circuit court increased. Two FOIA cases were dismissed without a hearing, and the circuit court even found (with no hearing) that the Legacy Trust did not exist. The circuit court then awarded James a $700,000.00 war chest; dismissed the AG as a Richland 4900 party under Rule 21; and then granted summary judgment to Tommie Rae; the AG; and the Legacy Trust. Bauknight paid Sojourner nearly $1.5 million not to protect the copyrights, and he didn't even proffer Tommie Rae's handwritten admissions of her marriage. Bauknight kept acting "on behalf of" the AG in Richland 4900 despite the sworn testimony of the Governor.

By 2016 Tommie Rae was claiming that the termination rights from Brown's $4.7 million empire were worth tens of millions of dollars, The AG, with notice of the false claims, did nothing. The circuit court, with notice, did nothing.

By 2018 the facts about Bauknight's waste of tens of millions of dollars from Brown's charity came to light. The circuit court blamed Buchanan and Appellant for not accepting the AG's 2008 settlement; reviewed the litigation records; then discarded them. The circuit court

accused Appellant of wanting $2 million for a $47,972 unpaid SA claim and $19 million for a $2.1 million claim for 5 ½ years' service. [Status Report] The January 2019 order is the culmination of six years of retaliation and denial of Due Process by the circuit court.

In short, the AG has violated the Due Process rights of Appellant and Buchanan since 2010, and the circuit courts joined in and supported those violations after the *Wilson* decision.

CONCLUSION

For the reasons stated herein and for the reasons stated in the Brief of Appellant, the orders which are the subject of this appeal should be reversed and the case remanded to the circuit court with directions to dismiss the Richland 4900 complaint; correct the parties as outlined herein, including by reinstating Buchanan as to claims against all Respondents other than the Estate/2000 Trust; conclude discovery; and proceed to summary judgment or trial on all counterclaims and the request for attorneys' fees.

Respectfully submitted,

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November 5, 2019

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