

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

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

Appellate Case No. 2019-000362

Adele J. Pope, Appellant,

v.

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

**RECORD ON APPEAL
VOLUME V of VII
(Pages 1939 – 2426)**

RECEIVED

MAR 27 2020

SC Court of Appeals

Adam T. Silvernail (Bar No. 80219)
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernaillawfirm.com

Counsel for Appellant

J. David Black (Bar No. 64899)
Kirsten E. Small (Bar No. 75681)
NEXSEN PRUET, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
(803) 771-8900
dblack@nexsenpruet.com
ksmall@nexsenpruet.com

Counsel for Respondents

**Index to Record on Appeal
Appellate Case No. 2019-000362**

Volume I (Pages 1 – 488)

I. Orders	Page
Order of Jg. Early (“Jg. Early”), dtd. 2/19/07 [SA].....	1
Order of Jg. Early, dtd.3/7/07 [Appointing Buchanan/Pope SAs].....	7
Order of Jg. Early, dtd. 6/22/07 [SAs’ Access to Estate/Trusts Docs.].....	9
Order of Jg. Early, dtd. 8/10/7 [Accepting Cannon Resignation, Etc.].....	18
Order of Jg. Early, dtd. 11/20/07 [Order Accept. Dallas/Br.Resign., Appt. PR/Trustees]..	18
Order of Jg. Early, dtd.11/20/07 [Allow Combining Funds].....	21
Order of Jg. Early, dtd. 1/8/08 [Payment Order].....	23
Order of Jg. Early, dtd. 1/8/08 [Scheduling Hearings 1 st Half 2008].....	27
Order of Jg. Early, dtd. 1/9/08 [Approv Engagement of Few/Gilreath].....	30
Order of Jg. Early, dtd. 1/16/08 [Contempt, Cannon].....	33
Order of Jg. Early, dtd. 1/23/08 [Scheduling Order].....	34
Order of the Hon. Jasper M. Cureton (Jg. Cureton), dtd 2/6/08 [Cannon Appeal Bond]	37
Order of Jg. Early, dtd. 2/19/08 [Denying Recusal Motion of Dallas/Bradley).....	38
Order of Jg. Early, dtd. 2/20/08 [Approv.Sale of Tangible Personal Property (TPP), etc.]..	39
Order of Jg. Early, dtd. 2/20/08 [Retain Cannon Passport].....	61
Order of Jg. Early, dtd. 2/26/08 [Deny Mot. Terry/Forl., Mot. Disqual. Levenson].....	65
Order of Jg. Early, dtd. 3/7/08 [Tommie Documents Rae Gag Order]	68
Order of Jg. Early, dtd. 3/7/08 [Deny Reconsid., Dallas/Brad. Resignations].....	69
Order of Jg. Early, dtd. 3/8/08 [Resolv. Mot. Dism. Will/Trust Challenges].....	89
Order of Jg. Early, dtd. 4/1/08 [Directing PR/Tees to Sign Christie’s Contract]	93
Order of the Hon. Doyet A. Early, III, dtd. 4/8/08 [Deny Reconsid, Buch./Pope Appt.]....	99
Order of Jg. Cureton, dtd. 7/14/07 [Deny Dallas Mot. to Stay of Christie’s Sale].....	149
Order of Jg. Early, dtd. 7/23/08 [Approving Education Payments].....	152
Order of Jg. Early, dtd. 1/7/09 [Appointing Bauknight SA/ST].....	159
Order of Jg. Early, dtd. 3/11/09 [Denying Reccusal Mot. of Cannon]	163
Order of the Hon. Doyet A. Early, III, dtd. 5/26/09 [Approving AG’s Settlement]	165
Order of Jg. Early, dtd. 9/16/09 [Lift Stay, <i>Wilson v. Dallas</i> appeal].....	210
Order of the Hon. Sue H. Roe, dtd. 6/11/13 [Removing Aiken 1337 to Circuit Ct.]...218	
Order of Jg. Early, dtd. 6/13/13 [Administrative Order, Various Aiken Cty. Cases].....	219
Order of Jg. Early, dtd. 1/7/14 [Denying Motion to Dismiss, Aiken 1337].....	222
Order of Jg. Early, filed 2/4/14 [Fm. 4, Mot. Alter, Etc., Denied] 122-123	236
Order of Jg. Early, filed 3/10/14 [Dismissing Complaint as to Bauknight, Indiv.]	238
Order of Jg. Early, filed 9/8/14 [Deny Pls. Motion to Strike]	241
Order of Jg. Early, filed 12/2/14 [Form 4, Denying Motions for Summary Judgment].....	243
Order of Jg. Early & Hon. L Casey Manning (Jg. Manning), filed 1/20/15 [Jt. Mediation].	244

Order of Supreme Court dtd. 3/4/15 Summer, Petitioner, In Re: Estate of Brown	246
Order of Jg. Early, filed 7/18/16 [Form 4 Re: Mot. to Con.].....	248
MISSING!!!!!!	
Order of Jg. Early, dtd. 9/1/16 [Confidentiality Order].....	249
Order of Jg. Early, dtd. 1/17/17 [Deny Mot. Alter, Amend Denial of Disq, Bauknight]....	280
w/ Order Deny. Mot.to Disqualify Bauknight and Counsel & for Related Relief...	261
Order of Jg. Early, dtd. 1/20/17 [Protective Order, Def. Experts].....	262
Order of Jg. Early, dtd. 2/7/17 [Deny, Consolidate Richland 4900/Aiken 1337Experts] ..	264
Order of the Hon. Jean H. Toal, dtd. 3/1/16 [Deny Wingate, Kendall Motions]	266
Order of Jg. Early, dtd. 6/16/17 [Granting Motion to Confirm Confidentiality].....	267
Order of Jg. Early, dtd. 6/16/17[Confirm Roger Miller Confidentiality Designations].....	273
Order of Jg. Early, dtd. 8/18/17 [Grant. Defendants' Mot. to Transfer to Nonjury Roster]..	278
Order of Jg. Early, dtd. 8/29/17 [Form 4, Denying Mot. of Pope to Reconsider].....	281
Order of Jg. Early, dtd. 1/16/19 [Deny Compensation]	283
Order of Jg. Early, dtd. 2/7/19 [Deny Reconsid, 1/16/19 Order].....	344

II. Pleadings and Motions

Complaint [Buchanan/Pope] for Declaratory Judgment & Related Relief Including Expedited Emergency Relief.....	347
Complaint for Declaratory Judgment; Review of Compensation and Employment; Guidance as to Succession Plan; Approval of Accounting of PR/Trustees and for Order Granting Protection for Trustees Upon Resignation, 5/22/09.....	360
Ex. A: 2: Valid Claims/Priority Expnses of Administration, Etc.....	377
Mot. [Buchanan/Pope] for Payment of Commissions, Related Relief, 6/24/09	378
Protective Statement and Notice of Creditor's Claim [Buchanan/Pope], July 17, 2009.....	384
w/ Supp. Affidavit [Buchanan/Pope] in Support of Commissions, Etc.....	388
List of Exhibits 1 through 18	444
Exhibit 1: Complaint for Declaratory Jmt.....	see 347
Exhibit 2: January 8, 2008 (Payment Order).....	see 28
Exhibit 3: February 20, 2008 Order.....	see 39
Exhibit 4: April 1, 2008 Order.....	see 93
Exhibit 5: Minimum PR/Trustee Calculations as Per Order dtd. 1/8/08.....	445
Exhibit 6: Curriculum Vitae, Buchanan.....	447
Exhibit 7 Resume', Adele J. Pope	448
Exhibit 8: Summary of Activities of Pope, Nov. 20, 2007 – June 16, 2008 (1 –38).....	451

VOLUME II (Pages 489 – 976)

Pleadings and Motions (Continued)

Protective Statement and Notice of Creditor's Claim [Buchanan/Pope], July 17, 2009 w/ Supp. Affidavit in Support of Commissions, Etc and Exhibits (continued)	
Exhibit 8 Summary of Activities, Pope, June 16, 2008 – June 2009 (39.100).....	489
Ex. A Email Chain, Pope/Kraig Fox, 6/3 – 6/5/09.....	550
Exhibit 10 Ltr. of Pope to C. Havird Jones, Jr, Nov. 21, 2007.....	553
Exhibit 13: Ltr. of Buchanan/Pope to Hon. Henry McMaster, March 10, 2008.....	556
Ltr., Buchanan/Pope to Hon. Henry McMaster, June 13, 2008.....	558
Email, Hammond to Pope, June 21, 2007, w/annotations.....	567
Ltr. of AG to Buchanan & Pope, dtd. June 16, 2008.....	569
Memorandum of Pope to AGs Jones, McIntosh, Jowers , June 19, '08.....	571
Ltr. of Estate/2000 Trust to Hon Henry McMaster, June 27, '08.....	572
Ltr. of Estate/2000 Trust to Hon. Henry McMaster, July 25, 2008.....	577
Ltr. of Estate/2000 Trust to C. Havird Jones, Esq., Aug. 12, 2008.....	579
Exhibit 14 Email of Rosen to Jg. Early and others, August 12, 2008.....	580
Exhibit 15 Email of Sonny Jones to Jg. Early and others, August 12, 2008.....	581
Exhibit 16 Ltr. of AG McMaster to Buchanan & Pope, July 30, 2008.....	582
Exhibit 17 Ltr. of AG Jones to Jg. Early, July 7, 2008.....	584
Emergency Petition of AG, June 26, 2008.....	586
Exhibit 18 Email Terry Cox to Marion Heflin, Nov. 30, 2007.....	593
Summons, Complaint, Richland Cty. Case 2010-CP-40-4900 (Richland 4900), May19, '10.....	594
Plaintiffs' Mot. to Dismiss Notice of Appeal and Writ, Richland 4900, Feb. 28, 2011.....	607
Mot. to Supplement Record on Appeal, May 6, 2011, <i>Wilson v. Dallas</i>	610
w/Proposed Appendix to Record on Appeal.....	619
Plaintiffs' Mot.to Strike Offers of Judgment, Richland 4900, July 18, 2012.....	626
w/ Exhibit B., Offer of Judgment to Attorney General and Bauknight as Agent.....	629
Notice of Disallowance with Notice of Impending Bar served May 29, 2013.....	633
Summons & Complaint to Void Appointment and Notice of Disallowance; for Review and Direction to Pay Commissions and Fees under <i>Wilson v. Dallas</i> ; Remove Bauknight; Require Emergency Appointment of Litig'n SA/ST to Prevent Further Damage by Bauknight in <i>Wilson v. Dallas</i> , & for other Relief. (Jury Trial Demand), 6/10/13	634
Petition for Allowance of Claim, 6/5/13.....	698
Exhibit 2: Notice of Disallowance w/Notice of Impending Bar.....	699
Exhibit 3: Summary, <i>Wilson v. Dallas</i> and Related Cases.....	700
Exhibit 4: <i>Wilson v. Dallas</i> , Proposed Fiduciary Payments & Other Pyts.....	702
Exhibit 5: Attorneys Working for Benefit of Estate/2000 Trust.....	703
Exhibit 6: Attorneys in <i>Wilson v. Dallas</i> , Related Cases....Legacy Trust.....	704
Petition for Allowance of Claim:.....	See 698

Motion for Expedited Voiding of Apptmts. & Related Relief, dtd.6/9/13 (corrected).....	705
Motion to Dismiss, July 10, 2013.....	709
Bauknight's (ST) Mot. Confirm. Confidentiality Desig. (partial), 3:08-cv-00014-WOB.....	713
Reply [Bauknight] in Support of Confirming Confidentiality	718
Motion [Pope] for Summary Jmt. & Supp Obj. to Motion to Dismiss, Nov. 24,'13.....	720
Exhibit A Aff. of Pope Opposing admission of Bell, 9/19/13.....	730
Exhibit B, Ltr., Pope to AG Wilson, others, re: Hynie "Diary" Gag Order, 4/1/13.....	737
Answer to Petition for Allowance of Claim, dtd. Jan. 15, 2014.....	738
Mot. to Alter, Amend, Etc., Order Dismissing Claims filed January 24, 2014.....	740
Reply to Memorandum in Opp. To Mot. to Alter, Amend, March 20, 2014.....	808
Return and Opposition to Motion for confidentiality.....	817
Plaintiff's Motion for Partial Summary Judgment.....	819
Plaintiff's Motion for Inclusion of Docs., Unsealing, etc., dtd. June 3, 2014.....	822
Ex. A: Estate/Trust Refusal, including Aff. Pope re: Bell, U.S. Dist	
Ct. 3:08-cv-00014- WBO (Forlando Suit), Sept. 13, 2013.....	831 & see 713 - 719
Ex. B: Commissions.....	834
Exhibit C: Forlando.....	873
Exhibit D: Hynie.....	896
Return (Defendant) to Pl.'s Motion for Partial Summary Jmt., dtd: June 20, 2014.....	905
Attachment 1 – Summons & Complaint, Richland 4900, dtd. May 19, 2010.....	see 594
Attachment 3 – Renunciation of Fees, Etc.(Buchanan) dtd. 7/10/12.....	919
Cross Motion (of Defendants) for Partial Summary Judgment, dtd. 8/21/14.....	922
Plaintiff's Motion to Strike Affidavit Dated July 3, 2014; and Compel	
Estate/2000 Trust to Comply with Discovery and for Related Relief	
Dtd. July 7, 2014.....	924
Ex. A: Defendants' Answers to Plaintiff's First Interrogatories.....	928
Return and Opposition (of Plaintiff) to Motion of Russell L. Bauknight for	
Confidentiality Order, filed 9/10/14.....	937
Return and Opposition (of Plaintiff) to Motion of Estate/2000 Trust for	
Partial Summary Judgment, dtd. September 24, 2014	938
Motion (of Plaintiff) to Compel Attendance of Bauknight & Principals & Successors	
of the James Brown Legacy Trust at Court-Ordered Mediation, Jan. 13, 2015.....	948
w/ Ex. A: Ltr. of Lewis, Babcock, etc.,1/6/15, re: FOIA Request, 12/22/14.....	953
Ex. B: Email Chain, AG Sonny Jones, Bill Custer, Bauknight, Events of 11/15/11...	954
Proof of ADR, Joint Mediation, Richland 4900 and Aiken 1337.....	960
Complaint (Violation of FOIA) Summer v. Wilson, 2016-CP-36-00016, Feb. 15, 2016.....	961
Status Report of Judge Early to Supreme Court, May 6, 2015, filed 5/8/15.....	967
Response of Daryl Brown to Status Report of Judge Early, filed May 13, 2015.....	974

VOLUME III (Pages 977 – 1450)

Pleadings and Motions (Continued)

Response to Status Report of Doyet A. Early, III by Terry Brown, filed May 15, 2015.....	977
Response to Status Report of Doyet A. Early, III by Counsel for Jeanette Mitchell, Tonya Brown, Cherquarius Williams and Ciara Pettit, proposed LSA for LaRhonda Pettit (deceased), filed May 22, 2015.....	986
Motion for Clarification and Judicial Notice, filed Feb. 23, 2016.....	994
w/ Ex. A: Affidavit of Pope Opposing Plaintiff's Mot. for Protective Order etc.; Email Pope to AG Jowers, AG McIntosh, Newsome, 2/10/16; Ltr. Pope to Newsome, dtd. 2/15/16 re: Stipulation of Facts, etc. Email of Pope to Newsome, 2/17/16, re: Deposition of J. Richardson.....	998
Ex. B: Affidavit Pope, re: Deposition of James Richardson, Jr., Esq, 2/19/16.....	1007
Ex. C (partial)	1009
Email of Black to AG Jones, AG Jowers, Medlin, dtd. 12/17/10, w/Email Wilkins, to Black, others, 12/10/17 Re: Appraisal Footnote.....	1010
Supp. Response to Motion of AG Alan Wilson, Aiken 1337, dtd. April 10, 2016.....	1012
Mot. for Protective Order as to Deposition of David C. Sojourner, Esq., filed 6/3/16.....	1019
Mot. of Plaintiff to Alter, Amend, Etc, Admin. & Confidentiality Orders, filed 9/16/16.....	1021
Designation of Experts (of Plaintiff), October 6, 2016.....	1028
Return (Plaintiff) to Motion of Estate/2000 Trust and Request for Relief, Jan. 3, 2017.....	1055
Joint Motion of Richland 4900 and Defendants to Consolidate (Experts), Jan. 4, 2017.....	1062
Mot. [Plain.]to Alter, Am., etc. Order Deny. Mot. to Disqu. Bauknight, Counsel, 1/13/17.....	1069
Return and Opp. (Plaintiff) to Motion of AG Wilson 30(b)(6) depos., Jan. 16, 2017.....	1081
Response and Objection (Plaintiff) to Mot. of AG re: McMaster Depos., docs., Feb. 5, '17.....	1086
Ex. A: Ltr. of Office of AG to Pope, Nov. 9, 2016 Re: McMaster Statements.....	1095
Ex. B: Email, Pope to AG Wilson, Lt. Gov. McMaster, others, 10/20/16.....	1096
Return and Opp. to Mot. for Protective Order, Solicitor Gen. Robert Cook, 2/20/17.....	1098
Motion (Plaintiff) and Memo. for Partial Summary Judgment, dtd. May 23, 2017.....	1110
Motion (of Defendants) the Transfer to Non-Jury Roster, filed July 31, 2017.....	1123
w/ Ex. 1, Buchanan/Pope Protective Statement and Notice of Creditor's Claim & POD dtd. July 17, 2009	1129
Return (Plaintiff) to Motion for Transfer to Non-Jury Roster, dtd. August 10, 2017.....	1135
w/ Motion to Supplement the Record Pursuant to Rule 212(b), SCACR, or in the Alternative, to Take Judicial Notice of Records Filed in Related Proceeding, filed in <i>Wilson v. Dallas</i> on May 6, 2011 (w/ emphasis) &.....	1147
Denial of Motion (by notation).....	1153
Appendix (Proposed) to Record on Appeal, <i>Wilson v. Dallas</i>	1154
Appellants' Return and Opposition to Motion to Supplement the Record.....	1159
Respondents' Reply to the Motion to Supplement the Record.....	1167

Petition of Respondent James B. for Rehearing.....	1174
Bob and Adele's Correct \$84 Million Value for James Brown Assets.....	1179
Return (Plaintiff) and Memo. in Oppos.to Mot. to Alter Partial Sum. Jmt., Sept. 3, 2017....	1182
Motion and Memorandum (Plaintiff) to Unseal Documents; Restore Documents to Public Record; and for Related Relief, dtd. December 1, 2017.....	1186
Motion (Respondents) for Sanctions and Memorandum in Support, dtd 12/13/17.....	1195
w/ Ex. 4: Louis Levenson Affidavit Regarding PBW Appraisal.....	1204
Ex. A: Portion, Deposition of Levenson, Nov. 1, 2017.....	1207
Return and Memo. Opposing Payment into Court and Seeking Relief from Defendants' Refusal to Pay Valid, First-Priority Claim, February 16, 2018.....	1216
Motion (Plaintiff) for Disclosure of <i>ex parte</i> filing, dtd. April 5, 2018.....	1223
w/ Ex. A: Emails, Black to Jg. Early, 2/14-2/15/2018 & others in chain.....	1231
Motion (of Plaintiff) for Directed Verdict, dated June 14, 2018.....	1232
Handwritten Note of Judge Early to "Billy" [Newsome] dtd. January 7, 2019.....	1285
Motion (of Plaintiff) to Alter or Amend Jan. 2019 Order of Judge Early, filed 1/22/19.....	1286

III. Transcripts

Transcript of Record, Aiken Cty. Case No. 07-CP-02-122, Nov. 15 & 20, 2007.....	1419
Transcript of Record, September 9, 2009	1424
Transcript of Record, August 30, 2010, Richland 4900.....	1426
Trial Transcript of Trial, Aiken 1337, September 5 and December 14 & 15, 2017, and February 20 & 21, April 19 & 20, May 8 and 9, and June 4, 2018.....	1435
Index.....	1436
Exhibits.....	1442

VOLUME IV. (Pages 1451 –1938)

III. Transcripts (Continued)

Testimony of Adele Pope:	
Direct Examination by Mr. Bundy.....	1453
Cross-Examination by Mr. Williams.....	1770
Deposition Designations of Williams Sellars.....	1777
Testimony of W. Thomas Ellison	
Direct Examination by Mr. Newsome.....	1779
Testimony of Russell Bauknight	
Direct Examination by Mr. Newsome.....	1781
Cross Examination by Mr. Bundy.....	1806
Testimony of Bradley Sharp	
Direct Examination by Mr. Williams.....	1822
Cross-examination by Mr. Bundy.....	1827

Redirect Examination by Mr. Williams.....	1833
Testimony of Louis Levenson	
Cross-Examination by Mr. Silvernail.....	1835
Testimony of Jonas E. Herbsman	
Direct Examination by Mr. Newsome.....	1836
Cross Examination by Mr. Bundy.....	1851
Testimony of Jeffrey Smith	
Cross-Examination by Mr. Bundy.....	1856
Testimony of Laura Woolley	
Direct Examination by Mr. Williams.....	1859
Testimony of Roger Miller	
Direct Examination by Mr. Williams.....	1863
Cross Examination by Mr. Bundy.....	1870
Testimony of Tiffany Provence	
Direct Examination by Mr. Newsome.....	1872
Cross Examination by Mr. Bundy.....	1878
Summary of Mr. Bundy of Opinion of Richard B. Alexander by Mr. Bundy.....	1989
Introduction of Deposition Designations [Ex. 47]by Plaintiff.....	1891
Testimony of Adele Pope	
Direct Examination by Mr. Bundy (partial).....	1897

VOLUME V. (Pages 1939-2426)

III. Transcripts (Continued)

Testimony of Adele Pope (continued):	
Direct Examination of Mr. Bundy (continued).....	1939
Cross-Examination by Mr. Newsome.....	2054
Redirect Examination by Mr. Bundy.....	2065
Deposition Designations of Solicitor General Robert Cook.....	2087
Examination by Ms. Pope.....	2088
Deposition Designations of then Governor Henry D. McMaster.....	2158
Examination by Ms. Pope.....	2160
Deposition Designations of Attorney General Alan M. Wilson.....	2252
Examination by Ms. Pope.....	2254
Deposition Designations of Wallace K. Lightsey, Esq.....	2289
Examination by Mr. Williams.....	2290
Examination by Ms. Pope.....	2302
Deposition Designations of Judge (Ret'd) Walter Williams.....	2323
Examination by Ms. Pope.....	2324

Examination by Mr. Williams.....	2328
Deposition Designations of Kenneth B. Wingate, Esq.,.....	2329
Examination by Ms. Pope.....	2330
Deposition Designations of James Hardin III, Esq., ...	2366
Examination by Mr. Newsome.....	2369
Examination by Ms. Pope.....	2374
Deposition Designation of AG Auditor Sandra Matthews.....	2408
Examination by Ms. Pope.....	2410

VOLUME VI. (Pages 2427-2910)

III. Transcripts (Continued)

(Page 2427 – 2432 Reserved)

Deposition Designations of Assistant Attorney General Mary Frances Jowers.....	2433
Examination by Ms. Pope	2434
Deposition Designations of Sr. Asst. Attorney General Havird “Sonny” Jones.....	2433
Examination by Ms. Pope.....	2450
Deposition Designation of Sr. Asst. Attorney General Creighton Waters.....	2494
Examination by Ms. Pope.....	2495

IV. Exhibits and Other Documents

Last Will of James Brown dtd. August 1, 2000.....	2501
James Brown 2000 Irrevocable Trust dtd. Aug. 1, 2000.....	2510
w/ 2008 Amendment to “I Feel Good” Trust related to IRS qualification.....	2531
Handwritten Admissions of Tommie Rae Hynie (partial).....	2535
SC v. Cannon, Payments to Cannon, 1999 – 2006.....	2537
Index of Orders (Corresponding to Notebook Tabs).....	2538
[For Orders, February 19, 2007 – September 16, 2009, <i>See</i> Volume I]	
Developing the James Brown Legacy, Terry Bradford Cox, PH.D., June 2007.....	2542
Report and Recommendation of Special Administrators, June 2007.....	2549
Return and Recommendation of Special Administrators, Nov. 2007.....	2557
2006 Amended U.S. Corp. Income Tax Return, 1120X, James Brown Enterprises, Inc.....	2564
Ltr. of Pope to C. Havird Jones, Jr., Nov. 21, 2007.....	2567
Email of Sonny Jones [AGSJONES] to Buchanan & Pope, Dec. 6, 2007 re: James Brown Legacy Initial Offer 10-12-07.....	2569
Ltr. of Buchanan & Pope to Internal Revenue Service, Dec. 11, 2007.....	2571
Affidavit of Darren Julien, Julien’s Auctions, dtd. 1/6/08, w/ email chain of Julien, Leila Dunbar [Sotheby’s] and Dallas, 1/9/08 – 1/10/08.....	2574
CV Ray Gonzalez, Esq., Zumwalt, Almon & Hayes, PLLC.....	2579
Exhibits to Initial Designation of Experts and Disclosure of Opinions.....	2581

Ltr. Estate/Trust of James Brown (Buchanan/Pope) to IRS, Feb. 2009.....	2582
Affidavit of Rita B. Cullum [Caughman], March 4, 2008.....	2584
Application for Extension of Time and File and/or Pay U.S. Estate (and Gen.Skip.Transfer) Taxes, Est. of James Brown, Fm. 4768, 3/24/08	2586
First Semi- Annual Report to Devisees, Beneficiaries and Attorney General.....	2591
w/ Ex.1: Proposed “Gross” of Sale of Assets (under “Oct. 18 Letter”).....	2599
Ex. 2: Claims by Former PR/Trustees.....	2600
Ex. 3: Payments, Bills and Claims Presented by Attys., Accountants, Etc.....	2601
Ltr. of Louis Levenson, Esq., to State Bar of Georgia, dtd. June 20, 2008	
In re: Estate of James Brown , Bar Grievance.....	2602
Emergency Petition for Appointment of Special Trustee(s) of AG, dtd. 6/26/08.....	2609
Email of Sonny Jones [AGSJONES] to various parties, June 30, 2008 Re: James Brown Special Trustee.....	2616
Ltr. of Est. of James Brown (Buchanan/Pope) to AG Jones, July 8, 2008.....	2617
Christie’s, The James Brown Collection, Thursday, July 17, 2008 [p. 1 only].....	2618
Ltr. of Attorney General henry McMaster to Buchanan & Pope, dtd. July 30, 2008.....	2619
Email of Medlin to Chandler & others, July 31, 2008, Re: DNA ORDER, Rosen.....	2621
Agreement of Attorney General of S.C. and others, August 10, 2008.....	2622
Email of Sonny Jones [AGSJONES] to Judge Early & others, dtd. August 12, 2008, Re: Proposed Email to Judge Early.....	2626
Schedule F, Estate Tax Return of James Brown, September 2008.....	2627
Bob’s and Adele’s Correct \$84 Million Value for James Brown Assets.....	2628
Rule 26(a)(2) (B) Report of Expert Testimony of James Hardin III filed 11/8/08.....	2631
Resume” of James Hardin III.....	2655
Email of Tracy Johnson, Warner Chappell, dtd. Jan. 16, 2009 , Subject: “Get Rights”/Dance Your A..Off.....	2661
w/ attached 495 Productions Synch request	2662
Email Chain among Timothy Kane, WarnerChappell between Dec. 10, 2008 and January 23, 2009, w/ approved notation January 26, 2009.....	2663
w/ email of Cane to Woods, dtd. Dec. 9, 2008.....	2664
Ltr. of Estate/Trust of James Brown (Buchanan/Pope) to Warner/Chappell, 2/2/09.....	2665
Joint Affidavit of Buchanan & Pope Related to Commissions and Expenses, 6/24/09.....	2668
Interim Accounting #1A of Buchanan/Pope filed May 20, 2009.....	2674
w/ Status of Creditors’ Claims.....	2678
Valid Claims/Priority Expenses of Administration (Sec. 62-3-805 (a)(1)).....	2679
Pending Unresolved Claims (Partial).....	2681
Pope Hours, Nov. 21, 2007 – June 2009, Corresponding to Chart.....	2683
Memorandum of Pope to Bauknight, Re: Documents Delivered May 27, 2009.....	2694
Custody Receipt , Transfer of Custody of James Brown files, May 29, 2009.....	2698
Custody Receipt, Documents of Est. of James Brown & 2000 Trust, June 22, 2009,	

w/ list of boxes delivered on May 27 & 29 and by 6/22/09, p. 1 & 76 only.....	2699
Ltr. of Buchanan/Pope to Wm. Y. Klett, III, Esq., June 24, 2009.....	2701
Final Accounting (Reserving All Rights) covering May 21 – May 27, 2009.....	2705
Statement of Ray Gonzalez, Esq., Zumwalt, Almon & Hayes PLLC, July 14, 2009.....	2711
Affidavit/Opinion of W. Steven Johnson, July 20, 2009.....	2716
Supplemental Affidavit of Buchanan/Pope in support of commissions and	
Payment of Certain Priority Expenses of Administrations, pp. 1 & 56 only.....	2722
w/ List of Exhibits 1 – 18	2724
Exhibit 5: Minimum PR/Trustee Commissions Calculation.....	2725
[See pages 388 – 593 for additional pages]	
Email of Medlin to Kingsmore, Jowers, Bauknight & others dtd. August 30, 2009	
Subject: Tax valuation.....	2727
Agreement for Legal Services, Sweeny, Wingate & Barrow, P.A., May 10, 2010,	
Exhibit 12, Deposition of Kenneth B. Wingate, Esq., March 6, 2017.....	2728
Wingate Exhibit 10, Portion of Transcript of Record, August 30, 2010.....	2747
Wingate Ex. 15, Motion to Strike Defendant Pope's Offers of Judgment, 8/13/12.....	2755
w/ Pope's Offer of Jmt. To AG and Bauknight as Agent, 7/18/12.....	2758
Ltr. of SWB, Everett Kendall, II, filing Motion to Dismiss, Feb. 28, 2011.....	2752
w/ Plaintiffs' Motion to Dismiss Notice of Appeal and Petition for	
Writ of Prohibition (pp 1,2 & 8 only), S.C. Ct. Appeals; 2/28/11.....	2763
4/11 Draft, <i>Private Foundations, Copyright Heirs and Musical Millionaires:</i>	
<i>Why the James Brown "I Feel Good" Trust doesn't</i>	2766
Deposition of Wm. Jeffrey Smith, p. 1 only.....	2779
Motion to Supplement the Record of Appeal, <i>Wilson v. Dallas</i> , May 8 2011.....	2780
Deposition of Russell Bauknight, Aug. 20, 2013, Dist. Ct.3:08-cv-00014-WOB.....	2785
Ltr. of Marc Toberoff, Esq., to Warner/Chappell dtd. Sept.23, 2013 Re:	
James Brown/ Terminations under the Copyright Act.....	2789
Affidavit/Opinion of R.B. Alexander, dtd. Sept. 24, 2013, and filed in	
U.S. Dist Ct. Case 3:08-cv-00014-WOB, 9/27/13 Entry No. 299-2.....	2791
Memorandum (Pope) in Support of Partial Summary Judgment, July 2, 2014.....	2800
w/ Exhibit A: Ltr. of Marc Toberoff, Esq., to Warner/Chappell.....	2833
Exhibit B, Affidavit of Nathan Crystal, <i>AstraZeneca v. AG</i> (partial).....	2835
& Aff. of Pope.....	2837
Deposition of Robert Buchanan, Jr. Richland 4900.....	2840
Wingate Ex. 2, Questions, Depositions of Kenneth Wingate, Esq., & Everett	
Kendall, Esq.....	2842
Email of Silvernail to Williams and Newsome, Sept. 6, 2017.....	2848
Commission Due Pope.....	2849
Auction Results (Woolley).....	2850
Ellison Thomas, CPA, slides 28 and 30.....	2869

Chart of Ellison Thomas, CPA, Cash Balances for Year 2008.....	2871
Deposition Designation of Pope, w/ Exhibits (partial).....	2872
Chart, Royalties During Period Nov. 2007 – May 2009, \$7.83 Million (Reduced copy at pp. 2907-8, Full Chart served separately).....	2907
Chart, Standard of Care of PR/Trustees of The James Brown 2000 Irrevocable Trust and Last Will of James Brown (Reduced copy at pp. 2909-10, full Chart served separately).....	2909

VOLUME VII. (Pages 2911-End)

Ex. D4, Ltr. of The James Brown Legacy, Inc. to Messrs. Dallas and Cannon, dtd. Oct. 12, 2007.....	2911
Probate Court “Accounting”.....	2913
Ex. D59, Email from Vivian Pfeiffer to Adele Pope, dtd. Jan. 11, 2008.....	2982
Ex. D8, Email from Marianne Conlin to Adele Pope, dtd. Jan. 22, 2008.....	2984
Ex. D9, email from Timothy Kane to Adele Pope, dtd. Jan. 23, 2009.....	2985
Ex. D60, Selection for Sale, dated Feb. 22, 2008.....	2987
Ex. D29, Valuation Bridge Analysis.....	3041

Adele Pope - Direct Examination by Mr. Bundy

1 the attorney general about the \$100 million value. On
2 December 6, Sonny Jones wrote and said, what -- we're
3 afraid the \$100 million value is going to go away. Or
4 y'all are not doing what you should be doing. So, I mean
5 there was just no -- there was not even a hint that it was
6 high.

7 Q Okay. All right.

8 MR. NEWSOME: Your Honor, just, again, I want to
9 preserve the record. Objection, hearsay.

10 I think I've seen the e-mail she's talking about,
11 but I'm not sure. And I'm pretty sure it doesn't say \$100
12 million value. It talks about this letter of intent. And
13 not having those documents in front of us to be able to
14 cross Ms. Pope, it's -- I just need to --

15 THE COURT: You're protected. Thank you.

16 MR. NEWSOME: -- continue my objection.

17 THE WITNESS: He is correct. It doesn't say value.
18 It does say offer.

19 BY MR. BUNDY:

20 Q All right. Ms. Pope, did you secure any expert
21 appraisals before filing the estate tax returns?

22 A No.

23 Q Okay. And can you tell the Court why not?

24 A Because His Honor had, prior to our becoming PR's
25 said that there would not be an appraisal and approved a

Adele Pope - Direct Examination by Mr. Bundy

1 formula for valuing on the estate tax return and very
2 significantly, there was no estate tax due --

3 Q What's significant about that?

4 A -- on the intellectual property.

5 Q Why?

6 A Well, that's of huge significance because -- and --
7 because as I said earlier, private foundations don't just
8 value themselves one time. They value themselves every
9 single year, fair market value beginning of year, ending of
10 year. And if you're going to make a gift to a private
11 foundation during your lifetime, you must -- of a certain
12 size -- you must have an appraisal or you don't get the
13 gift tax deduction.

14 But if you -- if you make a gift to a charity at
15 death, you get 100 percent deduction for the value. And so
16 as I testified to His Honor way back, the IRS has no
17 particular incentive to -- to raise or lower, if anything
18 they may complain it's too high thinking you're trying to
19 have more basis. But -- but there was -- the formula that
20 Judge Early approved, or did not approve but gave other
21 people an opportunity to not agree with, resulted in the
22 right value for the Schedule F-2 assets. It was consistent
23 with an inventory that was done separately by different
24 people.

25 There was just no basis whatsoever for an appraisal

Adele Pope - Direct Examination by Mr. Bundy

1 at that -- at that stage.

2 Now, I do want to say this because it is important:
3 By January of 2009, after the attorney general proposed to
4 transfer half of the assets away and we were very concerned
5 about tax issues, shifting tax to taxable people. I mean
6 that was -- that created a whole new world. And in January
7 of 2009, we devised -- now I have to put this in context,
8 by January of 2009, the attorney general had filed a
9 lawsuit to prevent us from taking any action, so we had to
10 act prudently and there's a section in the probate code
11 that, in the trust code, that would tell us how prudently
12 we had to be, but the attorney general did not want us to
13 spend anything, even for attorneys.

14 But in January of 2009, we did propose a -- two
15 things that would have helped with determination of the
16 value. One, was we proposed a right at first offer. And I
17 think I may have mentioned it in passing, but what was
18 important about the right of first offer is it would have
19 given us a value as of two thousand -- January 2009, which
20 we needed for lots of reasons, because it was a charity and
21 you have to value charities every year, even though it
22 hadn't been funded yet. The charity had not been funded.
23 You need to know the value of the charity every single year
24 so you can do your make up funding when you -- when you
25 fund it.

Adele Pope - Direct Examination by Mr. Bundy

1 But -- but, we did a right -- we made to the Grahm
2 Windsor group a proposal that we asked Judge Early for
3 permission to do a right of first offer. It was stopped
4 immediately by counsel for Tomi Rae and others.

5 Q Who is the proposal to?

6 A Well, we -- we had just written just simply written
7 a letter to the Grahm Windsor group saying --

8 Q What does the Grahm Windsor group do?

9 A They purchase -- they were looking to purchase the
10 property.

11 Q Okay.

12 A They were looking to purchase the music empire.

13 THE COURT: This is one here, right?

14 THE WITNESS: It is. It is.

15 THE COURT: Exhibit 50 who -- on --

16 THE WITNESS: Right, right.

17 THE COURT: -- whatever date that is, January 3,
18 2008.

19 THE WITNESS: Right.

20 THE COURT: It's no longer an entity.

21 THE WITNESS: Well, yes, but, Your Honor, after
22 that they made two separate letters of intent. One in --
23 on February 27th and one on March 27, two separate ones --
24 and it's in the record that -- of course, we could not
25 explore those at that time because the will contest had

Adele Pope - Direct Examination by Mr. Bundy

1 just begun.

2 BY MR. BUNDY:

3 Q Any other thing that you need to tell the Court why
4 you failed to secure an expert appraisal before filing the
5 estate tax return?

6 A No, just nothing, nothing at all suggested that
7 there was anything wrong with the -- with the approximately
8 \$100 million less 15 million TIAA debt. We had come up
9 separately from Mr. Cannon and Mr. Dallas. Plus we had an
10 additional asset that they didn't have, which was the
11 substantial claims against them and others relating to Mr.
12 Cannon's stealing and that was a -- an asset of substantial
13 value.

14 THE COURT: Them and others. Who is them?

15 THE WITNESS: Mr. Cannon, Mr. Dallas and Mr. Farr
16 and Enterprise Bank and those. Those were claims which the
17 estate owned, Your Honor, at its death and they have to be
18 valued on the estate tax return, just like all other
19 assets.

20 BY MR. BUNDY:

21 Q Did filing this return without an appraisal violate
22 any IRS rules or regulations?

23 A You know, I heard -- the IRS has a lot of
24 regulations, but I've been practicing for 40 years, so I
25 can speak to what is customary. And I can tell you that,

Adele Pope - Direct Examination by Mr. Bundy

1 that including last year, I have presented --

2 MR. NEWSOME: Objection, Your Honor, she's offering
3 opinion testimony.

4 THE COURT: Just, the question was, does it have
5 any regulations or requirements.

6 THE WITNESS: It has lots of regulations.

7 BY MR. BUNDY:

8 Q Any of those regulations -- did you violate any of
9 those regulations in filing this return without an
10 appraisal?

11 A I don't believe so.

12 Q Okay.

13 A And I have a letter from Mr. Goodlet, the IRS
14 agent, where he asked for certain information and made
15 no --

16 MR. NEWSOME: Objection.

17 THE WITNESS: I haven't --

18 THE COURT: Wait just a minute.

19 What's the objection?

20 MR. NEWSOME: She's referring to another document
21 we don't have.

22 THE COURT: Show it to him.

23 THE WITNESS: I have that, Your Honor. I didn't
24 know what Your Honor needed today, so I have that under --

25 (The witness is looking for the document.)

Adele Pope - Direct Examination by Mr. Bundy

1 THE WITNESS: This is my only one, Your Honor. But
2 -- it may be somewhere else.

3 But on March 24th --

4 MR. BUNDY: Just identify -- let me mark it first.
5 (Plaintiff's Exhibit Number 51 was marked for
6 identification.)

7 MR. BUNDY: Your Honor, for the record it's Exhibit
8 51.

9 THE COURT: Show it to Mr. Newsome.

10 MR. BUNDY: It's a letter dated March 24th, 2009 to
11 Buchanan, Pope and Sellers.

12 (Showing the document to the defendants.)

13 THE WITNESS: I'm sorry, did I say Goodlet?

14 (There was a pause in the proceedings.)

15 MR. NEWSOME: Your Honor, I have the same
16 objection. This document has not been produced to us in
17 discovery and I don't believe it was included in the estate
18 documents delivered by Ms. Pope. This is the first time
19 I've seen this document.

20 MR. BUNDY: I'm not familiar with discovery
21 objection to evidence. Either it's -- it's a business
22 record.

23 THE COURT: Well, if you ask to produce documents
24 and they don't produce them -- you know that rule.

25 MR. NEWSOME: It would have been excluded. And

Adele Pope - Direct Examination by Mr. Bundy

1 that was before you were in the case, yeah.

2 THE WITNESS: Your Honor, I was never served with
3 discovery in this case until 2016 and -- and I have here
4 our final accounting reserving all rights that was filed in
5 this Court on June 29, 2009 and Box 82, delivered -- and
6 Mr. Bauknight signed that. That's already been made a part
7 of the record here. And it was filed in this Court on June
8 29th, 2009, and it was -- Box 82 is the administration box
9 with the following sub files. And it has estate tax return
10 IRS documents.

11 Today is the first time I'm ever hearing that the
12 estate didn't have that. The estate, through Mr. Wingate's
13 law firm, spent four days in my office in 2017. I don't --
14 I'm not even sure I was served with paper discovery here.
15 I know I was served with interrogatories in 2016 or 2017
16 for the first time.

17 THE COURT: I'll allow it.

18 MR. BUNDY: Thank you, Your Honor.

19 I'd move to introduce Exhibit 51.

20 THE COURT: All right. Over their objection,
21 subject to my ruling.

22 (Plaintiff's Exhibit Number 51 was entered into
23 evidence.)

24 BY MR. BUNDY:

25 Q All right. And Ms. Pope, where we were, I believe,

Adele Pope - Direct Examination by Mr. Bundy

1 is you were trying to explain to the Court why it was or
2 why you believe that this -- did not getting an expert
3 appraisal before filing the estate tax return did not
4 violate any applicable rules and regulations of the IRS?

5 A No, because as I said, all -- this 80 million was
6 going to a private foundation. That private foundation was
7 going to give the IRS a value every single year. And --
8 and I do not believe that with no tax due, with the
9 foundation assets having to be valued every single year at
10 fair market value in a public document, as soon as it's
11 funded. Now it hasn't been funded yet, but the -- there
12 was no basis for an appraisal under the facts at the time.

13 There was an appraisal, and I do believe that the
14 RBS documents should have been sent to the IRS. And I
15 would have certainly sent them as soon as we had gotten
16 them from Greenberg Traurig because you wouldn't want to
17 not disclose that to the IRS, but I do not believe there
18 was any basis for an appraisal.

19 Q All right. Now, you have been criticized for
20 failing to hire experts on a deferred-pay basis. Would you
21 explain to the Court why -- or did you do that? Did you
22 hire any experts on a deferred-pay basis?

23 A Yes.

24 Q Who did you hire?

25 A We not only hired experts on a deferred-pay basis,

Adele Pope - Direct Examination by Mr. Bundy

1 but we had experts who served during the period from 2007
2 to 2013 with no pay whatsoever.

3 Q Okay.

4 A And the -- but we did -- did not do it in a -- in
5 as much of a formal way, I guess as has been said. But
6 I'll just talk about what experts we had.

7 And, of course, the primary one was Ray Gonzales,
8 who's today the head of Warner Music Legal. And
9 Mr. Gonzales did not make a contract with us. He billed us
10 a couple of times. We paid one bill. The, the last bill
11 was rendered just after we left. He was not paid and has
12 not been paid today. I am humiliated by that because a
13 personal representative is liable for the debts of the
14 estate that they incur and to know that that this
15 gentleman, this distinguished gentleman who did such a good
16 job, was not paid was -- fell below the standard of care.

17 MR. NEWSOME: Objection, Your Honor.

18 THE COURT: That's exactly right -- overruled --
19 strike it.

20 THE WITNESS: So in the sense we obtained
21 Mr. Gonzales on a deferred basis in the sense that we
22 expected him to bill us fairly. He always did and when he
23 billed he wasn't paid.

24 All right. The next was Hogan and Hartson, who
25 were hired under a contract approved by Judge Early, but

Adele Pope - Direct Examination by Mr. Bundy

1 which got behind because of lack of liquidity, but we had
2 reliable lawyers who -- who continued to work and did a
3 great job. And -- and I -- we talked yesterday I mean the
4 other day about our defeating the \$31 million Pullman claim
5 here, but they defeated the \$8 million Pullman counterclaim
6 in New York. That was Mr. Ballenger and his partner. They
7 -- I found out later, were not paid their full amount that
8 Judge Early had approved.

9 I, of course, was working on a deferred-paid basis
10 and was not paid, and have still not been paid.

11 Tressa Hayes was working -- working to do her job
12 and billed about \$85,000. She was not paid the full amount
13 and by then lived in North Carolina.

14 James Bailey worked on a partially deferred basis.
15 He billed about \$186,000 for a year and a half of really
16 fine work and became too ill to come and pursue his claim
17 and was not fully paid.

18 So the answer, during the course of the appeal,
19 during the four years when we were defending the estate
20 plan, and others were seeking to dismember it, Jeff Smith
21 worked with me on copyright issues. He had been hired
22 before but he, but he worked pro bono publico on copyright
23 issues.

24 And of course lead counsel, Jim Richardson, worked
25 pro bono publico for the entire appeal.

Adele Pope - Direct Examination by Mr. Bundy

1 So -- but the code specifically says that personal
2 representatives, I'm sorry, trustees may only spend
3 administrative expenses that are consistent with the trust.
4 If I could read you that section, it would maybe be a
5 little more helpful. Let me just look, because -- if
6 you'll give me just a second, I think it might be helpful.

7 (There was a pause in the proceedings.)

8 THE WITNESS: Cost of administration -- I actually
9 had to look this up. I had it in my head, but not by
10 numbers. 62-7-805: In administering a trust, the trustee
11 may incur only costs that are reasonable in relation to the
12 trust property, the purposes of the trusts, and the skills
13 of the trustee.

14 So we, just so you understand, our appointment was
15 being challenged by the attorney general from November 20,
16 2007 until April 8, 2008. Then the challenge was lifted
17 for a moment or two. And then on -- on July, I'm sorry
18 June 30 the attorney general again challenged our authority
19 to act as trustees. And that lasted until July 14 of 2008.
20 And then on August 12, 2008, the attorney general
21 announced, along with others, that we were to stand down
22 and stop administering the estate.

23 And then on November 8th of 2008 the attorney
24 general filed suits to -- asked us, asked that we not be
25 able to do anything, including hiring attorneys.

Adele Pope - Direct Examination by Mr. Bundy

1 So in my opinion, and it's clear from the code it
2 would not have been prudent to enter into additional
3 deferred-pay contracts of any sort when the attorney
4 general was telling us we could not spend a penny.

5 BY MR. BUNDY:

6 Q All right. Let's talk a minute about block
7 billing. You've been criticized --

8 THE COURT: How about let's -- let's take a morning
9 break. We've been going about an hour and a half. We'll
10 take a bathroom break for about 10 or 15 minutes and come
11 back and go until about one o'clock.

12 Ms. Pope, obviously you cannot discuss your
13 testimony.

14 MR. BUNDY: Thank you, Your Honor.

15 (A brief recess was observed.)

16 MR. BUNDY: If it please the Court.

17 BY MR. BUNDY:

18 Q Ms. Pope, before the break I was getting into the
19 issue of block billing. And you've been criticized for
20 block billing.

21 Would you explain to the Court why you billed the
22 way you did. And secondly what objections, if any, were
23 made to the manner in which you billed prior to the trial
24 of this case?

25 A Okay. I do need to say some things about the

Adele Pope - Direct Examination by Mr. Bundy

1 value. I had a chance to look at my documents and a June
2 -- a June 13, 2008 letter to Attorney General McMaster
3 contains a bunch of information on which we relied and it's
4 all over the record here. And during a break, I could tell
5 Your Honor where it was filed. But it -- it -- it was
6 delivered to Mr. Bauknight and it's everywhere.

7 Q Well, do you recognize this document and --

8 A I absolutely do.

9 Q Would you describe it.

10 A Yes, it's a letter of June 13, 2008 from Mr.
11 Buchanan and me to Attorney General Henry McMaster, and it
12 deals with the \$100 million offer, and some of the earlier
13 offers.

14 Q Is it part of the books and records in the normal
15 business of the estate of James Brown?

16 A Well, it was at the time and it would have been
17 delivered -- there are multiple copies on file and it would
18 have been delivered, and I have some other documents also.

19 (Plaintiff's Exhibit Number 52 was marked for
20 identification.)

21 MR. BUNDY: Your Honor, I move to introduce Exhibit
22 52 into evidence.

23 (The Attorneys were conferring.)

24 MR. NEWSOME: Just for the record, I had a chance
25 to speak with Mr. Bauknight on the break. The receipt that

Adele Pope - Direct Examination by Mr. Bundy

1 Ms. Pope refers to is a general receipt. There is no
2 inventory of boxes that he received. We don't recognize
3 this letter. There are hundreds of pages of attachments,
4 some with notes on them, it's difficult to tell whether
5 these were the -- were the exact letters with the exact
6 attachments or whether these notes were included at the
7 time. So we want to preserve our objection for the record.

8 THE COURT: You're protected. I'm going to allow
9 it.

10 (Plaintiff's Exhibit Number 52 was entered into
11 evidence.)

12 MR. BUNDY: Thank you Your Honor.

13 BY MR. BUNDY:

14 Q Exhibit -- Plaintiff's Exhibit Number 52, what's
15 the purpose of writing this letter to the attorney general?
16 Just the simple purpose.

17 A It was to discuss various matters where we were not
18 getting support from the attorney general, but as relates
19 to the valuation issue, Exhibit 3 -- I'm sorry -- Exhibit 1
20 was explaining to the attorney general what the damage to
21 the "I feel good" Trust would be from a sale of 100 million
22 or 26 million that -- and how much it would get for Mr.
23 Dallas and Mr. Cannon and how little it would reap for the
24 estate. Which showed that a sale of 100 million at that
25 time would only have reaped \$24,591,341.

Adele Pope - Direct Examination by Mr. Bundy

1 But the letter --

2 THE COURT: Who got the rest of the 75 million?

3 THE WITNESS: , That would have gone under our
4 calculation, here, Your Honor. It would have gone about 15
5 million to pay off the TIAA debt, 12 and one-half percent
6 for the still unresolved Pullman claim, which we resolved
7 through our counsel in New York. That was Pullman. No,
8 that 31 million was resolved here, but the 8 million
9 counterclaim was resolved in New York.

10 Copsidas was wanting 12 million 750; Cannon was
11 wanting 6,000,400; Mr. Bobbitt wanted 200,000; Mr. Dallas
12 wanted \$5,549,019, Greenberg Traurig wanted 4,250,000 and
13 Mr. Farr, Hammond, and certain others wanted 700,000. And
14 Mr. Bradley wanted 5 million. And then -- and then we put
15 in there, that we would lose if -- if this sale went
16 through like that, we would lose our \$13 million claim
17 against Mr. Cannon.

18 So that was the totality of it. But it also
19 discusses, it also has the amended, some of the amended tax
20 returns showing, for example, in 2000 his income at 4.5
21 million and some other discussion about what I mentioned
22 earlier about the offers from Joel Katz and then -- and
23 then Sonny Jones's inquiry about the \$100 million dollar
24 offer. It's just a recounting of some of the things I've
25 said. And then I also --

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: Mr. Bundy.

2 MR. BUNDY: I'm sorry.

3 THE COURT: Thank you.

4 MR. BUNDY: Yes sir.

5 (Plaintiff's Exhibit Number 53 was marked for
6 identification.)

7 BY MR. BUNDY:

8 Q Ms. Pope, would you identify Exhibit 53, please.

9 A Yes, I'm sorry I don't have more copies and it's
10 printed on. It looks like something long ago in James
11 Brown.

12 This is.

13 THE COURT: Just identify it and let them look at
14 it, please.

15 THE WITNESS: Yes, sure. This is a -- an e-mail
16 from Terry Bradford Cox to Sonny Jones and Grace Lewis
17 dated January 21, 2008, re: Projected trust royalty.

18 MR. BUNDY: Let me show this to counsel.

19 THE WITNESS: That one has --

20 BY MR. BUNDY:

21 Q Is Exhibit 53 part of the books and business
22 records of the estate?

23 A Well it has a filed stamp. It's here in this
24 court.

25 Q So the answer is yes? It's part of the books and

Adele Pope - Direct Examination by Mr. Bundy

1 records?

2 A Yes.

3 Q It's part of the books and the records of the
4 estate of James Brown?

5 A It was at the time.

6 THE COURT: Any objection?

7 MR. NEWSOME: I'm sorry Your Honor. One second,
8 please.

9 THE COURT: Sure.

10 (There was a pause in the proceedings.)

11 (Plaintiff's Exhibit Number 54 was marked for
12 identification.)

13 MR. NEWSOME: Your Honor, we object. Ms. Pope
14 wasn't copied on this, nor was any other estate
15 representative. It's an e-mail from Terry Cox to Sonny
16 Jones and there's no --

17 MR. BUNDY: Business record exception.

18 THE COURT: It's also part of the record in some of
19 the James Brown cases. I'll allow it.

20 (Plaintiff's Exhibit Number 53 was entered into
21 evidence.)

22 BY MR. BUNDY:

23 Q Ms. Pope, what is the significance of Exhibit 53 as
24 it relates to the topics we were discussing?

25 A Exhibit 53 was filed on September 27, 2008, which

Adele Pope - Direct Examination by Mr. Bundy

1 was the day that the attorney general entered the James
2 Brown proceeding. And it was made Defendant's Exhibit 8
3 and I can't really say who the defendant was at this
4 particular hearing.

5 But it was in relation to the attorney general of
6 South Carolina and -- and the attorney general of Georgia
7 showing great interest in a quick sale of the James Brown
8 assets. Something we were trying to slow down because of
9 the October 18 letter. Not at this date.

10 Yes, at this date, we were already trying to slow
11 it down. And -- and so this was Mr. Cox's projections of
12 gross revenues from the entity that he intended to put
13 together. He's showing them at 650,000 in 2008 and --

14 Q All right. Well --

15 A And up and up and up.

16 Q All right. Well, tell me --

17 A Support --

18 Q Remind the Court what the October 8 letter is and
19 how that had anything to do with --

20 A I'm sorry, if I could -- yes, I will.

21 He, again, says, Even though we withdrew our offer,
22 we're still waiting to see if the environment is right to
23 negotiate another one. Below is our four year conservative
24 line item for the trust royalty. And so our concern was
25 not that -- about the 100 million but the net, which is

Adele Pope - Direct Examination by Mr. Bundy

1 discussed in the letter to the attorney general which was
2 just written four months later. So this is the same issue.

3 Q Okay. So if you would remind His Honor about this
4 October letter that you said required this quick sale and
5 you wanted it to be slowed down?

6 A The October 8th letter was one of two major
7 components of the litigation against Greenberg Traurig,
8 Cannon, and Dallas. The first part being the 17 million
9 that Mr. Cannon had taken and the second part being a -- a
10 contract -- an alleged contract dated October 10 to 20th,
11 2007 by which they were going to have another sale or
12 refinance of the book of the major music, the 800
13 copyrights that had been pledged to TIAA and they were
14 going to pay a large percentage of that to Greenberg
15 Traurig, Cannon, Dallas, Copsidas, and others.

16 Q Okay. And that later became the subject of
17 litigation?

18 A It was -- actually it was already the subject of
19 litigation in January of 2008. Just about the time that
20 letter -- I'm sorry February 2008.

21 Q All right. Would you identify plaintiff's exhibit
22 54, please.

23 A Yes, I just made a -- this is nothing more than the
24 index to the record of on appeal in the Dallas appeal.

25 Q Okay. And what is the relevance or significance of

Adele Pope - Direct Examination by Mr. Bundy

1 that as it relates to your testimony?

2 A Well, it's to -- so I can make sure that I remind
3 the Court of everything, I was looking -- Mr. Buchanan and
4 I were looking at when we made a decision that the \$85
5 million did not need to be amended and when we proposed the
6 formula.

7 Q Well, specifically, which documents listed in that
8 appeal would you have used?

9 A Well, I -- I can't say for sure, but I want to say
10 what the point is, I can see one just by opening this page
11 and that's the affidavit of Judge Walter Williams who had
12 valued -- whose deposition was taken in this case and who
13 valued James Brown's assets at 100 million conservatively.

14 But there may be other things as a joint affidavit
15 of Mr. Buchanan and Ms. Pope. Sitting here today, I can
16 tell you, I looked at thousands of things. But I -- I
17 think this is a good picture of what I looked at.

18 And then --

19 MR. NEWSOME: Your Honor, I'm going to object to
20 this exhibit. This is apparently a list of exhibits in an
21 appeal which was after she was already removed as a
22 personal representative. It has no relevance to her
23 valuation testimony. It shouldn't be in the record.

24 Your Honor, I just wanted to make sure -- bring to
25 your attention, Court of Appeals just issued an order

Adele Pope - Direct Examination by Mr. Bundy

1 striking documents that Ms. Pope has been trying to submit
2 in another James Brown case, and she's trying to include
3 documents in this record that aren't relevant to this case.

4 THE COURT: Well, I'm not familiar with the latest
5 court of appeals order. You got it?

6 MR. NEWSOME: I have a copy, Your Honor.

7 THE COURT: How long ago was that?

8 MR. NEWSOME: May I approach?

9 THE COURT: Yeah.

10 MR. NEWSOME: Last week.

11 THE COURT: When?

12 MR. NEWSOME: Last week.

13 THE COURT: Last week?

14 THE WITNESS: And, Your Honor, it allowed many,
15 many documents also if you'll read the last sentence. It
16 allowed many and it struck some.

17 THE COURT: The latest one is -- when was that.

18 THE WITNESS: Your Honor, if I -- Tressa Hayes.
19 And I have her bill here, which was --

20 THE COURT: No, ma'am --

21 THE WITNESS: -- part of our claim -- which was
22 originally part of our claim filed in 2009, prepared the
23 entire brief for this Dallas case.

24 THE COURT: Well, how is that pertinent to this
25 situation?

Adele Pope - Direct Examination by Mr. Bundy

1 THE WITNESS: It is pertinent to tell the Court
2 that I had thousands of documents that supported the \$100
3 million value. And -- a large number supporting the \$15
4 million value of the TIAA debt.

5 MR. NEWSOME: Your Honor, I apologize. I don't
6 have a copy of the exhibit she's trying to get into
7 evidence, so I'm not able to tell you all the.

8 (The document was handed to Mr. Newsome.)

9 MR. NEWSOME: -- I mean -- again, she's trying to
10 put lots of documents in that aren't -- I mean it says
11 order of Sue Roe, Dated February 1, 2007. There's no way
12 of knowing whether that has anything to do with the
13 valuation.

14 Supplemental Order Appointing Special
15 Administrators, that has nothing to do with her valuation
16 testimony. This -- there are tons of documents in here
17 that aren't relevant to her reply testimony here. And it
18 doesn't need to be in the record.

19 THE COURT: Specifically what in the documents are
20 you referring to, Mr. Bundy? Or your client was referring
21 to.

22 MR. BUNDY: It's just -- this is it right here.
23 Just the -- it's the index of the record on appeal.

24 THE COURT: But what part is it relevant as to what
25 she considered in arriving at the \$100 million? That's all

Adele Pope - Direct Examination by Mr. Bundy

1 I'm asking.

2 MR. BUNDY: Well, the -- the one she just mentioned
3 would be relevant.

4 THE COURT: Sir?

5 BY MR. BUNDY:

6 Q Which one was that, Ms. Pope?

7 A That was Walter Williams.

8 THE COURT: Walter Williams' what? Affidavit?

9 MR. BUNDY: Yes, Your Honor.

10 THE WITNESS: And -- and Your Honor, for example,
11 I'm looking here -- the purpose of this was to tell the
12 Court that there was abundance evidence. And I'm looking
13 here, for example, of the testimony of William Hammond that
14 was on February 7th, 2008. He was the lawyer who prepared
15 the inventory and appraisal. I can't say exactly, but I
16 would tell you that there was loads of evidence in the
17 record.

18 There was virtually no dispute about the 100
19 million being conservative at the time.

20 THE COURT: What I have heard so far was opinions
21 of other people as to what the value was. I haven't heard
22 anybody who actually did professional appraisals come up
23 with a value and that's -- of course, you've got my order
24 where I said what it says, but that's what I was looking
25 for.

Adele Pope - Direct Examination by Mr. Bundy

1 I just don't see where this record on appeal is
2 relevant when you start adding all this to the record, I
3 know what they're going to say in Columbia, but I will
4 allow.

5 THE WITNESS: And -- and --

6 MR. NEWSOME: Your Honor, just for clarification in
7 the record, the only thing that's in evidence is this list
8 of documents, not any of the documents they list.

9 THE COURT: Just the list right there.

10 (Plaintiff's Exhibit Number 54 was entered into
11 evidence.)

12 (Plaintiff's Exhibit Number 55 was marked for
13 identification.)

14 BY MR. BUNDY:

15 Q Could you identify Exhibit 55, please?

16 A Yes, it's a document filed in this case that
17 contains information about what happened to the 4.7 million
18 value -- how the 4.7 million value and the \$84 million
19 value came to be presented to the Supreme Court. And it
20 contains --

21 THE COURT: In this case, your case, for your fees?

22 THE WITNESS: In Wilson versus Dallas.

23 And including, Your Honor, a request -- -- it has
24 been filed in this case, Your Honor.

25 THE COURT: This case, being your case?

Adele Pope - Direct Examination by Mr. Bundy

1 THE WITNESS: My case.

2 THE COURT: Mr. Newsome, she represents it's
3 already been filed in this case.

4 MR. NEWSOME: Your Honor --

5 THE COURT: Any objection.

6 MR. NEWSOME: Your Honor, it appears to be some
7 sort of filing, but there's no foundation for it. It is a
8 hodgepodge of documents. There's no foundation for what it
9 was for. These documents also appear to be documents after
10 she was already removed for cause, which have no relevance
11 to what you're hearing on reply, which is what she relied
12 upon to come up with the valuation.

13 THE COURT: Well --

14 MR. NEWSOME: So she's trying to testify, for
15 example, about the valuation Mr. Bauknight arrived at.
16 That's different than her --

17 THE COURT: I'm going to allow it because I'm not
18 going to deny her making a record for whatever purpose may
19 be needed in the future. It may not be needed. I don't
20 know.

21 MR. BUNDY: Thank you, Your Honor.

22 BY MR. BUNDY:

23 Q All right. Ms. Pope, let's go to block billing.

24 A I'd like to talk about the IRS proceeding because
25 this document makes clear my opinion and --

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: Well, let me see the document.

2 THE WITNESS: I'm sorry, Your Honor.

3 BY MR. BUNDY:

4 Q Tell us about the IRS.

5 A An IRS closing letter, Your Honor, is not a work of
6 the IRS. And that was explained to the Supreme Court in
7 these documents. An IRS closing letter simply means that
8 the IRS will not revisit your issue unless you have
9 committed fraud, they have made a mistake, or certain other
10 circumstances. A closing letter is not an audit; and a
11 closing letter is simply that we won't come back unless
12 something happens.

13 Q All right. Let's go the block billing.

14 A Okay.

15 Q All right.

16 A Yes.

17 Q I think the question I asked you when we came back
18 was -- well, first let me ask you when was the first time
19 you heard any criticism as to the manner in which you kept
20 your hours or billed your time?

21 A Some time after this case was filed in 2013.

22 Q All right. And what was the criticism about the
23 manner in which you filed your bills?

24 A Well, I heard the first time the word block
25 billing.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay. And what -- tell the Court why you didn't --
2 why you billed the way you did?

3 A Well, because we had an extremely open
4 administration and my life was an open book. My James
5 Brown life was an open book and the Court, you know like
6 certain instances where fees may be being reviewed, was
7 intimately familiar with every step that Mr. Buchanan and I
8 had taken. And -- and I worked many, many, days the whole
9 day and I would -- it would never have occurred to me to
10 stop and say -- try to segregate what James Brown matter I
11 was working on. If I was working all day, which I was.
12 And if I was not lying about my time, which I wasn't, then
13 I would just put at the end of the day, as I said,
14 typically by transcribing -- I --

15 Q All right. Did you --

16 A -- I mean dictating --

17 Q -- look at the four times or days that the defense
18 witness picked out?

19 A I --

20 Q Do you have any explanation?

21 A I actually looked at, I think there were six days
22 that Ms. -- one of the experts testified that my billing
23 was inadequate and I just tried on a couple of those dates
24 to pull out the documents. I'm not going to go through
25 them, Your Honor, but just pull out the documents that were

Adele Pope - Direct Examination by Mr. Bundy

1 within five or ten days before that and within five or ten
2 days after that, so that -- so it -- that it would -- I
3 would -- I would be able to demonstrate, if it were
4 necessary, that the Court was intimately familiar with
5 every step I was taking and Mr. Buchanan was taking and
6 that -- that if anything my time was under-billed and that
7 the complexity and particularly of the -- the tax issues
8 that came into play starting in August of 2008, were so
9 troublesome.

10 And the Forlando litigation and everything else
11 that when we had -- the Court that was intimately familiar
12 with what we had done. I think the billing was certainly
13 adequate and nobody ever said it wasn't until after 2013.

14 Q Did you ever refuse to segregate or amend your
15 bills any way, anyone -- after somebody requested that you
16 do so?

17 A You know, I've been blessed. There are very few
18 times that I can recall I've had a bill question.

19 Q No, I'm talking about in this case. Did anybody
20 make a specific complaint to you in this case, Ms. Pope, we
21 need to know exactly how much time you're putting in for
22 copyrights; we need to know exactly how much time you're
23 spending answering interrogatories and the rest of it?

24 A I don't think so. I do think in the settlement
25 hearings, the question came up and we did bring our records

Adele Pope - Direct Examination by Mr. Bundy

1 to the settlement hearings. But unless the settlement
2 hearings, that's the only thing I can think of.

3 Q Okay. All right. What is a -- what is the
4 trustee's duty to defend an estate plan? What are those
5 duties as it relates to an estate plan?

6 A Well, a trustee has -- and a PR, had a duty to
7 defend, reasonably defend an estate plan. And for example,
8 if you have -- if you -- I'll find the section that we
9 want.

10 Section 62-7-811, says that a trustee will take
11 reasonable steps to enforce claims of the trust and to
12 defend claims of guests of trusts.

13 And of course, added to that is a whole overlay of
14 the defense of a will, the law that's been talked about.

15 And if I could just incorporate the brief that we
16 did on that subject after Mr. Levinson's testimony, we
17 clearly had a duty to defend as long as it was reasonable
18 and I can only say they where -- where a person who stands
19 in the shoes of a co-trustee or a -- or a -- an attempted
20 substitute trustee is attempting to shift about a million
21 five or \$3 million a year of incoming income away from the
22 beneficiaries of the trust, you must measure reasonableness
23 of the defense in the light of the potential for losing
24 1,500,000 every year for the existence of that trust.

25 Q I think you're going to need -- we're going to need

Adele Pope - Direct Examination by Mr. Bundy

1 to explain that a little bit more.

2 A Okay. Well --

3 Q The settlement was reached that you appealed,
4 correct?

5 A Yes.

6 Q You appealed that settlement; is that correct?

7 A We did.

8 Q All right. And was that done in the defense of the
9 estate plan?

10 A Absolutely.

11 Q All right. Now, explain to the Court how the
12 settlement was harmful to the trust and the estate, as
13 written.

14 A Okay. Well, yes. The -- the beneficiaries of the
15 trust are the seven grandchildren, not all the
16 grandchildren, but the seven identified by James Brown.
17 And the -- and the needy students. And when the attorney
18 general, on August 10th of 2008, assumed the right to
19 direct what was going to happen, not just to the charitable
20 beneficiaries, but to everybody, it was an unprecedented
21 situation and I have academically, I think the closest you
22 can come to it is Section 62-7-808, which says -- it's
23 called powers to direct.

24 And it says: A person other than a beneficiary who
25 holds the power to direct is presumptively a fiduciary, who

Adele Pope - Direct Examination by Mr. Bundy

1 as such, is required to act in good faith with regard to
2 the purposes of the trust and the interest of the
3 beneficiaries. The holder of the power to direct is liable
4 for any loss that results from the breach of duty. So --

5 Q What I want -- what I want you to explain though is
6 just the math, explain to the judge the math of how the --

7 A Okay.

8 Q -- settlement --

9 A Okay.

10 Q -- rose in you a duty to -- what was it about the
11 settlement that needed -- that you needed to defend as a
12 result of the settlement?

13 A Well, we needed to defend the attorney general's
14 assertion that it was beneficial to the trust to transfer
15 approximately \$1,500,000 a year to people who were not
16 beneficiaries of the trust.

17 Q And how was that -- how was that being
18 accomplished? In other words, tell the judge how that
19 worked. What the settlement said. How it worked and what
20 numbers you're dealing from?

21 A The settlement took all of the James Brown assets,
22 not simply the charitable assets, but all, and combined
23 them in a new trust created by the attorney general, known
24 as the James Brown Legacy Trust and from the James Brown
25 Legacy Trust, approximately a quarter of those assets and

Adele Pope - Direct Examination by Mr. Bundy

1 income would be paid to Tomi Rae and approximately a
2 quarter of those assets and income to five will/trust
3 contestants at the time it was originally created. It was
4 modified slightly. In terms of -- of shares.

5 But -- but then added to that was the attorney
6 general's claim that it benefitted the children, both the
7 needy children, and I presume the seven grandchildren to do
8 this because the settling parties had placed their
9 termination rights under Sections 203 and 304 of the
10 federal copyright act into the James Brown Legacy Trust and
11 the possession that the attorney general took was that
12 those assets were as valuable as James Brown's estate.

13 And -- and so we -- so we believed that we had the
14 duty under this section to prevent a serious breach of
15 trust.

16 Q Okay. But explain the \$1.5 million?

17 A Well, James Brown's -- James Brown was bringing --
18 James Brown's estate and trust were bringing in at least \$3
19 million a year. It was close to four by the time we left,
20 but at least \$3 million a year. And a shifting of half of
21 the assets and income would have shifted half of that to
22 the non beneficiaries. Taken it all, actually, and put it
23 in the hands of the attorney general.

24 And also not just that half, but it was to put the
25 other half into a new charity created by the attorney

Adele Pope - Direct Examination by Mr. Bundy

1 general of his own making and desire. So it was really
2 shifting all of the assets from the 2000 Trust.

3 Q All right. In the original -- in the trust that
4 James -- in the trust and will signed by James Brown, there
5 was what's been referred to as a fractional share. With
6 you familiar with that term?

7 A Yes.

8 Q Okay. Ms. Provence was not, so -- if you could,
9 explain to the judge what -- just -- what the fractional
10 share is and I want to get you to tell us a specific
11 example of how the value of the estate at death is --
12 affects the fractional share and how all this money would
13 have been divided if the trust had been followed. Can you
14 do that?

15 A Yes.

16 Q Okay.

17 A James Brown's will and trust read together are hard
18 to read and can't be understood until he dies because he --
19 the will -- the trust contains a formula provision for
20 funding the trust for the seven grandchildren and funding
21 the "I Feel Good" Trust. And the formula is that -- I'm
22 now not reading from the will, but reading from the will as
23 applied to the facts upon James Brown's death.

24 The -- the charity of the grandchildren was created
25 by a fraction. The numerator, top part, of which was \$2

Adele Pope - Direct Examination by Mr. Bundy

1 million. And the denominator, the bottom part of which was
2 the value of the trust assets. And that would be the trust
3 assets including anything that came into the trust through
4 the will, which was essentially everything except for
5 personal and household effects.

6 So --

7 Q Let me stop you there. Because this -- that has to
8 be done slowly, okay?

9 Using your valuation, okay? I want to use your
10 valuation that you used, which would have been applied had
11 it been accepted, to the formula, okay? I'm going to lead
12 you a little bit because I'm trying to move this along.

13 A Yes.

14 Q The numerator, the top number, the \$2 million.
15 That comes from the standard deduction at that time, right?
16 Because that was the -- some deduction --

17 A It's a tax related clause.

18 Q Okay. So it's 2 million, no matter what
19 denominator we're using the 2 million is always the top
20 number.

21 A It's always going to be that number because he died
22 in 2006.

23 Q All right. The number for the denominator, the
24 bottom number, based on your valuation was what? What
25 number was that?

Adele Pope - Direct Examination by Mr. Bundy

- 1 A Probably 84.
- 2 Q 84. 2 over 84 --
- 3 A Yes.
- 4 Q -- reduces to 1 over 42, right?
- 5 A Yes.
- 6 Q Okay.
- 7 A Approximately.
- 8 Q So 1, 42nd, is that right? 84 --
- 9 A Yes. Approximately --
- 10 Q So it's a fraction of 1, 42nd?
- 11 A Right.
- 12 Q All right. Now, let's suppose that there were --
- 13 let's try to make it easy, I guess -- \$4.2 million -- well
- 14 let's make it 84 -- we'll use the 84 million bucks. If you
- 15 said it was \$84 million that was going into the charity,
- 16 right? The charitable trust, correct? It's 84 million
- 17 bucks, right?
- 18 A That --
- 19 Q Goes into the 2000 Trust first, right?
- 20 A Not into the charitable trust. It goes into the
- 21 2000 Trust.
- 22 Q The 2000 Trust.
- 23 A Before it's divided.
- 24 Q It goes into the 2000 Trust.
- 25 A Yes, sir.

Adele Pope - Direct Examination by Mr. Bundy

1 Q One, 42nd of \$84 million would go into the
2 grandchildren's trust?

3 A For the education of the seven grandchildren to age
4 35.

5 Q Okay. 2 million bucks, roughly?

6 A Two million bucks.

7 Q All the rest of it would go to the needy children?

8 A Would go into the "I Feel Good" Trust --

9 Q The "I Feel Good" Trust?

10 A Yes.

11 Q Okay. So that \$2 million was to be exclusively
12 used for the education of seven specific people --

13 A That's correct.

14 Q -- correct?

15 And their right to have access to that stopped at
16 what age?

17 A It stop -- it stopped at 35 and, of course, it was
18 limited to education benefits.

19 Q Okay. Now, that trust was not a charitable trust,
20 was it?

21 A No, it was taxable.

22 Q And it had to pay and file income taxes every year,
23 correct?

24 A Yes.

25 Q Okay.

Adele Pope - Direct Examination by Mr. Bundy

1 A But -- but -- I need to tell you -- both -- both
2 trusts would -- I mean the whole trust would file income
3 taxes until it got separated.

4 Q Right.

5 A And then -- but all the portion that -- that got
6 shifted into the grandchildren's trust for whatever
7 reasons, would be taxable unless it was passed out to the
8 grandchildren for -- then it would be taxable to them.

9 Q Okay. All right. As money came into the estate,
10 it would be done the same way, the same fraction?

11 A And some -- some point fairly soon after the
12 death --

13 Q Okay.

14 A -- maybe 11 years, they would actually be divided.

15 Q Okay. All right.

16 Now, let's -- let's use the alternate valuation.

17 If the -- the 4. -- the 6 -- let's say 6 million?

18 A Yeah.

19 Q Four point -- what is it?

20 A Well -- the -- the -- the formula was tied to the
21 value as finally determined for estate tax purposes, which
22 is a typical method of determining. And if the valuation
23 was as it turned out to be 6 million, approximately, at
24 death, then that set the formula.

25 Q All right. So then what is the fraction?

Adele Pope - Direct Examination by Mr. Bundy

1 A So it's approximately a third.

2 Q Okay.

3 A A little less. So it is shifting -- a closing
4 letter of 6 million -- which results in \$6 million, will
5 shift nearly one-third of the charitable assets out of the
6 charity and into the grandchildren's trust where if it's
7 done properly, will not be needed, because you do not need
8 approximately a third or \$3 million a year to educate seven
9 grandchildren when two are close to 35.

10 And so that -- so what happens is that you have
11 trapped into a taxable trust a lot of income that is going
12 to be taxed at the highest income tax rate, where it will
13 sit there and be taxed until each child turned 35 and at
14 that point, it will go to the charity where it should have
15 been all along.

16 Q Okay. So there is a -- a tax detriment to a lower
17 valuation?

18 A A terrible tax detriment.

19 Q Okay.

20 A Hundreds of thousands each year.

21 Q And there's no tax detriment to a higher valuation
22 because it's a charitable trust?

23 A Well, I wouldn't exactly put it that way. I would
24 say a fair value that results in the fraction that was
25 intended at death, so -- is the best thing to do.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay. All right. And what else did you do other
2 than file the appeal and prevail to defend the estate while
3 you were PR trustee?

4 A Well, I did something that I've been criticized
5 for. I studied and studied and studied because I have read
6 the probate code and I believe that the probate code and
7 the trust code require PR's and trustees, but particularly
8 trustees who have special skills to use them. And I had a
9 large number of special skills that really along with Bob
10 Buchanan fit nicely into this job to which we were
11 assigned.

12 And I -- I was a lawyer and -- and we had no money
13 and the attorney general didn't want us to have any money
14 and I was totally capable of becoming a copyright expert,
15 so that's what I did.

16 Q Okay.

17 A And I read and I studied and wrote and I cannot
18 imagine that it's bad for a trust for a person who is a
19 lawyer with special skills capable of becoming a copyright
20 termination rights expert, not generally a copyright expert,
21 but a termination rights expert, I think that's the right
22 thing to do.

23 Q What other special skills besides that did you
24 bring to the table?

25 A Well, again, I was able to analyze and -- let me

Adele Pope - Direct Examination by Mr. Bundy

1 say this: Talking about experts, the -- the delegation by
2 a trustee of his duty to experts is allowed, but it is not
3 without limits. You cannot delegate your ability to think.
4 You -- and -- and with James Brown, I was selected because
5 I had special skills. I was left there because I had
6 special skills and it was my duty to use them.

7 Q Okay.

8 A And -- and so -- so -- so one of the skills I could
9 bring to it was to add to sort of understanding the tax,
10 the estate planning, the funding, the litigation, together
11 with Mr. Buchanan. I could -- the need to determine heirs,
12 which is -- any lawyer should know that. But add that --
13 it was just a small -- not a small, but a critical step to
14 go ahead and learn what was necessary to refute all of
15 these false claims that were being made about the copyright
16 act.

17 Q Okay. All right. Where did the \$99 million come
18 from in your formula?

19 A I was so surprised because here it is all over the
20 accountings, in this one in particular, is the final
21 accounting, but as it turned out, we sort of began with
22 almost 100 million in our -- and our net was much higher
23 when we left but our gross was a little bit lower. We --
24 we -- we accounted for a net value of transferred assets of
25 88,372,228.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Where did that come from?

2 A Well, that was a result of our reduction of the
3 TIAA debt and our other management -- our prudent
4 management. And he -- we left with very few legal fees. I
5 hope these are -- are -- that our whole claim was made an
6 exhibit, but I'm handing you Exhibit 11 and Exhibit 12,
7 which are the legal fees of Mr. -- Ms. Hayes and
8 Mr. Bailey, which are not the subject of this, but were
9 part of our claim.

10 They were filed -- they're exhibits to our claim as
11 filed with Judge Early in 2009. And they are -- they show
12 how prudently we used trustees because you must be prudent
13 in the -- I mean -- I'm sorry, experts and others. You
14 must be prudent in the selection of experts. You cannot
15 delegate them -- to them non delegable things. You must
16 oversee what they do. If they make a big mistake, like an
17 over statement by \$3 million of a debt, you can't say that
18 that was somebody else's job. That's your job.

19 Or -- and also -- and it says by accepting a
20 delegation of powers and duties, people to whom duties are
21 delegated are subject to the jurisdiction of these courts
22 in South Carolina. So -- we had carefully delegated what
23 duties we needed to delegate and done what we could with
24 our own special stills.

25 Q Okay. I want to ask you about trustee payments.

Adele Pope - Direct Examination by Mr. Bundy

1 Is it your experience that trustees don't get paid until
2 the end of the trust or the trust is over?

3 A Well, for one that lasted perpetuity, we would hope
4 not.

5 Q Okay.

6 A But it is -- it is customary for trustees to charge
7 fees based on the value of the asset quarterly or annually.
8 That -- there's nothing unusual about that. Trust -- PR's
9 --

10 Q Let me ask you about trustees -- you were a bank
11 trustee?

12 A I was a trust officer for a short while.

13 Q Trust officer.

14 A But, I mean I've had a lot of experience as a
15 trustee.

16 Q But is it your experience that banks will wait and
17 not collect their money --

18 A No.

19 Q Okay. All right. So at least we know that banks
20 expect to be paid.

21 A We do. We do.

22 Q All right. Now, what about PR's?

23 A Well, PR's -- my experience has been that PR's who
24 are also serving as trustees, typically do it together on
25 at least an annual basis. And there's a real strong

Adele Pope - Direct Examination by Mr. Bundy

1 prudent reason for that because you want to know if
2 anybody's fussing about your fees. You don't want to wait
3 until next year or the year after that. You want to know
4 right then if anybody doesn't like it. And I need to say
5 that in the -- in the James Brown 2000 Trust, when we did
6 the application for determination, which is the IRS
7 approval of -- of -- of the "I Feel Good" Trust, all of
8 which is located in the Dallas appeal at page 2731 to page,
9 something like 2763. But when we applied for the IRS
10 recognition of the James Brown "I Feel Good" Trust -- now,
11 this wouldn't be -- this wouldn't be -- the Court would not
12 be bound by that, nor would anybody, but what we put in --
13 into the amendments to James Brown's own documents, which
14 were allowed by the documents, we put in a trustee fee of
15 one-half of one percent of the value of the trust each
16 year.

17 MR. NEWSOME: Your Honor, I'm going --

18 THE WITNESS: For the trustees. That is a part of
19 the record.

20 THE COURT: Okay. Hold on.

21 MR. NEWSOME: That's not part of the record in this
22 case and there was no testimony about trustee fees. And
23 that's outside of the scope of reply. She's --

24 THE COURT: Mr. Bundy, why are we into that?

25 MR. BUNDY: All right, sir. I'm almost --

Adele Pope - Direct Examination by Mr. Bundy

1 THE WITNESS: It's part of my claim.

2 BY MR. BUNDY:

3 Q I'm sorry, I didn't --

4 A My claim is for both.

5 Q Well, your claim -- I thought she was talking about
6 the bylaws thing. The trust --

7 THE COURT: I just asked you why you were going
8 into this and she said the claim was for both. Move along.

9 MR. BUNDY: Yeah, very good.

10 THE COURT: That's correct.

11 BY MR. BUNDY:

12 Q Talking about claims, okay? What duty did you have
13 as the trustee/PR to resolve claims against the estate?

14 A The PR/Trustees have a duty to -- I just read it,
15 but, essentially, I'll say it, efficiently and promptly
16 resolve claims against the estate.

17 Q All right. Has -- has that recently been addressed
18 in the code regarding to a time frame within which claims
19 have to be resolved?

20 A It used to be that in estates and this would be
21 different from trusts, but in estates, you could kind of
22 wait until the end if you wanted to. You did so at your
23 peril, but you could wait until the end if you wanted to,
24 provided you treated claimants the same and you didn't --
25 you know, you didn't prejudice --

Adele Pope - Direct Examination by Mr. Bundy

1 Q Neutrality --

2 A -- first priority --

3 Q You had to be neutral?

4 A -- that's where the --

5 THE COURT REPORTER: Excuse me. You can't talk at
6 the same time, please.

7 MR. BUNDY: Sorry.

8 THE COURT REPORTER: Thank you.

9 BY MR. BUNDY:

10 Q Required neutrality among people in the same group,
11 category?

12 A (Witness nodded head.)

13 Q All right. All I'm asking you now is, what is the
14 status now with regard to claims when they need to be
15 resolved, if any? Is there a time frame now?

16 A Well, there's now a 14 month period where you don't
17 have to resolve it, but you have to deal with it in
18 estates. But that was not in the law when --

19 Q Okay. All right.

20 A -- we --

21 Q And how long has this claim been pending?

22 A Well, it was pending from 2009 until 2013 when it
23 was disallowed. So that was the trigger which, it could
24 have been resolved at any time.

25 Q Okay. All right. What is the -- what is your

Adele Pope - Direct Examination by Mr. Bundy

1 understanding of the requirement of allocation of fees or
2 trustee fees or PR fees among trustees throughout a course
3 of an estate?

4 A Well, again, I think the allocation depends on
5 reasonableness, but the payment to trustees on an annual
6 basis the fine.

7 Q Okay.

8 A The allocation, though, what is unique about the
9 allocation in this sense is that we have four years when
10 there was no PR or trustee. And you must analyze --

11 MR. NEWSOME: Objection, Your Honor. She's giving
12 professional opinions again about -- rather than talking
13 about the issue in general, she's giving professional
14 opinions in this case about what happened in her opinion
15 about the law.

16 THE COURT: I'll allow it. I'll allow it. That is
17 her -- her perception of what's going on.

18 THE WITNESS: Thank you, Your Honor.

19 This is a unique case, Your Honor, in that -- and I
20 think the depositions that we've presented will show that
21 even the attorney general has never seen cases like this
22 before.

23 The voiding of the appointment of Mr. Bauknight,
24 which was discussed in detail as a new matter, did clearly
25 set out that we have a new issue. But what -- it is my

Adele Pope - Direct Examination by Mr. Bundy

1 professional opinion, that when that happens and there is
2 no trustee, you must look at everyone who claims to be a
3 fiduciary during the period and you must determine --

4 MR. NEWSOME: Objection, Your Honor. She's made a
5 professional opinion. I just want to preserve my objection
6 for the record. She's attempting to --

7 THE COURT: This is different than whether or not
8 she violated the standard of care. I'm going to let her --

9 The question simply was do you look at everybody to
10 compute the fee or do you sort of break it down
11 individually and she's giving her reason as to support her
12 opinion on that.

13 Overruled.

14 MR. BUNDY: And, if I could just say, I tried to
15 think hard about this and prepared a chart, which we have
16 marked as an exhibit something because this is not simple,
17 Your Honor, it is complex. We have 18 years of a trust and
18 we have -- and the reason I use the trust is because the
19 trust was in existence for six years before James Brown
20 died. And the trust is the sole residual beneficiary of
21 the will.

22 And so, therefore, looking at the trust is really
23 more appropriate than talking about the estate. And my
24 chart talks first about the original trustees, Cannon and
25 Dallas. And it contains --

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: Wait a minute. I thought the question
2 was about the apportion of fees between everyone. We've
3 already talked about this chart not coming in.

4 Didn't y'all object to this chart?

5 MR. NEWSOME: Yes, Your Honor.

6 THE WITNESS: Well, it was my chart, not Ms.
7 Provence's chart. I made it. And I have provided the
8 documentation for everybody.

9 THE COURT: Well, he hasn't offered it with you
10 testifying, so I'm not going to rule on it yet.

11 MR. BUNDY: Well, I'd -- let's go ahead and try to
12 get it in now.

13 BY MR. BUNDY:

14 Q Ms. Pope, did you prepare this chart?

15 A I did.

16 Q Is it based on documents in this case?

17 A It is based on documents in the case and from the
18 public record and I have presented to the other side --

19 Q And the other side has been provided with all of
20 the information upon which that chart is based?

21 A Yes.

22 Q Or access to it?

23 A Access to all of the information.

24 MR. BUNDY: Your Honor, we move to introduce this
25 under the rules of evidence 1006.

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: Which is what?

2 MR. BUNDY: Well --

3 THE COURT: What is 1006?

4 MR. BUNDY: 1006 is when you have a great deal of
5 facts --

6 THE COURT: Compilation of --

7 MR. BUNDY: Compilation of facts, yes, Your Honor.
8 And it also requires that we provide to the defendants,
9 before we can introduce such an exhibit, all the documents
10 for it or all the documents from which she's -- this chart
11 was created, which we have done. A great deal of them are
12 -- they have been annotated and we believe it would be very
13 helpful to the Court, of course, it would be up to you
14 whether it's helpful or not, but -- to you, but we believe
15 it will be helpful to you, if nothing else to put things in
16 a chronological --

17 THE COURT: Well, I understand that, but you've got
18 something in here about Michael Jackson, Ray Charles, Roger
19 Miller -- how in the world is that --

20 MR. BUNDY: Well, the relevant --

21 THE COURT: -- relevant to --

22 MR. BUNDY: -- I was going to ask the witness about
23 the relevance of that when we get to it, but just the chart
24 itself is accurate for whatever -- for whatever it's worth,
25 the chart information is accurate.

Adele Pope - Direct Examination by Mr. Bundy

1 MR. NEWSOME: It -- it's -- we disagree with that
2 contention vociferously, Your Honor. I mean, it's complete
3 with hearsay. There's a lack of foundation for some of
4 this. It talks of -- I mean there's advocacy in this
5 document, I think it says, Bauknight with quote, monitoring
6 by AG, May 29, Tomi Rae -- it's hard to even read my copy
7 -- Levinson acceptance in -- admits intent to reinstate AG
8 settlement. I mean that's her trying to advocate some
9 point.

10 Bauknight served under Tomi Rae's suit over alleged
11 backroom copyright deals. Deanna, Yamma, others provide
12 additional evidence; Tomi Rae not spouse. I mean we're on
13 reply here, which is supposed to be her testifying, not
14 retrying her case in chief, but just responding to the
15 facts that came up in the defense case. And this chart is
16 just -- it's not admissible.

17 \$5 million check to nobody discovered. All these
18 things that happened before James Brown died; Ray Charles
19 dies. James B. born. I mean, there's evidence -- there's
20 a bunch of stuff outside of the case. There's no
21 foundation and it shouldn't be admitted.

22 THE COURT: Well, the question that started off
23 was, why did she think -- what's her opinion -- not her
24 opinion, but her position on all of the trustees having to
25 be paid out of the same bowl. And I don't know how we get

Adele Pope - Direct Examination by Mr. Bundy

1 into all this to answer that question.

2 MR. BUNDY: Well, we get into it to answer this
3 question so you can see what each of these other trustees
4 -- what they're -- what they worked on, what they did, so
5 you get --

6 THE COURT: That's all well and good. But does
7 that mean we have to take one sum and split it up all the
8 way or do we kind of look at each one individually and
9 decide it. That's the question. Not what's been done.

10 MR. BUNDY: I think it's all within your
11 discretion. And if you find it helpful in your analysis or
12 if your decision making process, we would offer it for no
13 other reason than that.

14 THE COURT: In all due respect to the -- obviously,
15 a lot of effort's gone into making this chart, but, you
16 know, I've been with this thing since day one.

17 MR. BUNDY: Right.

18 THE COURT: I appointed Ms. Pope. I upheld a
19 settlement that was overturned. I've been in it, I've
20 heard every motion in the case except for freedom of
21 information and maybe some others that I'm not aware of.
22 And I don't think I need anything to help me understand
23 what everybody's down. So I'll let you proffer it, but I'm
24 not going to use it.

25 MR. BUNDY: Thank you, Your Honor. We'll just mark

Adele Pope - Direct Examination by Mr. Bundy

1 it as the next exhibit.

2 THE COURT REPORTER: It's marked.

3 MR. BUNDY: -- for ID.

4 THE COURT REPORTER: It's already marked for --

5 MR. BUNDY: It's already been marked.

6 THE COURT REPORTER: It's Plaintiff's Exhibit 36,
7 Your Honor.

8 THE COURT: Which I am not allowing, but it can be
9 made part of the record in the event of an appeal that I
10 was incorrect in doing it.

11 You're protected on that.

12 MR. BUNDY: Yes, thank you, Your Honor.

13 THE WITNESS: So, do you want me to answer the
14 question?

15 BY MR. BUNDY:

16 Q Yes, please.

17 A Okay. I think your question was how do you
18 calculate a -- how do you -- what factors do you -- does
19 the Court look at or what is my opinion of what the Court
20 should look at to determine reasonable compensation for the
21 entire 18 year period, but specifically to the
22 5-and-a-half-year period during which I served.

23 Q Right.

24 A To the benefit of the trust.

25 And my opinion is this: That for each set of

Adele Pope - Direct Examination by Mr. Bundy

1 trustees and PR's, because there was a unified estate plan,
2 you look and you say, did those people well serve the 2000
3 Trust of James Brown. Because honestly, that's where the
4 will was going. And did they do that and if they did, are
5 they entitled to reasonable compensation? And --

6 THE COURT: And then we break that out into Cannon,
7 Dallas, Bradley; Pope, Buchanan's --

8 THE WITNESS: Well, Your Honor, I think this chart
9 does show -- and these numbers are straight from an exhibit
10 in this case, that added to all of that is another overlay,
11 which is critical to determination of compensation and that
12 is --

13 THE COURT: Which is what?

14 THE WITNESS: Well, there are two factors that I
15 think are in play. One is, if you have done a really good
16 job managing the assets, but you have committed what is
17 called in the code, a serious breach of fiduciary duty,
18 must the Court look at that. And I believe the Court must.

19 And that is the main reason for all of the pink,
20 which is Cannon and Dallas because if you will look, Cannon
21 and Dallas did a wonderful job of helping James Brown run
22 his career. Look at that. 9 million in 2001 --

23 MR. NEWSOME: Objection, Your Honor. None of that
24 is in evidence.

25 THE WITNESS: It is. It's --

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: Hold on, hold on. I'm not here to --
2 sustained. It's just irrelevant to me as to what they did
3 beforehand.

4 We're looking at your commission or your fees for
5 the time you served as PR/trustee, et cetera.

6 THE WITNESS: Well --

7 THE COURT: And what they did beforehand between
8 2000 and 2007 is just -- I don't know that I need to go
9 into that.

10 THE WITNESS: Well, the sum of that is that the \$8
11 million they were paid should not be charged against me.

12 So --

13 THE COURT: Well, when were they paid the \$8
14 million?

15 THE WITNESS: Before you got into it, Your Honor.

16 THE COURT: Before he died.

17 THE WITNESS: Yes. But they were trustees.

18 THE COURT: Well, I understand that.

19 THE WITNESS: The same trust. So --

20 THE COURT: I don't think there's any question
21 about that, but I haven't approved any fee for those three
22 and I -- I'm not even sure a claim has been made by them.

23 THE WITNESS: Yes.

24 MR. NEWSOME: Well, Your Honor, just for the
25 record, there were claims by Dallas, Cannon, and Bradley

Adele Pope - Direct Examination by Mr. Bundy

1 and they've all been resolved except this -- they've all
2 been dropped, except for Mr. Dallas who did withdraw his PR
3 and trustee claim. The only portion of his case that's
4 still left is his claim to a 5 percent oral attorney's fee,
5 which you've granted partial summary judgment and that
6 issue is on appeal.

7 But there's no claim by Dallas, Cannon, or Bradley
8 for any PR or trustee fees.

9 THE COURT: So it ends up being Pope, Buchanan,
10 Bauknight?

11 MR. NEWSOME: Yes, Your Honor. Well, and actually,
12 Mr. Cannon's resolved his too.

13 THE COURT: Well, I understand. But those were the
14 three that you would --

15 MR. NEWSOME: -- calculate, yes, sir.

16 THE WITNESS: So in order to determine what -- the
17 point -- let's move to the same issue within the period
18 between November 20th, 2007, and May 8th 2013, which is the
19 period for which I seek compensation. And I think somebody
20 said incorrectly that I was working pro bono publico during
21 that time, I was not. I was working under what -- a
22 contract with the estate and trust, not with Your Honor as
23 stated, but with the estate and trust --

24 MR. NEWSOME: Your Honor, I do want to object, just
25 to preserve for the record, she was removed for cause May

Adele Pope - Direct Examination by Mr. Bundy

1 26 of 2009. She was not serving as PR after that time.

2 THE COURT: Well, she can assert what she wants to.
3 Obviously, I have to make that decision.

4 THE WITNESS: Okay.

5 THE COURT: I'm aware of all that.

6 MR. NEWSOME: Thank you.

7 THE WITNESS: So the point of this is in looking at
8 the code is -- that we've discussed earlier about trying to
9 protect an estate that is being put in peril by either a
10 co-trustee or an outsider and that is the function that
11 Mr. Buchanan and Ms. Pope served, actually from August 12,
12 2008 until May 8, 2013.

13 So we have to look at what benefit did Mr. Buchanan
14 and Ms. Pope -- and I know he -- I'm not asking for money
15 for Mr. Buchanan, he's made his peace, but --

16 THE COURT: He's settled.

17 THE WITNESS: -- but what benefit, not to anybody
18 else -- but what benefit to the beneficiaries of the 2000
19 Trust did Adele Pope and Bob Buchanan provide between
20 November 20th and -- of 2007 and May 13 -- and May 8, 2013.
21 And what is most important is, if you see the line right
22 there in the middle of 2008, that is when the attorney
23 general asserted the right to take charge and as they call
24 it here in the code, direct.

25 So our duty from that time until May 8th 2013 was

Adele Pope - Direct Examination by Mr. Bundy

1 to prevent the attorney general from -- or try to prevent
2 the attorney general from committing a serious breach of
3 trust. And that began that day on the 12th of August of
4 2008 and continued until May 8th 2013.

5 Now, what happened -- what benefit was provided?
6 \$1,500,000, every single year of that time period was not
7 paid to non beneficiaries. Now, somebody might think
8 that's sad for someone other than the beneficiaries of the
9 2000 Trust, but that is excellent news for the
10 beneficiaries of the 2000 Trust. Approximately 6 million
11 did not get paid.

12 Now, the basis that the attorney general was using
13 to -- to transfer those assets to people who were not
14 beneficiaries of the 2000 Trust was that these persons had
15 placed into his legacy trust, their termination rights
16 under the federal copyright act.

17 Your Honor will recall that was really a time when
18 we needed more experts because there were no copyright
19 experts and there were no tax experts in those hearings in
20 2009, except Harley Ruff and me, the tax expert -- the
21 estate planning tax expert and no experts on copyrights,
22 just a bunch of representations about what the law was
23 virtually all of which was wrong.

24 So during the course of 2008, the appeal, I
25 published Private Foundations Copyright Heirs and Musical

Adele Pope - Direct Examination by Mr. Bundy

1 Millionaires, why the James Brown "I Feel Good" Trust
2 doesn't. I published it for the benefit of the attorney
3 general of South Carolina to try to bring him around to
4 understand that giving away half of his charity made no
5 sense on the basis he was giving it away.

6 I -- then in 2011, when the -- when the estate was
7 devalued 4.7 -- the music empire was devalued to 4.7, in
8 addition to having given away half of the assets, it's --

9 MR. NEWSOME: Objection, Your Honor. Now she's
10 going into this what all happened later on after she was no
11 longer PR and devaluing the 4.7 million. It's going far
12 afield of reply, Your Honor.

13 THE COURT: Mr. Bundy, I can't be impatient in
14 letting the record be built.

15 MR. BUNDY: I know.

16 THE COURT: But we're getting way afield --

17 MR. BUNDY: I understand, Your Honor.

18 THE COURT: -- to where reply -- to where we are.

19 So I'm going to ask you -- I tell you what. It's
20 one o'clock. Let's take a break, our lunch break and come
21 back at 2:30 and go until five.

22 MR. BUNDY: Matter of fact, I have sort of an
23 unusual request, I know I'm not supposed to talk to my
24 witness while she's on the stand, but if I can talk to her
25 for five minutes just about issues, it might make the

Adele Pope - Direct Examination by Mr. Bundy

1 afternoon go faster if you don't have a -- if you've got a
2 problem with it, I get it.

3 THE COURT: I don't have any problem with it.
4 Y'all are all professionals. It's not like having the
5 construction guy up here and he's wanting to tell me he
6 needs to talk about those trees over there.

7 MR. NEWSOME: That's without objection, Your Honor.

8 MR. BUNDY: Thank you, Your Honor.

9 THE COURT: And I -- not even five minutes, as much
10 as you need.

11 All right. Let me see y'all in chambers just for
12 one second for planning purposes and we'll break until
13 2:30.

14 (A recess for lunch was observed.)

15 MR. BUNDY: Thank you, Your Honor. Before we
16 restart the testimony, I've got a little housekeeping
17 matter to take care of with regard to exhibits.
18 Plaintiff's Exhibit 5 was the protective statement and
19 notice of creditor's claim and it was filed on 9 -- it's
20 dated 17th day of July 2009. This document incorporates a
21 lot of other documents by reference and they all make up
22 the claim.

23 We need to get all those documents assembled and
24 put together. We've all agreed that needs to be done.
25 There's no objection.

Adele Pope - Direct Examination by Mr. Bundy

1 Sort of the issue is, how do we get it into -- it's
2 going to take us a day or two to put all of that together.

3 THE COURT: I'll leave the record open, obviously,
4 or we can do it tomorrow. If y'all don't get it done by
5 tomorrow, then you can submit it to my court reporter or
6 the clerk, however they tell you to do it.

7 MR. BUNDY: Thank you.

8 THE COURT: Send it to Anita.

9 MR. BUNDY: Thank you, Your Honor.

10 THE COURT: Any objection?

11 MR. NEWSOME: Without objection, Your Honor.

12 THE COURT: All right, sir.

13 MR. BUNDY: Your Honor, I don't want the belabor
14 the issue of Ms. Pope's being able to give an opinion on
15 the ultimate issue, but I do need to say something just for
16 the record, just so my position is understood.

17 My example is, a doctor's been sued for
18 malpractice. He's qualified as a doctor. He's put on the
19 witness stand and asked to give an opinion as to whether or
20 not he committed malpractice, I believe he would be allowed
21 to do so. It would go to the weight, credibility, and bias
22 of the witness. Otherwise, any time a professional got
23 sued, they would have to have another expert come in. They
24 wouldn't be able to -- to do it any other way.

25 THE COURT: Well, as to whether or not he deviated

Adele Pope - Direct Examination by Mr. Bundy

1 from the standard of care is the ultimate fact for the jury
2 to determine.

3 MR. BUNDY: Right.

4 THE COURT: He can't get up there and opine that he
5 didn't. That's just --

6 MR. BUNDY: Okay.

7 THE COURT: I'll allow her to testify as to what
8 she did, what the standard is, and what she did. And
9 obviously, from that I will determine whether or not this
10 was a --

11 MR. BUNDY: Thank you, Your Honor.

12 THE COURT: -- deviation that would preclude her
13 from getting fees or whether or not there was compliance;
14 whether she was able to get reasonable fees.

15 MR. BUNDY: Thank you, Your Honor.

16 BY MR. BUNDY:

17 Q Ms. Pope, you've been criticized about how you
18 handled the income tax returns. Would you explain to the
19 Court what you did and why you did it with regard to the
20 income tax returns?

21 A Yes. First of all, the most important thing I
22 think is that the successor PR's did not, for six years,
23 ask for the file. The Court appointed CPA, leaving us here
24 in 2013 and 2018 without adequate records. And my
25 professional opinion, that was a deviation from the

Adele Pope - Direct Examination by Mr. Bundy

1 standard of care.

2 MR. NEWSOME: Objection, Your Honor.

3 THE COURT: Ms. Pope, please.

4 Go ahead.

5 Strike that.

6 THE WITNESS: That has damaged me as well as the
7 estate. And Mr. Sellers's file was not requested.

8 If it had been, there would have been a lot of
9 information about how well, in fact, that we did handle the
10 income tax matters, as did Mr. Sellers and Ms. Cole.

11 For example, there was a statement that some expert
12 thought that Mr. Sellers had done nothing but payroll
13 taxes. And in -- right within the Dallas appeal, which was
14 before Your Honor, there's the full record of the
15 application for determination for the 501(c)(3) charitable
16 status of the James Brown "I Feel Good" Trust and this
17 other information within that file that I've just seen by
18 glancing through it today, that was all before Your Honor
19 back in 2008 and 2009. But specifically some of the issues
20 that were raised, I will address.

21 The first was the issue of the 2006 income tax
22 returns, where there was an allegation about conversations
23 with the IRS, which I don't know how you do that, but --
24 and the allegation that that return was never filed or
25 never properly filed or never received. And so I have

Adele Pope - Direct Examination by Mr. Bundy

1 looked back. And remember, I delivered my -- you know, my
2 entire file and would have only copies of documents fully
3 when we transferred all of the boxes to Mr. Bauknight in
4 July of 2009 and also agreed to meet with him once a week
5 if he'd like to discuss these matters.

6 But I'm going to just talk about the record as it
7 relates to the 2006 tax return and the 2007 and '08 and '09
8 tax returns. First, the 2006 tax return was filed in this
9 Court, in -- on November 15th of 2006. It had also been
10 filed with the IRS. The IRS kicked back the amended
11 return, which was a JBE, Inc. return and -- but the amended
12 return also was filed here with Judge Early in November of
13 2000 -- November of 2007.

14 Q Who filed that return?

15 A Carlock, Copeland, a law firm that was representing
16 Mr. Farr at the time.

17 Q Okay.

18 A And in 2008, there was an issue about it's having
19 been kicked back. And we were dealing with that along with
20 a number of other issues, including that Mr. Cannon had
21 originally said that he was personally responsible for all
22 of the income taxes that hadn't been paid because he
23 treated James Brown as his employee. Well, that didn't
24 turn out to be a good deal for anybody. But -- so in 2008,
25 Carlock Copeland, the lawyer -- I'll say his name in a

Adele Pope - Direct Examination by Mr. Bundy

1 minute, suggested that we just, you know, send it back.

2 But at that point it was us sending it back. So we were in
3 communication with the IRS about that and then that was
4 going on in 2008.

5 And then on August 10 of 2008, of course, the
6 attorney general made the decision to give half of the
7 assets to people who weren't a charity anymore. And that
8 is an important income tax concept because I can make \$100
9 million this year and on my income tax return, if it's paid
10 or permanently set aside to charity, it is complete --
11 subject to some limitations, I'm simplifying here -- but
12 subject to some limitations, it is not going to be taxable,
13 even if it doesn't go into the charity right now.

14 But beginning in August of 2007 -- I mean 2008,
15 which was before the 2007 return was due, the attorney
16 general had declared that about half of the income was now
17 going to be allocated to people who weren't charities. And
18 so that put us in a dilemma where it was impossible for us
19 to file under penalties of perjury a tax return which
20 claimed the charitable deduction, but we also did not want
21 to file a return that recorded a huge income tax due that
22 we didn't know would be due.

23 So that's where we were in 2007. I mean in the
24 Fall of 2008. So basically, there was nothing that we
25 could do other than try to work with the IRS and the

Adele Pope - Direct Examination by Mr. Bundy

1 settling part parties because I think the record will show
2 and I will tell you, that we never wanted to damage the --
3 the "I Feel Good" Trust. We just had these serious
4 problems to solve.

5 And so the first thing we did was on September 2nd,
6 before we even knew the full details of the settlement, we
7 wrote the attorney general and Louis Levinson and
8 Mr. Rosen. Of course, Mr. Bauknight wasn't then involved,
9 but the first thing we asked for on September 2nd was the
10 selection by settling parties of an accountant or a tax
11 advisor to, as we described them, help us deal with the
12 tremendous tax problems that were caused. And this was
13 before we had even seen the settlement.

14 (Plaintiff's Exhibit Number 56 was marked for
15 identification.)

16 BY MR. BUNDY:

17 Q And would you identify this letter, which is now
18 being marked as 56, please?

19 A Yes, the -- the attorney general announced his
20 settlement on August 12th and I think Judge Early had a
21 hearing on something like August 19th. And there was a
22 short stay that we all agreed was okay for a few months
23 while everybody tried to digest what was going on. And so
24 it was shortly after that August 19th --

25 Q Okay. So --

Adele Pope - Direct Examination by Mr. Bundy

1 A -- that we wrote to try to begin to resolve these
2 big problems. And in addition to this letter, we asked
3 that the settling parties prepare the estate tax return for
4 our approval because we knew that there were not only
5 income tax problems, but estate tax problems.

6 MR. BUNDY: Your Honor, I'd move to introduce
7 Plaintiff's Exhibit 56.

8 THE COURT: Any objection?

9 MR. NEWSOME: Without objection, Your Honor.

10 THE WITNESS: So -- so then -- so then -- I'm not
11 sure whether in that first one everybody was aware of the
12 2006 income tax problem, but I'm not sure it gets
13 mentioned. We just described tax problems, but there were
14 also tax problems. And also by the way, it says that we
15 are asking that the settling parties appoint a
16 representative to work with us on the enhancement of
17 royalties, image, and persona pending the final settlement.
18 Because we did not want the -- we did not want the trust to
19 suffer because of the uncertainty of this settlement.

20 Q Okay.

21 A And then -- I can't say that this is all, this is
22 just all I happened to find yesterday, but then again on
23 October 2nd, we wrote --

24 (Plaintiff's Exhibit Number 57 was marked for
25 identification.)

Adele Pope - Direct Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q Just identify Plaintiff's Exhibit 57, please.

3 A Oh, I'm sorry. This is a letter, I can't tell
4 whether it went by e-mail or hand delivery, but it was to
5 Attorney General McMaster, Mr. Levinson, Mr. Rosen, and
6 other members of the team of settling parties from
7 Mr. Buchanan and me that -- that says at the top it was
8 distributed in my absence, I think I might have been away.

9 Q Okay. So this is part of the books and records of
10 James Brown's -- the estate and trust of James Brown?

11 A Right.

12 Q All right.

13 MR. BUNDY: Your Honor, I move to introduce Exhibit
14 57 into evidence.

15 THE COURT: Mr. Newsome?

16 MR. NEWSOME: Without objection.

17 (Plaintiff's Exhibit Number 57 was entered into
18 evidence.)

19 BY MR. BUNDY:

20 Q So, Ms. Pope, in essence, you're asking -- you're
21 informing the attorney general of the problems you see that
22 have been created from a tax standpoint as a result of this
23 potential settlement?

24 A Yes, yes. And -- tax and other things, but we're
25 talking about tax right this minute.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay.

2 A Yeah.

3 Q And your position was that you weren't able to sign
4 a return without -- honestly because you didn't know where
5 it was going?

6 A Right. And it says it's critical that we make this
7 connection immediately as there are returns or additional
8 expenses due October 15th and we want to make sure we can
9 provide the proposed new accountant all the necessary
10 information.

11 Q All right.

12 A And --

13 Q What response did you receive to these entreaties?

14 A Well, I'll keep going because we have more.
15 Essentially, nobody would talk to us. I mean they were
16 talking to us about other things, but -- Heyward Carter
17 said that it was beyond -- he thought that -- he thought
18 that when Judge Early ordered transition that he didn't
19 mean talking about taxes. I don't know how that could be,
20 but that -- that was an issue. And then we were told that
21 they didn't have an accountant, the settling parties didn't
22 have an accountant and that was put into the record the
23 following spring because they said we don't have an
24 accountant.

25 But we have some of the finest tax minds in the

Adele Pope - Direct Examination by Mr. Bundy

1 country thinking about these issues. But we were -- we
2 were trying to get help. And so we kept trying. You know,
3 we just kept on keeping on.

4 So next we wrote -- I mean --

5 (Plaintiff's Exhibit Number 58 was marked for
6 identification.)

7 BY MR. BUNDY:

8 Q All right. Ms. Pope, if you would, identify
9 Plaintiff's 58, please.

10 A Yes. This is a letter that Mr. Buchanan and I
11 wrote on behalf of the estate on October 20th, 2008 to the
12 attorney general, Mr. Levinson, Mr. Medlin, and Mr. Bell.
13 And this particular letter involves James Brown royalty,
14 image, persona issues.

15 Q Okay. And --

16 MR. BUNDY: Your Honor, I move to introduce 58 into
17 evidence.

18 THE COURT: Any objection?

19 MR. NEWSOME: Without objection, Your Honor. By.

20 THE WITNESS: And --

21 BY MR. BUNDY:

22 Q And -- and the substance of this letter is?

23 A Well --

24 Q Or the issue in the letter?

25 A -- it's headed royalty, image, and persona issues.

Adele Pope - Direct Examination by Mr. Bundy

1 But if you'll look at page 2, it really is dealing with the
2 royalty, the image, and the persona and the tax issues
3 associated with the settlement. And it says, if we could
4 get together regularly with you, we're just trying to talk
5 to people. If we could get together regularly with you
6 solely for the purpose of royalty, image, persona issues,
7 here are a few things we believe we could accomplish within
8 the next year or so:

9 One, financial analysis. Through engagement of a
10 mutually agreeable consultant of long range options to
11 include, a, whether a sale of some or all of the assets is
12 in the best interest of the estate or trust.

13 B with related help, development of a medium to
14 long range plan for management and enhancement of assets
15 not sold.

16 C structure of tax financial issues related to
17 various decisions under above scenarios. And there's notes
18 more in there, but the -- the issue is nobody wanted this
19 wonderful fund to be damaged during this period. The issue
20 was who's going to get it. And we certainly wanted it
21 enhanced either way.

22 Q What other available avenues did you have to deal
23 with these issues other than to bring them to the attention
24 of the attorney general of South Carolina and ask him for
25 his involvement?

Adele Pope - Direct Examination by Mr. Bundy

1 A Well, and the settling parties then because they
2 had announced that they were speaking as one. So we were
3 trying to get everybody's attention. And as it shows, this
4 is just shortly before -- the attorney general has already
5 filed suit to remove Cannon and Dallas and he's getting
6 ready to amend to remove us.

7 He asked us to help with the removal of Cannon and
8 Dallas. And we said we didn't think we could do that
9 because there was something up in Court of Appeals.
10 Although we, of course, wanted them removed. And so, this
11 is just right before he gets ready to file suit to remove
12 us. And it's saying, you know, here we are, our primary
13 focus, because we don't have any money and everybody wants
14 us to stand down, is to defend the approximately \$40
15 million worth of claims, which we proceeded to do during
16 those months.

17 Q But my question to you was --

18 A Sorry.

19 Q -- what other avenues did you have available as
20 trustee, PR to work on estate other than what you did come
21 was to write the attorney general and inform him of these
22 issues and ask for his assistance and help and involvement?

23 A None, other than to add in there the settling
24 parties.

25 Q The settling parties. I left it out again. But

Adele Pope - Direct Examination by Mr. Bundy

1 that's all -- this is all you could do was just write
2 letters, right?

3 A We were doing what we could.

4 Q All right. And what was the response you received
5 to these? To these entreaties?

6 A Well, sitting here today, nine-and-a-half-years
7 later, I can't say exactly, but the general response was
8 nobody was interested in helping us and Mr. Sellers had
9 said he was resigning and a new CPA was now being proposed.
10 A new person was being proposed who was a CPA,
11 Mr. Bauknight.

12 Q Mr. Bauknight, okay.

13 A Yes.

14 Q Okay. All right. Anything else that you have with
15 regard to what you did with regard to the income taxes as
16 it relates to the complaints that have been made against
17 you?

18 A Yes. And this one I, unfortunately have only one
19 copy, so I'm going to tell you what I did and then we'll
20 figure out what to do if you'd like. This is us writing
21 the IRS about the 2006 income tax return because we had
22 been in communication with them all year and it just says
23 -- it's talking about an assessment of 238,000 and it -- it
24 tells the whole story of -- of, you know -- it says it's
25 past due, but he filed the forms and -- the form 1120 and

Adele Pope - Direct Examination by Mr. Bundy

1 then the amended 1120 and the amended 1120 got ticked out,
2 I mean it tells the whole story of what happened to the
3 2006 income tax return and also a bunch of stuff about
4 Cannon and it includes a letter from Carlock Copeland
5 attorney, let me see what his name was -- oh, Chip Emge,
6 who had written a long letter earlier in the year about the
7 -- the notice and the two '06 tax return and all of that.

8 So I only have my one copy of this, but --

9 Q You'd been involve in the preparation of the 2006
10 tax return were you? The original tax return?

11 A No, no, no. It was filed by Mr. Farr.

12 Q Mr. Farr. All right.

13 A Yes. So --

14 Q Hold on one second.

15 MR. BUNDY: I want to mark this as an exhibit.

16 (Plaintiff's Exhibit Number 59 was marked for
17 identification.)

18 MR. NEWSOME: Without objection.

19 MR. BUNDY: All right. Exhibit 59, Your Honor.

20 THE COURT: Thank you.

21 (Plaintiff's Exhibit Number 59 was entered into
22 evidence.)

23 BY MR. BUNDY:

24 Q All right. Ms. Pope, anything else on the income
25 taxes that you'd like to comment on?

Adele Pope - Direct Examination by Mr. Bundy

1 A Yes.

2 (Plaintiff's Exhibit Number 60 was marked for
3 identification.)

4 BY MR. BUNDY:

5 Q There are more?

6 Ms. Pope, if you would identify Exhibit 60 for the
7 record, please.

8 A Sure. The letter that we just looked at was
9 November 24th, of '08, I believe just about that day or
10 within a day or so, I'm guessing Judge Early -- well, I
11 know it happened, but I can't remember the exact date.
12 Judge Early indicated that he was going to name
13 Mr. Bauknight as the SA and I think I discussed earlier
14 that Judge Early wasn't clear about whether he was going to
15 give him full authority to do everything, which the
16 attorney general was asking for or whether he was going to
17 limit his authority in some way.

18 So on November -- this is a letter November 26,
19 2018, which was within a day or two of that announcement
20 that Mr. Buchanan and I wrote Mr. Bauknight.

21 Q And the purpose of this letter was to do what?

22 A Well, the purpose of this letter -- well, actually,
23 it seems to be signed -- although it -- there's an S slash
24 for both of us, it seems to be written by Bob because it
25 says since Adele is out of the office for a while. That

Adele Pope - Direct Examination by Mr. Bundy

1 would be my daughter's wedding.

2 Q Okay. You --

3 A The judge and I might remember that.

4 Q All right. You've identified Exhibit --

5 MR. BUNDY: Your Honor, I move to enter Plaintiff's
6 Exhibit 60.

7 MR. NEWSOME: Without objection.

8 MR. BUNDY: Thank you.

9 (Plaintiff's Exhibit Number 60 was entered into
10 evidence.)

11 BY MR. BUNDY:

12 Q All right. Now, the judge has 60 in front of him.
13 Tell me what -- why did you write Mr. Bauknight Exhibit 60?
14 What was the purpose of that?

15 A Well -- well, this is Bob writing, so it says --

16 Q Or Bob.

17 A -- Adele is in the office for a while this morning
18 -- so we did write it together. I didn't know whether he
19 had talked to me on the phone.

20 Q All right.

21 A We wanted to get to you a couple of the most
22 pressing issues, which we have been paralyzed to deal with.
23 First by the challenges of Dallas, Bradley -- Bradley and
24 Dallas and now by Mr. Cannon and the settling parties.

25 Oh, that refreshes my recollection, Judge, he had

Adele Pope - Direct Examination by Mr. Bundy

1 just moved to recuse you a second time.

2 THE COURT: Which one?

3 THE WITNESS: Cannon. Mr. Cannon did. I forgot
4 that.

5 All right. Yes, so we were -- we were paralyzed
6 because we couldn't get before Your Honor, so -- any way --
7 so there we are. Mr. Brown's 2006 income tax return.

8 And we explained in there how that all the income
9 had been reported on JBE, Inc. and we tell him we want to
10 introduce him to the notion of the problems of what was
11 JBE, Inc. and what was James Brown. And so then we said
12 there, while Mr. Forrest's counsel casually suggests that
13 all we do is do this, you know, it's a big problem and
14 you're a CPA and we want to talk to you about it.

15 And so then we went on to just tell him, you know,
16 try to bring him up to date so he would be in a position if
17 the judge appointed him any minute, to deal with the 2006
18 income tax return, and all the other income tax issues,
19 because Mr. Sellers had said he resigned.

20 BY MR. BUNDY:

21 Q At that point, if Judge Early -- you didn't know
22 whether Judge Early was going to appoint Mr. Bauknight, but
23 if he had, your assumption was, who was going to be
24 handling this issue going forward?

25 A No, we knew he was going to appoint him.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay.

2 A We did not know the scope of the appointment.

3 Q Okay.

4 A Until the 8th or the 9th of January.

5 Q All right. Well as of the 8th or 9th of January,

6 who would have been -- whose plait would this issue have

7 been on? Yours? Or Mr. Bauknight's?

8 A Well, it would have been Mr. Bauknight's if -- if

9 Judge Early had done what the attorney general was asking.

10 And it would have been our -- you know, in limbo between us

11 and the attorney general who had, under that section, taken

12 over, to deal with it if Mr. Bauknight were not given full

13 authority.

14 Q And what was Mr. Bauknight's response to this

15 letter? Do you recall?

16 A I don't know, I mean Mr. Bauknight was never

17 unpleasant to us at any time.

18 Q I'm not suggesting he was unpleasant. I'm trying

19 to understand if he engaged --

20 A You know, I -- I --

21 Q -- and came and got --

22 A -- I know we --

23 Q -- documents.

24 A -- I know we met with him in January, but I

25 can't --

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 quitely 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 - Direct Examination by Mr. Bundy

1 So we talk about we need a procedure for notifying
2 the tax authorities, necessary modifications to the -- in
3 the estate tax proceeding. And, you know, we were just
4 dealing with this all of these income and estate tax
5 issues, which were caused by the settlement.

6 Q Okay.

7 A And -- and -- and the hearings had just started a
8 few days earlier.

9 Q Which hearings, the settlement hearings?

10 A The settlement hearings began on January 30th and
11 Judge Early had -- and Terry Brown had been added to the
12 settlement that day, on the 30th. And that had caused
13 additional issues because he was given a right of first
14 refusal to purchase the music empire and we were nervous
15 about that disqualifying the charity and a bunch of other
16 things.

17 Q All right. Anything else on the tax issues?

18 A Oh, yeah.

19 On -- I'm sorry, I've written on this, but it looks
20 like I have only one copy on March 11th and -- can you tell
21 me the date of that letter? It may be in there.

22 Q February 2nd, I think, yeah. February 2, 2009?

23 A Thank you.

24 This is a letter dated March 11, 2009 to Alan
25 Medlin, Heyward Carter and the attorney general. You want

Adele Pope - Direct Examination by Mr. Bundy

1 to mark that?

2 Q Okay.

3 (Plaintiff's Exhibit Number 63 was marked for
4 identification.)

5 BY MR. BUNDY:

6 Q This is part of the books and records of the
7 estate?

8 A It has some of my -- yes. It has some of my
9 writing on the back. I've Xed it out.

10 MR. BUNDY: 63?

11 MR. NEWSOME: Your Honor, this is without objection
12 except for the same objection we had before. Again, this
13 is a document that's got writing on the back and it's
14 marked up.

15 THE COURT: Well, I think Ms. Pope's proving to you
16 it's wasted paper to copy it. We'll get clean copies of
17 that one.

18 THE WITNESS: Thank you.

19 MR. NEWSOME: Thank you.

20 MR. BUNDY: I'd move to introduce that with no
21 objection. Without objection, it's 63. March 11, 2009.

22 BY MR. BUNDY:

23 Q What's going on in this letter that you wrote to
24 Mr. Medlin, Mr. Carter, and the Honorable Henry Dargan
25 McMaster?

Adele Pope - Direct Examination by Mr. Bundy

1 A Well, it's just our concern about not only the
2 damage to the 2000 Trust, but the troublesome income
3 charitable disqualification and estate tax issues that were
4 associated with the settlement.

5 Q Okay. And again, what -- what avenues or ability
6 did you have at this point relative to income estate
7 taxation other than to simply write letters to
8 Mr. McMaster?

9 A We wrote Mr. McMaster, we wrote the settling
10 parties, and we presented our case to Judge Early. That
11 was all we could do.

12 Q Okay. Anything else on the taxes?

13 A Let me see -- yeah, it looks like there's one March
14 12th.

15 (Plaintiff's Exhibit Number 64 was marked for
16 identification.)

17 BY MR. BUNDY:

18 Q Plaintiff's Exhibit 64, March 12 to McMaster from
19 Pope. This is part of the books and records of the estate?

20 A Yes.

21 MR. NEWSOME: Without objection.

22 MR. BUNDY: Thank you.

23 (Plaintiff's Exhibit Number 64 was entered into
24 evidence.)

25 ///

Adele Pope - Direct Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q All right. Here we are on March 12, 2009, you're
3 writing the AG to what end, Ms. Pope?

4 A Well, it says I'm writing for Bob Buchanan and
5 myself. In working with the department of Revenue and the
6 IRS about the income tax mess in the Estate and Trust of
7 James Brown found itself when we were appointed on November
8 20th, 2007, and it just -- it said I give Mr. Goodlet a
9 copy of the 2006 returns prepared by Phil Farr, but made it
10 clear that we did not participate in the gathering of that
11 information and we believed them to be inaccurate.

12 And then I talk about the 2000 -- tax returns --
13 and then I talk about Mr. Goodlet being willing to work
14 with us to gather additional transcripts. And that is an
15 IRS term that says we'll look back and get printouts of
16 stuff that's been previously filed for the various James
17 Brown entities so we could start to deal with the mess.

18 Q Anything else on the taxes?

19 A Give me just a minute. If you'll give me the
20 discord among the parties of that, I'll see what's next.

21 Q The last one's March 12.

22 A March 12. Okay. I don't know whether this is
23 already in, but May 4th.

24 (Plaintiff's Exhibit Number 65 was marked for
25 identification.)

Adele Pope - Direct Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q Plaintiff's Exhibit 65, May 4, 2009 to Mr. John
3 Goodlet, Internal Revenue Officer from Buchanan and Pope.
4 Is this part of the business records of the estate and
5 trust of James Brown?

6 A Yes. And --

7 Q Hold on a second.

8 MR. NEWSOME: Without objection.

9 MR. BUNDY: Thank you, Mr. Newsome.

10 This is 65.

11 (Plaintiff's Exhibit Number 65 was entered into
12 evidence.)

13 BY MR. BUNDY:

14 Q All right. Ms. Pope, this letter is relevant to
15 this issue regarding your handling of the taxes how?

16 A Well, this is -- it's mixed, but this is the estate
17 tax in particular. And as we said, Mr. Goodlet or the IRS
18 had not made any challenge to the lack of an appraisal.
19 They just sent the normal letter asking for additional
20 information and we were working very hard to try to provide
21 them what they needed without making any attempt to, you
22 know, say bad things about the other side. We weren't
23 going to endorse what the other side was doing, but we --
24 we really wanted them to tell their story because --

25 Q Who is the other side?

Adele Pope - Direct Examination by Mr. Bundy

1 A The other side were the people who wanted to shift
2 half of the assets and income into taxable entities.

3 Q Okay.

4 A And so that was -- it was us tiptoeing, but we were
5 under some deadlines to get stuff to the IRS and we had
6 actually -- this may mention -- I think we had gotten a
7 little extension. And as you see, we're very, very close
8 to the day that Judge Early is -- is going to replace us
9 with Mr. Bauknight. So that's close.

10 But I did also find -- and I'm sorry I've written
11 on this also, but this is -- just in terms of what was
12 going on, on March 4 and 6 of 2009, and I can't really
13 remember which day, there was a lot of discussion about the
14 \$100 million value in the -- in the hearings. And that's
15 just a part of it that I was -- that -- where I was
16 questioned about -- there was a discussion about the \$100
17 million value. And then also at this same time, I think it
18 was April 6, Harley Ruff, who is the tax expert we
19 mentioned, testified about these -- some of these same tax
20 consequences.

21 Q All right. So anything else on the taxes that
22 you --

23 A Well, I want to say --

24 Q -- that would explain why you did or didn't do or
25 weren't able to do what you did?

Adele Pope - Direct Examination by Mr. Bundy

1 A Well, all I want to explain is just about this
2 time, the IRS was excepted Harlan Howard's estate tax
3 return. Actually it had been accepted sometime before, but
4 it didn't get known. And Harlan Howard's estate is about
5 the only estate tax return before we get to Michael Jackson
6 and those who've died after 2008, which discusses what
7 suits the IRS with copyrights. And Harlan Howard did not
8 have a professional appraisal. He was never kicked out by
9 the IRS. They accepted his valuation and was based on a
10 valuing by two nonprofessionals, the PR, and the accountant
11 of the copyrights of Harlan Howard based on the number of
12 years they thought they would endure.

13 He was a songwriter. And if they thought his songs
14 were going to last six years, they took their annual return
15 and multiplied it by six. If they thought they were going
16 to last 11 years, they -- they -- they multiplied it by 11,
17 just as Mr. Miller says, if you think it's going to last 20
18 years, you multiply it by 20.

19 And so all I can say is that all of our concerns
20 were well founded. And the Harlan Howard case says
21 something else too, very important. It's a Tennessee
22 Supreme Court case, but because the issue came up later,
23 not before the IRS, but it says that when you're doing tax
24 returns, you're doing it to get it right, not to see what
25 you can get away with. And we felt that we weren't trying

Adele Pope - Direct Examination by Mr. Bundy

1 to make life hard for anybody, but we did have to get it
2 right because that was -- we believed we did.

3 Q Okay. Anything else on the taxes?

4 A I don't think so.

5 Q Okay. All right. It's been -- it was discussed in
6 the defense case that you failed to properly deal with the
7 TIAA debt for about 454 days or something to that effect;
8 is that correct?

9 A That --

10 Q That was the allegation, correct?

11 A That was the allegation.

12 Q Okay. Tell us one -- I assume you don't agree with
13 that?

14 A I don't.

15 Q Why -- what did you do and tell us why you don't
16 agree with that?

17 A Well, first of all, the judge may remember, but we
18 really had a lot of things with TIAA. When we first
19 discovered the 900,000 that Mr. Cannon had taken, we got a
20 loan from them for -- remember the -- Mr. Cannon returned a
21 certain portion of the amount he had stolen, \$350,000. And
22 it -- it, of course, had to go back to TIAA because they --
23 they -- it should have gone to them in the first place.

24 So Judge Early put it on hold for a little while.

25 This was back in 2007. And he let us ask TIAA to let -- to

Adele Pope - Direct Examination by Mr. Bundy

1 please keep \$100,000 and they allowed us to keep \$100,000,
2 but it had to be allocated -- they let us allocate 25,000
3 to administration and some, I think I'm getting the numbers
4 right, but some to pursuit of recovery from Mr. Cannon.

5 So we had been dealing with them and I had, of
6 course, read the -- all of the TIAA documents, which were
7 delivered to Mr. Bauknight, I'll show you later when we
8 talk about the transition, they were delivered to
9 Mr. Bauknight and we'd all had them. My computer shows I
10 got them in -- the first time you started putting things on
11 a computer, practically.

12 So -- so we had had some substantial and pleasant
13 dealings with TIAA because the TIAA debt was in default --
14 they'd gone into default when Mr. Cannon stole that money,
15 so -- and then in -- I see here, in February of '09 and I
16 had slightly forgotten this, but I just pulled a page -- we
17 had some communication with them about the escrows and so
18 we were looking at the TIAA.

19 We did get the loan to go after Mr. Cannon, but we
20 didn't need an income tax loan because we didn't have that
21 kind of income taxes that were going to be paid after the
22 settlement. So income tax and -- and there was going to be
23 -- and this is important -- no estate tax, no income tax
24 payable with respect to that fund. And that fund only
25 allowed loans for taxes related to that fund.

Adele Pope - Direct Examination by Mr. Bundy

1 And under Mr. Brown's estate plan, that fund was
2 going to charity. So there was no reason to ask -- to
3 learn about borrowing money to pay taxes for other people
4 at 7.95 percent. It just -- that isn't -- there wouldn't
5 be any reason to do that.

6 Now, on the matters that Mr. Bauknight says could
7 be discovered just by anybody, I don't disagree with that.
8 But we were paralyzed. And so I want to just mention the
9 554 days and tell you what you have to subtract from that
10 to figure out whether we acted promptly. And so I don't
11 know whether -- I'm -- they begin on November 20th, 10 days
12 later, our appointment was challenged by the attorney
13 general of South Carolina. Had it been other people, it
14 wouldn't have mattered, but it was the attorney general of
15 South Carolina.

16 Then Judge Early's authority to act got challenged
17 and that took a while and so we've got about 10 days in the
18 beginning and that really doesn't clear up until April 8th
19 of 2008, so -- so we've got 10 days and then we start on
20 April 8th of 2008 and we only go until -- to May 30th. So
21 we've got 10 days there and about what? 22? About 52?
22 About 62 maybe, so far, that we've been, shall we say, free
23 to act, if we had had nothing else to do.

24 And then on June 30th, the attorney general then
25 challenges our authority to act until July 14. So we've

Adele Pope - Direct Examination by Mr. Bundy

1 got about 60 days so far, but it's been intermittent. And
2 then on July 14, the Supreme Court -- I mean, I'm sorry,
3 Court of Appeals gives us authority to act, July 14th,
4 2008. So we had from July 14th, 2008 until August 12, 2008
5 when we were told to stand down. So we had 90 days but
6 with some breaks in it to try to deal not only with
7 everything that was going on in the world, but to think
8 about whether -- think about -- more TIAA debt. And we --
9 agree with Mr. Bauknight, anybody could have found it. Ray
10 Gonzales could have found it. We could have found it, but
11 the question was somebody is trying to give away a million
12 and a half dollars a year for the rest of the life of this
13 charity, where should -- and we have no money to spend,
14 where do we put our energy.

15 Q Okay. All right. There's also criticism -- there
16 was also criticism in the defense case of your failure to
17 hire experts to protect the copyrights. You recall this
18 testimony?

19 A Yes, I do --

20 Q All right. Tell me, one, did you hire any experts?
21 If you did, who were they and why did you hire them? If
22 you didn't, why not?

23 A We hired Mr. Smith. I believe he's an expert, the
24 judge doesn't.

25 Q Okay.

Adele Pope - Direct Examination by Mr. Bundy

1 A He wasn't -- he didn't serve for very long.

2 During the course of the next years -- oh, I'm
3 sorry, we hired Mr. Gonzales. We had Art Gold in Chicago,
4 who is the one -- he was working mostly on the publicity
5 rights thing, but he had been Mr. -- Mr. Brown's lawyer in
6 that field since 2002 or earlier. And, of course, we had
7 Julia Foster, who was a mere law student, but was a law
8 student who had a lot of interest in music.

9 We did a little bit of consulting, I forgot this, I
10 saw the other day, with Leon Friedman who was Mr. Brown's
11 copyright lawyer, just chatted with him from time to time.
12 But I did find a letter where I actually wrote him and
13 asked him could he help us with a termination rights
14 project. So we did do some of that.

15 And then, of course -- and I'll have to show you
16 this because what I did during the course of the appeal,
17 was to become an expert myself on the -- on the small issue
18 of how to protect a charity in termination rights matters.
19 And I wrote this article with Mr. Smith. It's still in
20 draft. The story's not over.

21 (Plaintiff's Exhibit Number 66 was marked for
22 identification.)

23 MR. NEWSOME: Objection, Your Honor. She's not
24 qualified as an expert in termination rights and now she's
25 trying to give opinion testimony.

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: She's not giving an opinion, she's just
2 telling us what she did. Overruled.

3 (Plaintiff's Exhibit Number 66 was entered into
4 evidence.)

5 BY MR. BUNDY:

6 Q This is an article that you wrote?

7 A It is.

8 MR. BUNDY: Your Honor, I'd move to put it in.

9 THE COURT: Your objection is?

10 MR. NEWSOME: Your Honor, I'm not clear. Is it
11 published or unpublished?

12 THE WITNESS: It was circulated to peers. It was
13 circulated to a number of lawyers and to the Duke
14 Foundation and many other peeps. As I said it's not
15 complete.

16 MR. NEWSOME: I'm going to add to my objection.
17 This is not a published article so it shouldn't be cited.

18 MR. BUNDY: Is it out or in?

19 THE COURT: I've already ruled it in.

20 MR. BUNDY: I didn't hear you.

21 THE WITNESS: He's already ruled it?

22 MR. BUNDY: I won? Well, I got it in evidence
23 thank you.

24 BY MR. BUNDY:

25 Q Why did you prepare this article?

Adele Pope - Direct Examination by Mr. Bundy

1 A Because -- because I didn't have any money and I
2 had in town a copyright lawyer who was retired and was
3 willing to work on the research with me. And I was very
4 interested in the whole issue of the misunderstanding that
5 -- well --

6 Q That's all -- that's all I need to know?

7 A -- the misunderstanding about the copyrights.

8 Q All right. Other than -- had you -- when you were
9 writing these tax letters to the attorney general, were you
10 also requesting that they hire experts to help you with the
11 management of the music and the copyrights and all those
12 things?

13 A Well, I showed you that one letter where we said,
14 why don't we get together and get somebody because we all
15 knew there was going to be an appeal for a couple of years.

16 Q Right.

17 A And so this was no reason not to do that, just
18 build the fund up, no matter who gets it.

19 Q Okay.

20 A So, yes, we were doing that.

21 Q What other alternative did I have? And about this
22 time other than just doing it on your own if you -- you
23 didn't have any money to hire anybody, did you?

24 A Well, I spent a lot of my own money, doing it on my
25 own. But I didn't have -- I would not have tried to hire an

Adele Pope - Direct Examination by Mr. Bundy

1 expert. I would not have felt that prudent during the
2 appeal.

3 Q All right. You were also faulted for failing to
4 enhance the image and persona after James Brown, I believe;
5 is that correct?

6 A Yeah, and I believe that was not right.

7 Q Okay. And tell the Court the basis for your
8 belief, or what -- or tell the Court what you did, if
9 anything, to enhance or protect the --

10 A Well -- well, we -- first of all, in addition to
11 everything I've said, we had the meeting in January -- in
12 January of 2009. And I think I've set the scene for when
13 that was. And we were invited to New York for the CORBIS
14 settlement. And we've talked about it a little bit before,
15 but -- but we -- I believe that Martin Cribbs is one of the
16 most talented, as I've said, representatives of dead
17 celebrities. And -- and we all know the great potential
18 for dead celebrities because they don't misbehave. And so
19 -- so we really wanted to do the -- as I said before, we
20 really wanted to do that CORBIS Greenlight deal because it
21 was a two year deal.

22 It was clean, it was publicity rights only. It
23 accepted the music. It accepted some other things. And it
24 was just a great idea. And we got -- we made the deal. We
25 filed an action for the attorney -- we filed an action for

Adele Pope - Direct Examination by Mr. Bundy

1 approval by Judge Early, but because we were in the middle
2 of the settlement process, we made the attorney a defendant
3 just to make it a case with a plaintiff and the defendant.
4 And the attorney general moved first to dismiss it. And we
5 were like, okay. Dismiss it, but go ahead and approve it.

6 And then -- and then all of the settling parties
7 started moving to intervene because they said that it would
8 interfere with Terry Brown's right of first refusal. And
9 so basically, we -- I have all the suit papers here, but
10 they were all filed.

11 I'll just give you one little example of that.

12 Q That's okay.

13 A Well, I've got multiple copies.

14 Q Okay.

15 (Plaintiff's Exhibit Number 67 was marked for
16 identification.)

17 BY MR. BUNDY:

18 Q Would you identify Plaintiff's Exhibit 67, please.

19 A Yeah, it's just us -- it's a letter to Judge Early
20 from Tressa Hayes, who was our lawyer and it's just trying
21 to get the CORBIS deal passed in April. It -- and the only
22 other thing I --

23 MR. BUNDY: Your Honor, I move to introduce Exhibit
24 67.

25 THE COURT: Any objection?

Adele Pope - Direct Examination by Mr. Bundy

1 MR. NEWSOME: Without objection, Your Honor.

2 MR. BUNDY: Thank you, Your Honor.

3 (Plaintiff's Exhibit Number 67 was entered into
4 evidence.)

5 BY MR. BUNDY:

6 Q What was the -- what would the value of the CORBIS
7 settlement have been to the estate had it been approved and
8 executed?

9 A Well we -- we projected 1 to 2 million a year and I
10 think that was --

11 Q For?

12 A For just the two years.

13 Q Okay. And can you give me, or give the Court any
14 reason why someone would not want to sign -- have that
15 agreement. What detriment to the estate would there have
16 been?

17 A I can't see any. I didn't see anything that
18 happened during that period that would make it -- have been
19 better than the CORBIS deal.

20 Q But the explanation was because it would interfere
21 with Terry Brown's option?

22 A Well, that was the original explanation. I believe
23 this --

24 MR. NEWSOME: Objection, Your Honor. That's
25 hearsay.

Adele Pope - Direct Examination by Mr. Bundy

1 THE COURT: That is.

2 THE WITNESS: I believe Mr. Bauknight testified
3 that his lawyer told him a Chicago lawyer would get all the
4 money. But that wasn't correct.

5 BY MR. BUNDY:

6 Q Okay.

7 A But I did have one more communication about that.
8 I have only one copy. On June 24th, 2009.

9 (Plaintiff's Exhibit Number 68 was marked for
10 identification.)

11 MR. BUNDY: Your Honor this is a letter of June 24,
12 2009 to a Mr. Klett -- Klett of Nexsen Pruet.

13 THE COURT REPORTER: Spell it.

14 MR. BUNDY: K-L-E-T-T.

15 THE COURT REPORTER: Thank you.

16 MR. BUNDY: June 4 from you and Bob Buchanan.

17 MR. NEWSOME: Without objection, Your Honor.

18 (Plaintiff's Exhibit Number 68 was entered into
19 evidence.)

20 BY MR. BUNDY:

21 Q Exhibit 68. What is the nature of this letter and
22 how does it relate to the issue of persona and image?

23 A Well, it's just Mr. Buchanan and me writing the
24 Court on June 24th, which was shortly after we were writing
25 Mr. Klett on June 24th, which was shortly after we were

Adele Pope - Direct Examination by Mr. Bundy

1 replaced -- I'm sorry we were writing Mr. Klett on June 24,
2 2009, shortly after we were replaced urging them to go
3 ahead and accept the CORBIS -- the Greenlight deal because
4 it was just good to do during the pendency of the appeal.

5 Q Who did Mr. Klett represent?

6 A The legacy trust and the James Brown 2000 Trust.

7 Q Okay. All right. There are some allegations -- or
8 there were allegations that you failed to properly document
9 claims. You familiar with that? You remember that?

10 A Yeah, I think we might have discussed that, but in
11 -- in essence, I don't know whether the person who made
12 that complaint saw the whole plate. I just don't know.

13 Q Okay. All right.

14 A It looks like it may not have been in the records.
15 So -- and also, again, we were dealing with a judge who was
16 beyond familiar with every move we made. And this claim
17 was filed just two months after our service was ended.
18 And, of course, could have been resolved way back then
19 without interest problems.

20 Q Do you know anything else that you could have added
21 to properly document your claim in this case?

22 A Well, no. Particularly because Judge Early, just
23 before in 1647, what became Wilson versus Dallas, had said
24 that he was going to take judicial notice of the entire
25 record. So I think that was about all he needed.

Adele Pope - Direct Examination by Mr. Bundy

1 Q All right. Let's talk about the Christies sale.
2 The allegations against you in that regard were that the
3 Christies sale was rushed, should not have taken place in
4 July among others. Would you tell us if it was rushed;
5 why, if it wasn't; what your position is; what you did; and
6 why you did it.

7 A I think -- I think two things about that
8 observation. One, I think that it is the hand of Buddy
9 Dallas. He tried to hire Ms. Woolley back in November of
10 2007.

11 THE COURT: Ms. Who? Ms. Who?

12 THE WITNESS: Ms. Woolley, the lady who testified
13 from California.

14 And he then presented -- and it's in the deposition
15 of Sandra Matthews. He then presented an affidavit of
16 Darren Julien, her associate, who was a very competent
17 auctioneer. I'm not complaining about Mr. Julien. I
18 attribute this to Buddy Dallas, not to Mr. Julien, but he
19 presented to the Court an affidavit, presumably of
20 Mr. Julien, which contained an attachment that was dated
21 after the affidavit.

22 Then, he -- he -- then Buddy Dallas sent that to
23 Sonny Jones who sent it to Sandra Matthews, who was
24 investigating us. So to begin with, I think Ms. Woolley
25 came from a place of a relationship that was all over

Adele Pope - Direct Examination by Mr. Bundy

1 everything we were trying to do back then.

2 But in terms of the rushing, I heard for the first
3 time in however many years, in this case, certainly within
4 the last year, maybe before that, but certainly after 2013,
5 that somebody thought July was a bad month. I never heard
6 that until this case. If they thought it was a bad month,
7 they didn't tell me and they didn't tell Judge Early. And
8 they didn't tell Court of Appeals.

9 Now, I think one of the experts testified that she
10 saw me reading about the catalog or working on the catalog
11 just days before the sale as if we were working on the
12 catalog. Well, the catalog had been out for months. What
13 we were doing was filing the catalog with Court of Appeals
14 after Mr. Dallas had filed an action for estop it, so we
15 were not working on the catalog.

16 BY MR. BUNDY:

17 Q So you didn't prepare the Christies catalog?

18 A No, I did not. And --

19 Q You didn't work with Christies to put on the
20 auction?

21 A We did work with them. We worked hard with them.
22 And what I think happened is that it went pretty smoothly
23 until, you know, quite frankly, Mr. Levinson's clients just
24 did not want that sale to happen. So they got together and
25 sabotaged it. And Judge Early found that in the April 1

Adele Pope - Direct Examination by Mr. Bundy

1 order. He found that they had interfered, but it hadn't
2 caused any damage to date.

3 And so, you know, it was a hard thing. But -- but
4 again, the duty of the PR's and the trustees was to
5 Mr. Brown's estate plan. And Mr. Brown said those people
6 who are given the household goods must pay their estate
7 taxes. Nobody else can pay them. If any -- nobody else
8 could pay them. And every dollar that went to the children
9 was going to attract more than 40 cents of estate taxes
10 because the 2 million exemption was used up on the seven
11 grandchildren.

12 So this was not a punitive matter it was -- it was
13 just something that had to be done. The judge found
14 correctly that Forlando's lawsuit kept us from getting a
15 traditional mortgage. There just wasn't another source of
16 funds.

17 So it got slowed down a little bit right there
18 before April. And that may have caused them some
19 production problems with the catalog. The letter that she
20 cited that said, I seem to have been rushing them about the
21 estate tax return -- about the estate tax appraisal, was
22 interesting because I was -- I was disgruntled because I
23 wanted the family to get that valuation as early as
24 possible so that they would have all the time they needed
25 to try to hold back items. I mean, I knew this wasn't fun

Adele Pope - Direct Examination by Mr. Bundy

1 for anybody. And Bob knew it wasn't.

2 So there was a little bit of delay there; and then
3 Ms. Tomi Rae claimed the furs and the Rolex. That caused a
4 little delay. I don't think it's the production of the
5 catalog. I mean, maybe it's a bad catalog. I don't know.
6 But -- but -- and then, of course, nine days before the
7 sale was the Buddy Dallas's attempt to chill the sale. I
8 mean, the Christies sale was a hallmark of Buddy's
9 criticism.

10 Q Okay. There were also allegations that you did not
11 cooperate in delivering the files to Mr. Bauknight?

12 A Oh, I heard that.

13 Q Would you tell the Court, one, whether you did
14 cooperate; and if you did, how. And what you did.

15 A Oh, I absolutely cooperated and it -- and it began
16 on May 19, 2009. I don't -- I don't think this is an
17 exhibit already.

18 (Plaintiff's Exhibit Number 69 was marked for
19 identification.)

20 BY MR. BUNDY:

21 Q 69 is custody receipt to Russell Bauknight from
22 Buchanan, Pope, May 29, 2009. You recognize the
23 signatures?

24 A I do. That's mine and I know Mr. Bauknight signed
25 it. I'm not sure I would otherwise recognize his

Adele Pope - Direct Examination by Mr. Bundy

1 signature.

2 MR. BUNDY: Move to introduce Exhibit 69, Your
3 Honor.

4 THE COURT: Any objection?

5 MR. NEWSOME: Without objection, Your Honor.

6 MR. BUNDY: Thank you, Your Honor.

7 BY MR. BUNDY:

8 Q All right. So this is a listing of the information
9 that was delivered?

10 A Well, it wasn't information, it was actually boxes
11 that was -- these boxes were delivered to him on May 29th,
12 which was three days after he was appointed. We had
13 already turned over the keys and had other communication.
14 I think Mr. Bauknight said he got brought down of 80 boxes
15 and then it took him a year more. But it didn't take him a
16 year more, it took him a month more to get 145 boxes, which
17 were -- and I've just pulled one page of this because it's
18 already in evidence in the case. This is just one
19 particular page of the lengthy custody receipt that he
20 filed. And we can pull it because it was admitted as part
21 of our final accounting the other day.

22 Q You --

23 A But I've just pulled one page to talk about.

24 MR. BUNDY: Mark this, please.

25 (Plaintiff's Exhibit Number 70 was marked for

Adele Pope - Direct Examination by Mr. Bundy

1 identification.)

2 BY MR. BUNDY:

3 Q For the record, Exhibit 37 is page 37 out of
4 exhibits already in evidence; is that correct?

5 A Yes, that's correct.

6 THE COURT REPORTER: That's 70.

7 BY MR. BUNDY:

8 Q It's Exhibit 70, I'm sorry. It's page 37.

9 A Right.

10 Q It's page 47 out of a previous exhibit.

11 A Right. And what we did --

12 Q Hold on.

13 MR. BUNDY: Let me move to introduce it into
14 evidence. Any objection?

15 THE COURT: Any objection?

16 MR. NEWSOME: Can I see it?

17 MR. BUNDY: Sure. It's already in evidence.

18 MR. NEWSOME: All right. Without objection, Your
19 Honor.

20 (Plaintiff's Exhibit Number 70 was entered into
21 evidence.)

22 BY MR. BUNDY:

23 Q So what we're looking at is just a page out of the
24 -- another exhibit outlining the boxes that were delivered
25 to Mr. Bauknight?

Adele Pope - Direct Examination by Mr. Bundy

1 A Right. They were delivered. And I later saw that
2 his own office assisted by the attorney general had gone
3 through all those boxes. I got that in a SLED report. So
4 this was June 29th, 2009. I think it was, I don't know 50
5 pages or more, explaining every piece of litigation,
6 everything we had done and -- that -- you know, that we
7 were looking at. And in particular, I cut out this page
8 because Mr. Bauknight said that he had not received the
9 TIAA stuff or a catalog of the copyrights.

10 And this shows both that he was given a CD and a
11 hard copy for that June -- in June when he signed the
12 custody receipt. I forget what day it is.

13 Q This -- the first -- this custody was -- the
14 previous exhibit was May 29?

15 A Well, this is June sometime.

16 Q This is June 29.

17 A Well, it was filed June 29. I think he signed the
18 receipt about five days earlier.

19 Q Okay.

20 A But it's in the record here and it's a long, long
21 thing. And -- and then in addition, we -- we wrote
22 immediately, and it may already be in the record, to advise
23 again about the tax problems and urge him to get in touch
24 with Mr. Sellers. And we also offered to meet weekly --
25 Bob and I offered to meet weekly with Mr. Bauknight and his

Adele Pope - Direct Examination by Mr. Bundy

1 lawyers for anybody who wanted to talk to us. And so -- so
2 we kept -- we would get some inquiries, but they would be
3 calling and asking about a box we didn't have. And so we
4 would write and say, we're happy to meet with you once a
5 week. If it's an emergency, we're glad to talk to you
6 today, but if it's not an emergency, come once a week and
7 let us see the box you -- I mean the document you're
8 talking about so that we'll be able to help you. But --

9 Q Did you deliver all the documents in the file in
10 your possession as trustee and PR within approximately 30
11 days of Mr. Bauknight's appointment?

12 A I did. I --

13 Q Did you keep anything?

14 A I kept a lot of copies --

15 Q Did you --

16 A -- because our custody receipt provided for that.
17 But I did not keep his documents.

18 Q You didn't keep any copies of something or a copy
19 of something or original of something that was not provided
20 to Mr. Bauknight?

21 A No. And -- and -- but I want to tell you that Bob
22 had in his office additional boxes. I think -- well
23 virtually the copy of mine because we had multiple copies
24 that Mr. Bauknight did not get for a while. And he signed
25 a receipt for that at Bob's later. But -- but, no, no, we

Adele Pope - Direct Examination by Mr. Bundy

1 had everything I had. And I had a fair number of copies.

2 I had, just to show you, when -- when we turned everything
3 over and I left my office in Columbia -- I think I had
4 about 30 boxes. But now I have about 135, all from the
5 public record.

6 Q Okay. So to the best of your knowledge, you turned
7 it all over to Mr. Bauknight --

8 A Absolutely.

9 Q -- within 30 days?

10 A He wouldn't -- there would be nothing that -- that
11 he -- that he didn't get.

12 Now, remember we were in the Forlando litigation,
13 but he had duplicates of it because he was in it too.

14 Q All right. All right. Let me ask you now about
15 claims by and against the estate.

16 A Well, we certainly understood, as is the clear duty
17 of both the PR and a trustee to promptly and prudently
18 resolve claims both for and against the estate.

19 Q At the time you turned the duties of PR and
20 trustee, what were the claims for and against the estate,
21 to the best of your recollection? And what condition were
22 they in? Status were they in?

23 A That is all contained in the final accounting,
24 which is now a matter of record here, but we had resolved,
25 as we said before about \$34 million of claims. The -- the

Adele Pope - Direct Examination by Mr. Bundy

1 New York Pullman litigation, which was not -- which was a
2 counterclaim against James Brown. James Brown had brought
3 the suit, was a counterclaim for \$8 million. That, I am 90
4 percent sure we had already received a lower court ruling.
5 There was an appeal from the Supreme Court, which is the
6 lower court of New York, but it didn't go anywhere. So
7 Matt Ballinger and those were successful in that \$8 million
8 claim too. But that was not counted in the 34 million that
9 we resolved.

10 We left about -- we left Cannon, Dallas, GT, we
11 left --

12 THE COURT: When you say left, tell me --

13 THE WITNESS: Unresolved. Not finalized.

14 And GT was in wonderful shape.

15 THE COURT: That's the?

16 THE WITNESS: Greenberg Traurig.

17 THE COURT: That's the Kendall Few case.

18 THE WITNESS: Yes, yes, yes. That was in wonderful
19 shape. We had a complaint, an amended complaint. It -- it
20 was not stayed by the Wilson versus Dallas appeal. There
21 was no reason for the GT claim not to be resolved in a
22 couple of years.

23 Cannon claim? I mean I've got his stolen \$70
24 million. It should have been finished up in no time. Mr.
25 Cannon finally resolved it himself by removing his claim in

Adele Pope - Direct Examination by Mr. Bundy

1 2012, after being named as a witness against Mr. Buchanan
2 and me in a lawsuit.

3 So after we left, instead of resolving these
4 claims, they were sabotaged in a way by naming Mr. Dallas
5 and Mr. Cannon and Mr. Katz as witnesses against us. The
6 Dallas claim, I understand, I heard today, is still not
7 resolved. To not have resolved a claim 11 years after
8 death -- now, I understand he had a bankruptcy and that
9 took up a little time, but his claim should have been over
10 before we filed bankruptcy.

11 Then the -- the Morgan Stanley claim, I have here.
12 I'm not going to try to make it in evidence, but a copy of
13 a motion to amend the complaint, this was done May 11,
14 2009. This is what was done by Bob and Kendall Few and Jim
15 Gilreath and me. An that case settled that summer.

16 So that was our work. Money came in to somebody
17 else, but that was our work. And I will remind the Court
18 that we had huge resistance in our efforts to engage
19 Mr. Few and Mr. Gilreath, but that was where that --

20 The claim against Enterprise Bank, the Dallas and
21 Cannon claims, and the Dallas and Bradley claims were all
22 ready for summary judgment. I mean, they -- they shouldn't
23 have taken any time to finish.

24 So we had pretty much gotten everybody's claim in
25 great order. And you'll see one of those letters I passed

Adele Pope - Direct Examination by Mr. Bundy

1 around today that after the settlement was announced in
2 August, and we really couldn't do anything else much, we
3 proceeded on and finished all those claims cases.

4 BY MR. BUNDY:

5 Q The IRS closing letter that has a current
6 valuation, the one that's on file now with approximately \$6
7 million, is that where we are today?

8 A Yeah, I think they got a closing letter at about
9 6.5. I think they took a --

10 Q How would that affect commissions?

11 A Well, I -- my reading of -- of the code is that if
12 you're a PR and you're asking for a commission that the --
13 and my understanding too, is that the Court certainly
14 considers what you have valued the estate at. And that
15 would be more true if you filed a number of accountings and
16 none of those accountings show any change in the value.

17 They don't reveal the fair market value of the
18 assets. And I think you're stuck with the value you claim
19 to be the date of death value.

20 Q All right. What benefit did the AG provide to the
21 trust between August 10, 2018 and May of 2013, during the
22 appeal?

23 A None. He actively worked against the 2000 Trust.

24 Q Okay.

25 A In multiple ways.

Adele Pope - Direct Examination by Mr. Bundy

1 Q Okay.

2 A And if he had been successful, it would have cost
3 the charity millions and millions of unnecessary dollars.

4 Q What benefit to the trust was conferred upon the --
5 by the AG or Mr. Bauknight by bringing Richland 4900?

6 A Done. It -- it --

7 MR. NEWSOME: Objection, Your Honor. This is
8 outside the scope of reply. 4900 was filed more than a
9 year after she was released for cause as PR.

10 THE COURT: How is that relevant, Mr. Bundy? How
11 is it relevant?

12 MR. BUNDY: Well, we're talking about benefit to
13 the trust, what the various trustees did to benefit the
14 trust and what the various trustees did to hurt the trust.
15 I think that's part of you're evaluation of fees and
16 commissions are going to be the relative benefit that the
17 parties provided to the trust.

18 THE COURT: I'll allow it.

19 Are you at a stopping point? We've been going --
20 I'd like to take a little break and come back and go until
21 five.

22 MR. BUNDY: All right. Thank you.

23 THE COURT: I said are you. You don't want to wait
24 the few more minutes and answer this question -- well, if
25 she -- can she answer the question?

Adele Pope - Direct Examination by Mr. Bundy

1 Go ahead and then we'll break.

2 THE WITNESS: I think the question was what benefit
3 or damage did the 4900 cause. It caused damage to the
4 trust, of course, my personal damage, I have to deal with
5 over there. But the particular damage to the trust --
6 well, first of all was to -- to -- what was done to the
7 minor beneficiaries of the 2000 Trust. Without their
8 knowledge, and with the consent only of Louis Levinson,
9 they were made plaintiffs in that suit, putting their trust
10 interest in great jeopardy.

11 And they were suing, those seven grandchildren were
12 suing without their knowledge, the only two people who were
13 defending not only their trust, but their right to have
14 copyright termination rights after the death of their
15 parents. They did not know about those --

16 MR. NEWSOME: Your Honor, I also want to object.
17 Lack of foundation. This is -- you know, this is all
18 hearsay. It's -- again, it's -- I renew my objection.

19 THE COURT: All right. I've allowed to answer that
20 response. Let's move along from the 4900.

21 THE WITNESS: Can I talk about the damage to the
22 trust --

23 MR. BUNDY: Now would be a good time for a break.

24 THE COURT: All right. We're going to take a 10
25 minute break and come back and go to 5ish.

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 THE COURT: Anita get me a copy of that.

2 THE WITNESS: It's in already in the --

3 THE COURT: I don't want to take the file. I want
4 to take a copy.

5 So Anita would you make me a copy of it.

6 MR. NEWSOME: Your Honor, were you just asking
7 about the January 8th, 2008 order? I was going to ask
8 Ms. Pope about it, if that's okay.

9 THE COURT: Sure.

10 BY MR. NEWSOME:

11 Q Plaintiff's 1, Tab 13. Tab 13.

12 First of all, Ms. Pope, you said you had a contract
13 with the estate?

14 A And trust.

15 Q And trust. Okay.

16 A Both. Both.

17 Q Who did you talk with at the estate and trust to
18 negotiate this contract?

19 A Me, and I spoke -- Mr. Buchanan and I reached this
20 agreement that this was the compensation we wanted, we
21 thought was appropriate and that we -- and then we filed a
22 motion asking the Court to approve it. And the Court did.
23 And there was -- there was a hearing on December 21st. And
24 I will tell you that -- well, that's -- that happened
25 December 21st.

Adele Pope - Cross-Examination by Mr. Newsome

1 Q So this is a contract you had with yourself; is
2 that correct?

3 A Not myself. The estate and trust. Just like any
4 -- any PR who makes an agreement with the estate and trust.
5 That's okay to do. And then especially when you go and ask
6 the Court. And, in fact, we were praised by Mr. Medlin for
7 belt and suspenders, for asking the Court to approve
8 something we could have paid to ourselves without approval.
9 If you read the December 21st, 2007 hearing transcript,
10 you'll see that.

11 Q I've read this document. I don't see any mention
12 of a contract, of the Court approving any contract.

13 A Well, we were talking about contracts earlier. A
14 contract is a meeting of the minds where you want something
15 to be accomplished and -- and there -- and that is what
16 happened here. We had a contract with the estate and trust
17 for which we served as fiduciaries and we asked that that
18 be approved by Judge Early and Judge Early approved it.

19 Q This order does reference payment on a time plus
20 cost basis, but it does not reference approval of any
21 contract, does it?

22 A Well, you know, the one thing I really didn't do
23 that well in the James Brown matter was protect myself. I
24 suspect that we were the two who drafted this order, and we
25 probably should have been a little nicer to ourselves, but

Adele Pope - Cross-Examination by Mr. Newsome

1 A I interpreted it to mean his appointment was void.
2 I -- I know what I think the Supreme Court said. I don't
3 speak for them. They speak for themselves.

4 Q And you don't agree with Judge Early's order that
5 there was no gap in service?

6 A I was not allowed to participate in that order. So
7 I don't have an opinion about it. I was excluded from all
8 the James Brown cases before Judge Early on June 13th of
9 2013 and I have had no participation in any of the cases
10 other than my own claims case. I was not even invited to
11 say nice things about Bob Buchanan on October 8th of 2013.
12 And I would have loved that.

13 THE COURT: Well what happened on October 8, 2013?

14 THE WITNESS: Your Honor approved all of his
15 service, praised his service, said there was no need for
16 disgorgement, and left open the possibility of his reentry
17 into Case 4900 if the -- if things happened a different
18 way.

19 BY MR. NEWSOME:

20 Q The Supreme Court has also admonished you to not
21 make any further filings in any of the James Brown cases;
22 is that not true?

23 A No. That's not true. It said -- the order says
24 what it says, but again, I don't really relish bringing
25 this up, but it was based on a filing by Judge Early, which

Adele Pope - Cross-Examination by Mr. Newsome

1 really went after me. And -- and after I had not been able
2 to participate in -- in the James Brown hearings for two
3 years. So the order says what it says. I don't want to
4 interpret it. It did not say that I could not participate
5 in any James Brown case because I was still in 4900. And
6 the order just was -- the status report was heartbreaking
7 to me after I had served so well for Judge Early to say
8 that I wanted a 2 million SA fee when I only wanted \$47,000
9 and to issue a status report that sounded like Bob Buchanan
10 had paid the Case 4900 plaintiffs rather than being paid
11 himself, it made me sad.

12 But I respect the law. I did not respond to it. I
13 just sat this and watched it happen. It was very, very sad
14 to me. But Judge Early found that all the heirs had been
15 properly determined. That was not the case. It was a sad
16 report and it was clear that Judge Early had once again
17 been misled by the settling parties.

18 And I would like -- I mean, if we need to make that
19 a record, what I'm specifically talking about is that
20 status report. Now, remember from the standpoint of this
21 case, you had had ex parte contact with the judge from the
22 13th of May until -- May of 2013 until May of 2015, not
23 specifically, but you had been involved with him in cases
24 where I was not even allowed to participate as an expert or
25 a witness and so my voice was not heard. I had to just

Adele Pope - Cross-Examination by Mr. Newsome

1 accept that. It was a sad day for me, for someone who
2 honors -- whose career really matters to her, that was a
3 very deep blow. But it was what it was. I took it on, I
4 did it, here I am.

5 Q Well, you've already testified you're actually
6 seeking a lot more than just the 5 million in his report.
7 It was actually a lot worse than he reported; isn't that
8 true?

9 A In this case, I have already offered to settle long
10 ago for 2.1 million. You are dead wrong. You are dead
11 wrong. You know that I have and that you have spent
12 millions of dollars, millions of dollars to continue to
13 discredit me for the benefit of the plaintiffs of Case
14 4900.

15 Now, in Case 4900, I offered to settle because my
16 lawyer said you have got to make a global settlement offer.
17 And if you'll notice what I did, and I'd like to do the
18 math with you.

19 Q All right.

20 A \$10 million to charity, because I thought if I'm
21 walking away from this, I'm going to do a little something
22 for James Brown. So I'm going to put to charity -- I'm
23 going to put to charity twice what these folks say his
24 music empire was worth. And that is going to provide
25 \$500,000 of scholarships every year. And that will be

Adele Pope - Cross-Examination by Mr. Newsome

1 THE COURT: All right.

2 THE WITNESS: Your Honor, would it be helpful to --
3 the additional documents I brought, they're rather small.

4 THE COURT: Well, let's talk about anything else
5 you've got. We're going to take one break and we'll take
6 one huge break.

7 What else do you have, please, ma'am?

8 THE WITNESS: The next document, that would be --
9 is an explanation -- this's one for you Mr. Newsome.

10 THE COURT: An explanation of the 19 million?

11 THE WITNESS: I was accused of trying to take \$19
12 million from the James Brown 2000 Trust. I didn't have a
13 chance to talk to my lawyer about what would have happened
14 to that \$19 million if it had been accepted.

15 But I will tell the Court, under oath, that I was
16 under extreme pressure to make an offer that would have
17 resolved both Richland 4900 and this case. I had offered
18 to settle -- I have offered to settle this case for \$2.1
19 million. But nobody wanted to hear what I had to say
20 unless I also offered to settle Case 4900. I did not want
21 to do that, but my lawyer said give a figure. And I gave a
22 figure.

23 And I want the court to know what I would have done
24 with that \$19 million if it had been accepted. And to show
25 the Court that if it had been accepted, it could have

Adele Pope - Cross-Examination by Mr. Newsome

1 helped save the "I Feel Good" Trust. It didn't have to.
2 I'm out of that.

3 But 10 million of that would have gone into a
4 charity that would have paid \$500,000 in scholarships in
5 honor of James Brown every year for 10 years, guaranteed.
6 And I think it's unfair for me to have them accuse of
7 trying to take \$19 million from this estate, when I would
8 have -- as you will see, I would have received only a small
9 portion of that and the James Brown "I Feel Good" Trust
10 would have substantially benefited from it. And if the
11 attorney general were paying any attention, could really
12 benefit from it.

13 And so this document is why the attorney general
14 should have accepted the \$19 million offer. I don't know
15 whether he was even told about it. But since it was
16 supposed to settle both 4900 and this case, I hope he was
17 told about it.

18 The next document I have --

19 MR. NEWSOME: All right, Your Honor, before we go
20 to the next document, I would move to strike her testimony
21 just now and this document. It's improper on reply.

22 If this document is -- I'm not sure what it is, but
23 it's replete with hearsay. It appears to be somewhat of a
24 legal argument which pulled in her version of some facts.
25 And, you know, if she wants to testify about some of these

Adele Pope - Cross-Examination by Mr. Newsome

1 that true?

2 A That's not why we didn't hire a valuation expert.
3 We didn't hire a valuation expert because the Court had
4 approved a method of valuing it. The -- the records were
5 no good and it was an unnecessary expense. It was all
6 going to charity. It's all going to charity now. Except
7 the third that was taken away from the charity by the \$4.7
8 million valuation closing letter that should have been
9 corrected by the attorney general in 2013 and was not
10 corrected.

11 But you'll see my \$19 million offer made a proposal
12 to try to undo some of the terrible income tax damage that
13 was caused by Mr. Bauknight by that devaluation.

14 Q Well, it's not all going to charity, right? I
15 mean, if you prevail in your case, some of it's coming to
16 you.

17 A Very little in relation to what I've done to keep
18 the attorney general and Tomi Rae and Mr. Bauknight from
19 decimating it.

20 But -- which I have not done, do not do, have not
21 done since June 10, 2015. You've been on your own ruining
22 the charity. I've had nothing to do with it. I understand
23 court orders.

24 Q If you hired Ray Gonzales on a deferred-pay basis,
25 why didn't you give him the general business -- management

Adele Pope - Cross-Examination by Mr. Newsome

1 of the music business of the estate?

2 A We used Mr. Gonzales in every way we deemed
3 appropriate from January of 2008 until the Summer of 2018,
4 just seven months later when we were told by the attorney
5 general of South Carolina and Tomi Rae Hynie to stand down
6 and stop administering the estate because they had settled
7 everything and they were speaking as one.

8 Q So you quit managing the most valuable asset of the
9 estate in the Summer of 2008; is that your testimony?

10 A It's absolutely not my testimony. First of all, I
11 don't believe that the copyrights are necessarily most
12 value -- valuable asset. Although I do believe that --
13 that thanks to Mr. Medlin's suggestion that the publicity
14 rights be valued at zero, you've worked against the
15 development of the publicity rights and Mr. Bauknight has
16 worked against the exploitation of the publicity rights
17 which are not subject to termination rights.

18 So I do not believe that it was the most valuable
19 asset. I believe it was an equal asset with the right of
20 publicity. And -- at the time of his death.

21 Now, it's been diminished by actions after
22 Mr. Buchanan and I were replaced, but we certainly did not
23 stop administering it. We tried to stop the attorney
24 general from giving away half. A good way to administer
25 your assets is to keep somebody from taking half of them.

Adele Pope - Redirect Examination by Mr. Bundy

1 That's an important step in administering assets.

2 Q Okay.

3 MR. NEWSOME: Nothing further for this witness,
4 Your Honor.

5 THE COURT: Mr. Bundy, redirect, on anything
6 brought up in cross?

7 **REDIRECT EXAMINATION**

8 BY MR. BUNDY:

9 Q Ms. Pope, for full recognition, His Honor has
10 simply allowed these exhibits you brought here today as an
11 offer of proof, okay.

12 THE COURT: No. 72, I told her that if you asked
13 her questions about the other ones they would probably be
14 admitted.

15 MR. BUNDY: Okay. All right.

16 THE COURT: Those were --

17 MR. BUNDY: All right, sir.

18 BY MR. BUNDY:

19 Q With regard to 72, what I'd like you to do just
20 very briefly, in a manner of not detailed testimony, but
21 just as a proffer, for purposes of the record, give us a
22 brief explanation so that whoever, if they ever decide to
23 look at this information, will understand what you were
24 trying to do. I don't want a long dissertation.

25 THE COURT: Well, she did that earlier.

Adele Pope - Redirect Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q Let me ask you this: Do you feel like you've --
3 have you done -- have you explain it to the extent you
4 think it needs to be explained for purposes of a proffer?

5 A I don't think so.

6 Q Okay.

7 MR. BUNDY: I don't know.

8 THE COURT: Okay. Once again --

9 BY MR. BUNDY:

10 Q Just very quickly.

11 A This is a document prepared by me --

12 THE COURT: 72 we're talking about.

13 BY MR. BUNDY:

14 Q Yes, sir.

15 A Plaintiff's 72 is a document prepared by me from
16 the -- from the records in this case and in 4900. It was
17 prepared in response to my being accused of committing
18 perjury in March of 2008, with Mr. Buchanan in a document
19 that is referenced in here.

20 And it lays out in a chronology of violations of
21 the South Carolina code as relates to perjury and
22 subornation of perjury, fraud and evasion under 62-1-106
23 and Section 28 U.S. Code Section 7206. And it first sets
24 out some subjects of fraud, perjury, and subornation of
25 perjury, which have been topics in this case and in case

Adele Pope - Redirect Examination by Mr. Bundy

1 4900.

2 And then it gives a chronology prepared by me from
3 the record. Many of the references are to Mr. Bauknight's
4 deposition, which two depositions, one in this case on
5 January 31, '27 (sic). And another in his testimony on
6 August 20th of 2013 in the Forlando case.

7 And then much of it is the sworn testimony, often
8 conflicting by people other than Bob Buchanan and Adele
9 Pope.

10 We all know about the Cannon and Dallas false sworn
11 testimony, but this includes testimony beginning in 2008
12 when false representations began to be made to the Court
13 about the value of James Brown's assets and all the
14 questions that I've put there under some subjects of fraud,
15 perjury, and subornation of perjury.

16 Q Thank you.

17 Let's go to the next exhibit, please, ma'am, which
18 I think is 73.

19 Would you identify 73, please.

20 A Yes. This is how I planned to use the \$19 million
21 if it had been accepted, if the proposal had been accepted.
22 73 -- if the proposal had been accepted.

23 Q All right. Tell us -- tell us what you would have
24 done with the money had the proposal been accepted?

25 A Okay. Well --

Adele Pope - Redirect Examination by Mr. Bundy

1 Q Let me ask you first: Why did you even make an
2 offer?

3 A Because --

4 Q Of settlement?

5 A Because you sort of forced me to. And you forced
6 me to make an offer that would cover both 4900 -- I don't
7 mean that -- I don't mean that it wasn't of my free will,
8 but you forced me to give a number that would settle both
9 this case and --

10 Q You did it based on legal advice; did you not?

11 A Yes. You advised me that I needed to give a
12 number.

13 Q Okay. Did you understand and do you understand as
14 a lawyer that settlement negotiations and offers in
15 responses are supposed to be confidential under the rules
16 of evidence?

17 A Well, I do, but I don't mind saying what I did
18 because what I --

19 Q I understand that, but my point is, when you were
20 advised by counsel to make an offer of settlement, did you
21 understand that that offer of settlement was confidential
22 under the rules of evidence?

23 A I thought it was.

24 Q Okay. Now, having said that explain to the Court
25 what the rationale was for the offer and what you intended

Adele Pope - Redirect Examination by Mr. Bundy

1 to do with the money if it had been accepted?

2 A Okay. Well, the first thing I was going to do was
3 put \$10 million into either the Pope Brown Foundation or
4 another charity that would guarantee that they would make
5 \$500,000 a year in scholarships in honor of James Brown.

6 THE COURT: What is the Pope Brown Foundation,
7 please?

8 THE WITNESS: That's a foundation I actually formed
9 for a relative of my husband's and I know it's well run by
10 very respectable trustees.

11 THE COURT: Is Brown James Brown or someone else?

12 THE WITNESS: No, it's just an accident, Your Honor
13 that's Ethel and Pope --

14 BY MR. BUNDY:

15 Q It's a coincidence.

16 A That's Ethel Pope Brown, who was a client of mine
17 and a cousin of my husband's. But it's a well run small
18 foundation. And my idea was to ask -- I didn't discuss any
19 of this with my lawyer because he didn't seem to accept the
20 19 million.

21 But including the fee that I intended to pay my
22 lawyer, I didn't discuss with him, I hope he would have
23 accepted it.

24 But anyway, it was to give \$10 million immediately
25 to a foundation, either to Pope Brown Foundation, or I'm a

Adele Pope - Redirect Examination by Mr. Bundy

1 trustee of the small change foundation, or another
2 foundation that would immediately, starting in 2018, give
3 \$500,000 a year in James Brown scholarships for 10 years.
4 That would take us to 20 -- 2027. And the purpose of that
5 was twofold. One was for the attorney general to get --
6 and the governor to get some credit for having gotten it
7 right with James Brown. Take all the credit, I didn't want
8 any credit.

9 And then by additional requirement, which I didn't
10 put in here, was I was going to tell the foundation that
11 they had to agree that if at the end of the 10 years, the
12 James Brown "I Feel Good" Trust was being properly run and
13 its copyrights protected that they would give anything left
14 over from that fund back to the "I Feel Good" Trust. I
15 didn't put that in here because obviously I never talked to
16 anybody about working out the terms. But that was the
17 clear purpose of it. And that would give me some comfort,
18 that I could walk away feeling like I'd done what I could.

19 The next was to give \$1 million to Bob Buchanan
20 because he -- the way he was treated just sort of broke my
21 heart. I just don't have any other way of saying it. A
22 person who is so wonderful and such a good lawyer to have
23 been run through the ringer the way he was. And so that
24 seemed fair to me.

25 Then I wanted to give 50,000 each to Jim Bailey and

Adele Pope - Redirect Examination by Mr. Bundy

1 Tressa Hayes who had been disserved and Mr. Bailey was two
2 sick to protect himself and Ms. Hayes was too nice. So I
3 just wanted to give them each \$50,000, which was about what
4 I owed them. It wasn't with interest, it was just to do.

5 The next was an estimated cost of defense and I
6 just estimated it around a million or .9 million for 8
7 years of costs in 4900 and 4 years of costs of defending
8 the estate plan. So that's the two cases.

9 And then the next was the interest on the amount
10 due me, which was about a million dollars.

11 And the next fee was legal fees to my lawyers for 8
12 years. And I hope that they would have accepted 2.5
13 million of the 20 million. That's just barely over 10
14 percent. But I've had good lawyers who understood and I
15 hope --

16 THE COURT: What 20 million you talking about?

17 THE WITNESS: 19 million. I'm sorry. Just a
18 little over 10 percent of the 19 million. But I had hoped
19 that my lawyers would not -- would agree with me that this
20 was a right thing to do. I haven't -- don't have your
21 permission to do that and that's the thing I wanted to ask
22 you about.

23 BY MR. BUNDY:

24 Q I haven't heard my name yet in this disbursement?

25 A Well, you'd have to have a little bit of the 2.5

Adele Pope - Redirect Examination by Mr. Bundy

1 million. And the other lawyer who's been my lawyer much
2 longer, Adam, but was -- anyway, I was hoping that that
3 would happen. And I believe it would have. I know it
4 would have with Adam.

5 I believe Mr. Bundy would have done the same by me.

6 And then -- and then the rest was my fee for
7 PR/trustee fee and my lost wages for 7 years of being
8 damaged, my career, having lost my malpractice insurance,
9 unable to accept a client without telling them I have no
10 malpractice insurance because I can't get it; 7 years of
11 false felony claims. And again, there was nothing magic
12 about that allocation between my PR/trustee and 4900. But
13 that was sort of the gist of it. So you know, I would like
14 to be paid. I've never said I wouldn't like to be paid up
15 until May 8, 2013.

16 THE COURT: So what you would get out of it, number
17 4 -- is .9, number 5, that's a million. That's 1.9
18 million. Seven is 2.2 and 8 a 1.3. So that totals up to
19 5.4?

20 THE WITNESS: But judge, that would not come from
21 the estate or trust. That would come from the 17 people
22 who sued in the other suit. And that's the part that the
23 estate has tried to always put together, but there were
24 people in the other suit who sued me on baseless claims and
25 to people to whom I never owed a duty. James B, Tomi Rae,

Adele Pope - Redirect Examination by Mr. Bundy

1 Tanya and others.

2 And so this does not come from the estate and
3 trust. Every time I read what people say under oath that
4 all of this has to be paid by the estate and trust, that's
5 not true. These people are rich. Some of them have
6 termination rights. They are the people who have sued and
7 falsely accused me for all these years. I didn't ask that
8 from the estate and trust. That's why I urge my lawyer to
9 please --

10 And I made an offer of 2.1 million to settle this
11 case long ago, this year. But nobody wants to hear what I
12 want for settling this case. They want to talk about Tomi
13 Rae and James B. and the 17 people who have sued me. So to
14 suggest that I want \$5 million from the estate, Your Honor,
15 is absolutely incorrect. The estate could --

16 THE COURT: This is for the litigation --

17 THE WITNESS: Not this litigation, Your Honor --

18 THE COURT: -- and 1900. Right? And the 4900?

19 THE WITNESS: And then, I further -- I further
20 hoped that if this did happen, it would inspire -- well, it
21 would give the attorney general an opportunity to undo
22 without unnecessary hoopla, the terrible decision that was
23 made to devalue the assets to 4.7 million. And the way
24 that would be done would be to take the approximately \$31
25 million of assets that are now, if you agree on the \$100

Adele Pope - Redirect Examination by Mr. Bundy

1 million basis, put 31 million into the grandchildren's
2 trust.

3 Now, remember, this is almost with no attorney's
4 fees.

5 And then you put that 31 million in there and then
6 you pay out in cash or in kind -- and I'll show you in a
7 minute -- you pay out this settlement with assets, which we
8 have to do and cash to do. And then that leaves you with
9 12 million divided into seven shares. And Romunzo's share
10 is already gone. So that gives you more than a million and
11 a half that can already go straight to the James Brown "I
12 Feel Good" Trust. And then that would allow the "I Feel
13 Good" Trust, in addition to the scholarships we provide to
14 go ahead and start providing scholarships.

15 But, again, that wouldn't be me to do, it was just
16 a -- it was just how they could have resolved the terrible
17 income tax problem that had been caused. And I -- and --
18 and then in -- in addition what this would leave would be a
19 \$69 million in the assets. And I'll show you how I
20 allocated the assets.

21 It would leave \$49 million for the attorney general
22 maybe to get his attention and take control of that,
23 including taking control of protecting of the \$69 million
24 that was left and -- and pay off the rather small
25 settlement that he's agreed to some -- to pay to six --

Adele Pope - Redirect Examination by Mr. Bundy

1 five -- I'm sorry, five Levinson clients plus Tanya was not
2 a beneficiary. But the attorney general has made a
3 settlement with that.

4 Also, the attorney general could have, although it
5 wasn't my business, he could have said to everybody, okay.
6 Y'all stop fighting now because we've got this worked out.
7 But again, that's not my business.

8 But the -- how it would be funded is on page 2 and
9 this would have -- I did it based on \$100 million valuation
10 and I valued the cash, the Roatan Island and the claims
11 that are unresolved at 10 million.

12 The Beach Island personal property and the personal
13 and household effects and vehicles at 5 million. The
14 active copyrights at 40 million. The publicity rights at
15 20 million. And I think --

16 THE COURT: That's 50 million.

17 THE WITNESS: Well, I think -- active copyrights at
18 50 million, the publicity rights at 20 million. I'm sorry.
19 I said that wrong.

20 THE COURT: That's okay.

21 THE WITNESS: And then all other assets, including
22 unpublished works at 15 million. And my idea was that of
23 the 3 percent we'd need about, maybe, 4 or 5 million in
24 cash to make sure we could -- there would be enough for
25 those scholarships, but we would be glad to take the rest

Adele Pope - Redirect Examination by Mr. Bundy

1 in copyrights at that value. And if anybody doesn't think
2 they're worth that, give them to me and I would provide to
3 this foundation pro bono publico advice to protect their
4 rights. And that hopefully wouldn't be different from the
5 estate or trust, but it might.

6 MR. BUNDY: Your Honor, I'd move to introduce this
7 exhibit at this point.

8 THE COURT: Any objection?

9 MR. NEWSOME: One moment, Your Honor.

10 THE COURT: Y'all want to go off the record for a
11 second?

12 (There was an off-the-record conversation.)

13 MR. NEWSOME: Your Honor, could I ask what date was
14 this document created?

15 THE WITNESS: I just created it since -- my lawyer
16 has never seen this, Your Honor. That's what I said. When
17 he accused me of trying to take 19 million. I wanted to
18 ask my lawyer was it okay to do this, but I -- I've never
19 even discussed this with my lawyer because my lawyer, quite
20 frankly, thought they weren't going to accept the \$19
21 million offer. This was me. All me.

22 MR. NEWSOME: Your Honor, we're not going to
23 object, but we do want to note for the record this is
24 further evidence she's continued to try to interfere with
25 the ongoing administration of this estate.

Adele Pope - Redirect Examination by Mr. Bundy

1 THE COURT: I'll note that you have no objection.
2 I don't know what -- I'm not going to accept what it says
3 as a fact though.

4 THE WITNESS: It's not a fact, Your Honor. I am
5 not doing anything to --

6 THE COURT: I know. I didn't say -- it's admitted
7 into evidence with her explanation as to her \$19 million
8 offer.

9 (Plaintiff's Exhibit Number 73 was entered into
10 evidence.)

11 BY MR. BUNDY:

12 Q And before we move on, just to make it clear, if
13 you put aside 4900, you're willing to accept \$2.1 million
14 to settle this case?

15 A I've -- we've already sent it to them long ago.

16 Q Is it true today though? Today are you willing to
17 accept it?

18 A Absolutely today. To end this case and be paid --

19 Q Okay.

20 A -- 2.1 million.

21 Q Okay.

22 A But not after today or a short period of today.

23 Q All right. Exhibit 74. Can you identify that for
24 the record, please.

25 A Yes. I have been repeatedly accused of not filing

Adele Pope - Redirect Examination by Mr. Bundy

1 any income tax returns. And Exhibit 74, it was found
2 within my files, it is a copy --

3 Q Just identify it for the record, please.

4 THE COURT: I've got -- you have an extra one over
5 there?

6 THE WITNESS: It's a copy --

7 THE COURT REPORTER: That's the exhibit.

8 THE COURT: I'll get it back to you.

9 MR. BUNDY: 74, I believe.

10 THE WITNESS: I have a copy of mine on bad paper.

11 THE COURT: All right. That was December 11, 2007
12 letter.

13 THE WITNESS: It's a letter --

14 THE COURT: To the IRS.

15 THE WITNESS: Yes, Your Honor. It's just a letter
16 -- it's just the first of many, many, many, many, letters
17 -- actually, it's the second of many communications we had
18 with the IRS. The first was already on December 5th or 6th
19 of 2007 when we filed the application or recognition of the
20 "I Feel Good" Charity. But this is a letter in which we
21 send to the IRS the 2006 JBE, Inc. income tax return.

22 And that's the return that was the amended return
23 that showed approximately \$4.6 million of income -- of
24 James Brown's income which was represented to be all of his
25 income for that year, and was all reported through JBE,

Adele Pope - Redirect Examination by Mr. Bundy

1 Inc. And we sent that to the IRS and it was also on file
2 with your court prior to that. And we began a dialogue
3 with the IRS about what to do about this 2006.

4 BY MR. BUNDY:

5 Q And the purpose of bringing this letter to the
6 Court's attention is what?

7 A Because I've been falsely accused of never
8 communicating or filing with the IRS, I believe,
9 Mr. Bauknight's words were that the IRS told him this
10 return was never filed. I don't know who he was --

11 Q And did you keep this letter in the ordinary course
12 of business as a trustee and PR?

13 A Well, this copy would have been in my office --
14 probably in my office file copy or multiple copy.
15 Mr. Bauknight would have the original file copy.

16 MR. BUNDY: Your Honor, I move to introduce Exhibit
17 74:

18 MR. NEWSOME: Without objection, Your Honor, but we
19 would ask for the opportunity to recross her on this
20 document at the appropriate time.

21 (Plaintiff's Exhibit Number 74 was entered into
22 evidence.)

23 BY MR. BUNDY:

24 Q If you would for the record identify Exhibit 73,
25 please?

Adele Pope - Redirect Examination by Mr. Bundy

1 A Is this 75?

2 Q Excuse me, 75, I'm sorry. We're on 75, aren't we?
3 That's the next one.

4 A This is part of the slander of Mr. Buchanan and me.
5 It was an article that began in the State newspaper in
6 which Russell Bauknight reported that the James Brown
7 mansion had been ransacked by a Christies sale. I called
8 -- it's interesting. I sent an e-mail to the State and
9 asked them that they check the facts on it and the State
10 actually changed their story to say, surprisingly, here it
11 was in pristine condition.

12 However, the State's story was already out and so I
13 just happened to find on the internet the other day -- I'm
14 sorry, I said ransacked. The word was plundered that
15 Mr. Bauknight used; plundered for Christies auction.

16 And as I said, the State changed their story to say
17 that the house was, in fact, in pristine condition. But
18 the plundering which Mr. Bauknight accused me of and Mr.
19 Buchanan of, remained in the public record and still
20 remains. And I've printed that off since my testimony.

21 MR. BUNDY: Your Honor, I'd move to introduce
22 Exhibit 76 -- 75, I'm sorry.

23 THE COURT: Mr. Newsome?

24 MR. NEWSOME: Your Honor, we object. I'd like to
25 see the complete article. This document, for the record,

Adele Pope - Redirect Examination by Mr. Bundy

1 is a picture of James Brown's -- appears to be James
2 Brown's house, however it's a very poor copy. And then the
3 words are kind of chopped off. You can't read a complete
4 sentence. So we don't have a story. So we would object to
5 the admission of this partial picture and words that's
6 incomplete.

7 THE COURT: Mr. Bundy?

8 MR. BUNDY: Your Honor, we can substitute the full
9 document, if we can find it. If we can't, we'll leave it
10 as an ID. I think I can -- I think I can solve their
11 problem.

12 THE COURT: If you can get the full article,
13 I'll --

14 MR. NEWSOME: That's fine, Your Honor.

15 THE WITNESS: Your Honor, does he want the whole
16 gallery of pictures or just the full page?

17 THE COURT: Full article.

18 MR. BUNDY: Full article.

19 Let's just give them the full article. That's what
20 they want, let's give it to them.

21 THE COURT: Get that.

22 MR. BUNDY: Thank you, Your Honor.

23 (Plaintiff's Exhibit Number 75 admitted pursuant to
24 admission of the full article.)

25 MR. BUNDY: Thank you, Your Honor.

Adele Pope - Redirect Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q Ms. Pope, if you could identify 76, please?

3 A Well, I think 76 goes with 72. And I'd just --
4 simply is an example of --

5 Q Would you identify it for the record, please?

6 A I'm sorry. Plaintiff's 76 is a Notice of Special
7 Appearance and Motion to be Dropped as a Party by the
8 Attorney General. And it is just an example of the
9 duplicity and the false claims and statements and actions
10 of Sonny Jones, who was just the rotten apple in the --

11 THE COURT: Is this in this case or 4900?

12 THE WITNESS: This particular action is in 4900.
13 However, in 72, I have numerous examples of Sonny Jones's
14 statements where he says he relies on the record, but --
15 but has either claims to have no knowledge, claims to have
16 a common interest with Tomi Rae or, I think his sworn
17 statements show that he has repeatedly made false
18 representations to the Court including the false
19 representation that James Brown's assets, music empire was
20 worth 4.7 million without looking at the appraisal.

21 That's just one of many false representations that
22 the attorney general's office, through Mr. Jones that has
23 made to the Court over the years. And this little notice
24 of special appearance, together with the state -- the sworn
25 statements of Mary Frances Jowers and Mr. Jones, and the

Adele Pope - Redirect Examination by Mr. Bundy

1 others in the AG's office that we have designated, make
2 clear the numerous false representations made to Your Honor
3 and to other courts.

4 MR. BUNDY: Your Honor, I move to introduce Exhibit
5 76.

6 THE COURT: Hold on one second.

7 MR. NEWSOME: Your Honor, we would object. It's
8 improper reply testimony. It's outside the scope. It's
9 also not in this case. It's in 4900 as Ms. Pope opposed
10 consolidation of these cases.

11 THE COURT: I'll allow it.

12 (Plaintiff's Exhibit Number 76 was entered into
13 evidence.)

14 THE COURT: Hold on one second.

15 MR. BUNDY: I'm sorry.

16 THE COURT: Hand me that last exhibit.

17 MR. BUNDY: The last one?

18 (The document was handed to the Court.)

19 THE COURT: All right, sir. You may proceed.

20 THE WITNESS: Plaintiff's 77 is some correspondence
21 with the office of Ray Gonzales. Some of it may already be
22 in the record, but in particular it shows that Mr. Gonzales
23 tried to be paid by Mr. Bauknight and wasn't. And that
24 Mr. Bauknight, through counsel, directed Mr. Gonzales to
25 destroy the file that they had requested, including a file

Adele Pope - Redirect Examination by Mr. Bundy

1 that showed that Mr. Gonzales had sought a -- sought an
2 extension of the limitation period.

3 And one of the allegations, false allegations made
4 against Mr. Buchanan and me was that we had missed statutes
5 of limitations. And then it's in my letter saying that I'm
6 not going to destroy the evidence that this file was
7 requested because it -- litigation is pending in this case
8 4900 and I'm not going to destroy my file.

9 And a letter of Mr. Gonzales with a similar
10 indication that Bob had separately written him, essentially
11 the same thing.

12 MR. BUNDY: Okay.

13 So, Your Honor, we would move to introduce
14 Plaintiff's Exhibit 77.

15 MR. NEWSOME: Your Honor, it's the same as exhibit
16 74. We would not object to it, but ask for the opportunity
17 to cross on the file.

18 (Plaintiff's Exhibit Number 74 was entered into
19 evidence.)

20 MR. BUNDY: Thank you, Your Honor.

21 THE WITNESS: And if I could just say that my chart
22 is further evidence of everything that I have said. And
23 was fully documented within the record and they were
24 offered an opportunity to see every document.

25 ///

Adele Pope - Redirect Examination by Mr. Bundy

1 BY MR. BUNDY:

2 Q And you prepared the chart, correct?

3 A I did.

4 Q Earlier you spoke about that you were willing to
5 give confidential testimony regarding Roger Miller's
6 position. Without -- can you describe what that would be
7 without requiring the courtroom to be cleared to see if
8 it's --

9 A Yes.

10 Q -- if the judge is interested?

11 A Yes. Mr. Sharp based his confidential testimony on
12 confidential testimony of Roger Miller and Mr. Sharp's
13 interpretation was totally wrong. And so -- in order to
14 understand, but both were confidential. And in order to
15 understand why both were wrong, you need to first look at
16 what Mr. Miller said and then look at how Mr. Sharp
17 misapplied it. So I'll be glad to tell the Court about it,
18 if they want. If -- or if you want.

19 But it would require the courtroom to be cleared.

20 MR. BUNDY: Your Honor ---

21 How long would it -- how long do you think it would
22 take? 10 minutes?

23 THE WITNESS: Not long. But I'd like to look at
24 the --

25 MR. BUNDY: If this is a good time, we're getting

Adele Pope - Redirect Examination by Mr. Bundy

1 close to a break -- I don't know what your position is, if
2 we clear the courtroom.

3 THE COURT: I'm going to finish testimony today.
4 I'm going to push it.

5 MR. NEWSOME: Your Honor, I'm going to object for
6 the record on the -- sounds like Ms. Pope -- the witnesses
7 have testified and it sounds like she's trying pit one
8 witness against another. I would like to object to her
9 doing that.

10 THE COURT: I -- I'm not going to pit the
11 witnesses. And I mean, I'll have to judge the credibility
12 of one witness against the other, but I'm not going to let
13 one witness say what the other witness is saying is a lie,
14 or not true or not correct. I can read it just as easy
15 as --

16 THE WITNESS: Would it be possible for me to have
17 those confidential documents for a minute if you're taking
18 a break? Or may I see them now? Because I can explain it,
19 it's just been a while.

20 THE COURT: All right. What -- give me some time
21 frames, ladies and gentlemen, so I can sort of advise court
22 personnel where we're going today.

23 It's 11:40, we can take a 10 minute break, 15
24 minute break, that takes us to a few minutes before 12. I
25 would like to go until about one after that and probably

1 State of South Carolina) In the Court of Common
2) Pleas
3)
4 County of Aiken) Case No: 2013-CP-02-1337
5
6 Adele J. Pope,)
7)
8 Plaintiff(s),) Deposition of
9)
10 vs.) ROBERT COOK
11)
12) February 8, 2017
13 The Estate of James Brown and)
14 The James Brown 2000)
15 Irrevocable Trust,)
16)
17)
18)
19 Defendant(s).)
20)

Deposition of ROBERT COOK, taken before Frances C. Gray, Verbatim Court Reporter and Notary Public in and for the State of South Carolina, scheduled for 10:00 a.m. and commencing at the hour of 10:25 a.m., Wednesday, February 8, 2017, at the office of Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Columbia, South Carolina.

Reported by:
Frances C. Gray

1 MS. POPE: Yes. If we could, if he wants
2 to waive being instructed about the deposition,
3 also.

4 MR. SMITH: I'm not sure what you mean by
5 that.

6 MS. POPE: The deposition process.

7 MR. SMITH: I think Bob is familiar with
8 the process of the deposition being conducted
9 pursuant to the Rules of Civil Procedure.

10 THE WITNESS: Yes.

11 MR. SMITH: Under those rules, you have
12 the right to read, do an errata sheet, if
13 necessary, and sign your deposition. Do you
14 wish to do that?

15 THE WITNESS: Yes.

16 MS. POPE: My question, Bob, was do you
17 want me to explain the deposition process to
18 you?

19 THE WITNESS: That is not necessary.

20 DIRECT EXAMINATION

21 BY MS. POPE:

22 **Q. Would you state your full name.**

23 A. Robert D. Cook.

24 **Q. And you go by, "Bob"?**

25 A. I do.

1 Q. You hold what office with the Office of the
2 Attorney General?

3 A. The Solicitor General.

4 Q. And can you describe what type of office is.

5 A. Yes. The Solicitor General, under General Wilson,
6 is the legal advisor primarily to the Attorney
7 General. Also, we participate in some appeals to
8 the appellate courts, write briefs, and we deal
9 with policy in terms of the Attorney General's
10 office.

11 Q. How long have you held the position of Solicitor
12 General?

13 A. That's a tough one. It's over two years, I
14 believe. This is the first -- I hold the first
15 position in the office.

16 Q. And so you were appointed Solicitor General in
17 approximately 2015?

18 A. Yes.

19 Q. Prior to that, what position did you hold?

20 A. Deputy Attorney General and I also had a more
21 informal title of special counsel.

22 Q. And were you Deputy Attorney General and special
23 counsel at all times between -- for the Attorney
24 General at all times between 2007 and
25 approximately 2015 when you became Solicitor

1 **General?**

2 A. May not have been special counsel in the early
3 years of General McMaster, but for most of his
4 administration, yes.

5 **Q. What functions of the now Solicitor General did**
6 **you have in your other position?**

7 A. Advice to the Attorney General on legal matters,
8 primarily legal, and some appellate work writing
9 briefs.

10 **Q. Did you have authority in that position to file a**
11 **lawsuit with -- let me be clearer. Did you have**
12 **authority in that position to file a lawsuit**
13 **without the expressed consent of the Attorney**
14 **General?**

15 A. No. I would -- in any lawsuit that was filed, we
16 would advise the Attorney General of that.

17 **Q. Was a decision to file a lawsuit always the**
18 **decision only of the Attorney General?**

19 A. No. Because the Attorney General cannot always be
20 available, but it certainly would be with the
21 approval of the Chief Deputy.

22 **Q. And who would that be?**

23 A. That would've been Mr. McIntosh.

24 **Q. I want to be clear from the periods 2007 until**
25 **today. During what portion of that period was**

1 **John McIntosh the Chief Deputy?**

2 A. Until very recently, he was always -- he was the
3 Chief Deputy for that entire period.

4 **Q. Is very recently the year 2016?**

5 A. Yes, he was Chief Deputy in the year 2016, yes.

6 **Q. And what position, if any, does Mr. McIntosh now**
7 **hold with the Attorney General?**

8 A. Is no longer with the Attorney General's office.
9 I think he is employed by the Governor's office.

10 **Q. Do you know when Mr. McIntosh left the Attorney**
11 **General's office?**

12 A. Only a week or so ago maybe.

13 **Q. Did he leave --**

14 A. I gave remarks at his farewell.

15 **Q. Would it have been approximately February 1st of**
16 **2017 --**

17 A. Late January -- yes, yes. Around the first of
18 February. Maybe late part of January.

19 **Q. Do you, sitting here today, know approximately how**
20 **many lawsuits Mr. McIntosh authorized to be filed**
21 **that were not specifically approved by the**
22 **Attorney General?**

23 A. No, I don't. Sometimes the Attorney General is
24 simply unavailable. And Mr. McIntosh would have
25 that authority, but I don't know how many he had

1 **Q. Mr. Cook, is Mr. Gende the lawyer for the Attorney**
2 **General in case 2010-CP-40-4900?**

3 MR. GENDE: Object to that question.

4 Beyond the scope.

5 MR. SMITH: Object to form and scope.

6 MR. NEWSOME: Same objection.

7 A. Do you want me to just answer?

8 MR. SMITH: You may answer, yes.

9 A. I believe that Mr. Gende's law firm represents
10 represent the charitable interest, the same as the
11 Attorney General does. The law firm is not
12 employed to represent the office of the Attorney
13 General, but the same charitable interest that we
14 represent.

15 **Q. Let me ask again. The Attorney General of South**
16 **Carolina is a plaintiff in Richland County Case**
17 **4900; is that correct?**

18 MR. GENDE: Object to the form of the
19 question and the scope. Clearly, that doesn't
20 have to do with 1337.

21 MR. SMITH: Object to form and scope.

22 MR. NEWSOME: Same objection.

23 A. The Attorney General is mentioned in the caption
24 of 4900. The Attorney General represents as a
25 third-party beneficiary the charitable interest in

1 4900. The Attorney General's office is not a
2 party in that case, but the Attorney General on
3 behalf of the charitable interest is in that case.

4 **Q. Is your answer that the Attorney General, in your**
5 **belief, is not a plaintiff in the Wingate lawsuit?**

6 MR. SMITH: Object to the form and scope.

7 MR. GENDE: Yeah. Object to the form of
8 the question. Object to the scope of the
9 question. Object to the characterization of
10 the lawsuit. Move to strike that.

11 MR. NEWSOME: Object to the form and
12 scope.

13 A. I don't believe he is.

14 **Q. You do not believe he is?**

15 A. Yes.

16 **Q. When did you first learn that the Attorney General**
17 **of South Carolina was named as a plaintiff in the**
18 **Wingate lawsuit?**

19 MR. GENDE: Object to the form of the
20 question.

21 MR. SMITH: Form and scope.

22 MR. NEWSOME: Same. Form and scope.

23 MR. GENDE: Move to strike the
24 characterization of Richland County Case 4900.

25 A. I can tell you when I learned of the addition of

1 the Attorney General's name in the caption. It
2 would've been at the 11th or 12th hour prior to
3 the filing of that case.

4 **Q. You knew that the Attorney General was going to be**
5 **named as a plaintiff in that case?**

6 MR. SMITH: Form and scope.

7 MR. GENDE: Same objection, form and
8 scope.

9 MR. NEWSOME: Same objection.

10 A. I learned that he would -- his name would appear
11 in the caption of that case.

12 **Q. Do you know of any lawsuit ever where a person**
13 **appears as a plaintiff and is not a plaintiff --**

14 MR. SMITH: Object to form and scope.

15 **Q. -- other than the Wingate lawsuit?**

16 MR. GENDE: Object to form of the
17 question. Object to the scope of the question.
18 Object to the characterization of the suit.

19 MR. NEWSOME: Object to the form and
20 scope.

21 A. I would say this: That was a very unique case in
22 terms of the charitable beneficiaries. I know --
23 I know of no other where that has been done.

24 **Q. So let me be clear. In your 40 years of practice,**
25 **you've never seen a case where a person or entity**

1 **is named as a plaintiff, but claims not to be a**
2 **plaintiff?**

3 MR. SMITH: Object to form and scope.

4 MR. GENDE: Object to the form of the
5 question, scope of the question.

6 MR. NEWSOME: Object to the form and
7 scope.

8 A. In my 40 years, I have never known of a case like
9 that. So it is unique only because it is not
10 happened before, but that was a major settlement
11 and the settling parties were named as in the
12 caption of the complaint at the twelfth hour. I
13 know of no other like that. I -- I do not.

14 **Q. Did you approve of the filing of Richland County**
15 **Case 2010-CP-40-4900 --**

16 MR. GENDE: Object to the form of the
17 question, scope of the question.

18 **Q. -- with the Attorney General named as a plaintiff?**

19 MR. SMITH: Form and scope.

20 MR. GENDE: Same objection.

21 MR. NEWSOME: Object to form and scope.

22 A. No. I had no authority to approve of it. I
23 learned of it in the twelfth hour. I do believe
24 that the Chief Deputy probably approved of it.

25 **Q. Did you review the complaint and when you learned**

1 **of it?**

2 A. No.

3 **Q. How do you know that the complaint was unique if**
4 **you didn't review it?**

5 MR. SMITH: Object to form and scope.

6 MR. GENDE: Object to the form and scope.

7 Again, we're in 4900. I was coming to a
8 deposition in 1337 to protect some interests.
9 It seems like I'm in a deposition for 4900.

10 MR. NEWSOME: Same objection.

11 A.. I read the pleadings at some point in time. Yes.

12 **Q. Did you read the prior to the filing of the**
13 **lawsuit?**

14 A. I can't say that I did. I don't remember that.

15 **Q. What is unique about the James Brown settlement?**

16 MR. SMITH: Object to form and scope.

17 MR. NEWSOME: Same objection.

18 MR. GENDE: Same objection.

19 A. With the caveat that I was not involved in that
20 aspect of the case, it is a very unprecedented
21 case with so many interest. And the settlement, I
22 believe, was a fair settlement having learned
23 about it after the fact in order to write the
24 petition for rehearing. That, I would say, is
25 probably like no other case -- its -- its -- in

1 its complexity.

2 **Q. What is the size of James Brown Estate, if you**
3 **know?**

4 A. I don't know.

5 **Q. What makes it complex?**

6 A. So many interests and parties involved, including
7 the charitable interest and the unique nature of
8 his bestowal upon the charity.

9 **Q. What's unique about it?**

10 A. Again, this is a major figure in the entertainment
11 world that -- who has died and left a great
12 portion of his estate to a charity. I think that
13 makes that pretty unique. Most celebrities leave
14 their estates to their relatives and heirs.

15 **Q. Do you know anything about the Ray Charles**
16 **foundation?**

17 A. No, ma'am. I'm an admirer of Ray Charles, but I
18 know I know nothing about his foundation.

19 **Q. Do you know anything whether he left his assets to**
20 **charity?**

21 A. I do not. I am not a charitable trust lawyer.

22 **Q. So your statement that most celebrities leave**
23 **their property to their family is mere**
24 **speculation?**

25 A. What I hear in the media. I don't follow what

1 their wills -- no.

2 **Q. What do you hear in the media about Harland**
3 **Howard?**

4 A. I don't know who that it is.

5 **Q. What do you hear in the media about Ray Charles?**

6 A. About his estate?

7 **Q. Anything about him.**

8 A. I just think he was a great singer.

9 **Q. What do you know about the size of his estate?**

10 A. I know nothing.

11 **Q. What do you know about the size of James Brown's**
12 **estate?**

13 A. I knew it was substantial.

14 **Q. Is that all you knew?**

15 A. You said the size, yes. I don't know the dollar
16 amount.

17 **Q. Would you think that it would be equal to or**
18 **larger than the Ray Charles estate?**

19 A. I have no idea.

20 **Q. Would you think it would be a tenth the size of**
21 **the Ray Charles estate?**

22 A. I do not know.

23 **Q. So is it fair to say you really don't know what's**
24 **unique about James Brown's estate, assets, or the**
25 **litigation?**

1 MR. SMITH: Object to the form --

2 MR. GENDE: Object to the form, scope.

3 MR. NEWSOME: Same objections.

4 A. James Brown was a famous South Carolinian. Those
5 other people you -- you mentioned are not. James
6 Brown was a benevolent person; I know that. I
7 don't know the ins and outs about his estate.

8 **Q. So your statement that the settlement was fair has**
9 **no basis?**

10 MR. SMITH: Object to the form of the
11 question. Object to the scope.

12 MR. GENDE: Object to the form. Scope.

13 MR. NEWSOME: Same objections.

14 A. I think it has a basis because I think it helped
15 save a major asset for the charity.

16 **Q. What was that major asset?**

17 A. The movie rights.

18 **Q. It's your belief that the movie rights were a**
19 **major asset of James Brown's estate?**

20 A. That's what I've been told, yes.

21 **Q. Who told you that?**

22 A. Mr. Jones, Ms. Jowers, maybe Mr. McIntosh.
23 Certainly Mr. McMaster as that case proceeded
24 along.

25 **Q. Was there a feeling that James Brown's publicity**

1 **rights were of great importance?**

2 MR. SMITH: Object to the form of the
3 question. Object to scope.

4 MR. NEWSOME: Same objection.

5 MR. GENDE: Same.

6 A. Yes.

7 **Q. And we're two lawyers, but if you'll just explain**
8 **to explain to me what you --**

9 A. You're an estate lawyer. I am not.

10 **Q. Well, Mr. Cook, neither of us is an entertainment**
11 **lawyer so we're doing our best here, right?**

12 A. No, we're not. I agree with that.

13 **Q. So what is your understanding of the movie rights**
14 **and publicity rights of James Brown? What they**
15 **are and their importance?**

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

18 MR. SMITH: Same objection.

19 MR. NEWSOME: Same objection.

20 A. That there was a substantial part of the estate
21 that came from those movie rights, that they were
22 worth a lot, and publicity rights. I was told
23 that the documentary about Mr. Brown's life was of
24 substantial value. I believe the Rolling Stones
25 maybe -- may have been involved in all of that. I

1 cannot sit here today and honestly tell you I know
2 every line, chapter and verse about those movie
3 rights.

4 **Q. All right. If you know that his publicity rights**
5 **were important, and movie rights were a**
6 **substantial asset, can you tell me why there was a**
7 **reason to give 52 and a half percent of those --**
8 **or let's just begin with 50 percent. Was there a**
9 **reason on August 10, 2008 to give 50 percent of**
10 **those publicity rights to Tommie Rae and clients**
11 **of Louis Levenson?**

12 MR. SMITH: Object to form and scope.

13 MR. NEWSOME: Object to form and scope.

14 MR. GENDE: I also object to form and
15 scope. I want to be clear. When I say "scope"
16 I'm being shorthand for the scope exceeds 1337
17 and goes into 4900. I'm not just limiting to
18 the scope of the question in 1337.

19 MR. SMITH: When I say "scope" too, I'm
20 objecting to anything beyond the scope of
21 discovery under the Rules of Civil Procedure
22 and in Case 1337.

23 THE WITNESS: Could you repeat that? I
24 lost that.

25 (The court reporter read back previous question.)

1 A. I was not involved in that settlement, only
2 learned about it after the fact, so I cannot tell
3 you what the reason was. I'm sure if it was a
4 good settlement, there was a good reason.

5 **Q. But in order to evaluate whether it was a good**
6 **settlement, wouldn't you need to know the strength**
7 **of the claims of the various parties?**

8 MR. GENDE: Object to the form and scope.

9 MR. NEWSOME: Same objection.

10 MR. SMITH: Same.

11 A. After the fact, I was told that there was a
12 substantial claim and that the settlement was the
13 best that the charity could do.

14 **Q. Who told you that?**

15 A. Mr. Jones and Ms. Jowers.

16 **Q. Anyone else?**

17 A. Mr. McMaster always told me or told me frequently
18 that that was a good settlement.

19 **Q. Have you reviewed the deposition of Henry McMaster**
20 **given in 2016?**

21 A. I have not.

22 **Q. Do you know the substance of his testimony?**

23 A. I do not.

24 **Q. If Mr. McMaster said that he knew nothing about**
25 **the James Brown litigation other than what he**

1 **learned from his staff, would you know anything**
2 **different?**

3 MR. SMITH: Object to form and scope.

4 MR. GENDE: Same objection, to form and
5 scope.

6 MR. NEWSOME: Same objection.

7 A. No -- no Attorney General -- and I've been under
8 five -- no Attorney General knows -- they -- they
9 must rely on their staff. Mr. McMaster did that.
10 Mr. McMaster also had a very curious mind. But I
11 know he relied on Mr. Jones, Ms. Jowers,
12 Mr. Nicholson, and probably Mr. McIntosh about
13 that.

14 **Q. Would it surprise you that Mr. McMaster said he**
15 **didn't recall having read the will of James Brown?**

16 MR. SMITH: Object to form and scope.

17 MR. GENDE: Same objections.

18 MR. NEWSOME: Same objection.

19 A. The Attorney General is a very busy man. Or
20 woman. Man. He cannot read everything, so I
21 don't know what he read. I don't know what he
22 said, but again, repeating, the AG must depend on
23 his good staff to brief him on matters of like
24 that.

25 **Q. And you prepared the petition for rehearing in**

1 **Wilson versus Dallas?**

2 A. When you say I prepared it --

3 MR. SMITH: Object to the form and scope.

4 MR. NEWSOME: Same objection.

5 MR. SMITH: Go ahead.

6 A. When you say I prepared it, I -- I guess I did
7 most of the writing on that.

8 **Q. What did you do to investigate about the facts?**

9 MR. SMITH: Object to form and scope.

10 MR. NEWSOME: Same objections.

11 A. I read some things in the file. I talked to
12 Mr. Jones and Ms. Jowers. I read the case which
13 was very detailed about the facts. But let me say
14 this about the petition for rehearing, that
15 petition for rehearing, which I did the lion's
16 share of writing on, was done primarily to put the
17 Attorney General's position about the settlement
18 before the court. We understood that the court
19 was not likely to change its mind, but it was
20 decided by Mr. McIntosh, in consultation with
21 myself and Mr. Jones, that it would be -- since
22 the court -- since the decision was very critical
23 of the Attorney General, to put the Attorney
24 General's side of the story before the court, and
25 that's really what the petition for rehearing did.

1 I think the court did alter parts of its
2 decision based on the petition for rehearing,
3 but that was our purpose in writing -- I'm a
4 pretty good writer, so I tried to present it to
5 the court in language that would be best
6 understood and I didn't think the court had
7 gotten all of the information, particularly
8 about the settlement. And I learned about the
9 settlement from Mr. Jones and how it proceeded
10 from Mr. Jones and -- and Ms. Jowers. I was
11 not there. They were; they told me what
12 happened.

13 **Q. Did you learn anything about Federal Copyright Act**
14 **Termination Rights in your preparation of the**
15 **petition for rehearing?**

16 MR. SMITH: Object to the form and scope
17 of the question, and I think that this is
18 treading on work-product.

19 A. With the understanding that there is a privilege
20 there of work-product, I learned the very basics
21 about that, but Ms. Jowers wrote that part of the
22 petition.

23 **Q. Did you do anything to see if Ms. Jowers'**
24 **representations were correct?**

25 MR. SMITH: Object to form, scope, and

1 again it's treading on work-product privilege.

2 A. I have tremendous confidence in Ms. Jowers
3 ability. She tells me something, she has
4 investigated it and she knows what she's talking
5 about.

6 **Q. So you believe that Ms. Jowers had some**
7 **understanding of the Federal Copyright Act**
8 **Termination Rights when she wrote that part of the**
9 **brief?**

10 A. I can't remember all of the details, but yes, I'd
11 be confident that she did.

12 **Q. Do you know sitting here today whether Federal**
13 **Copyright Act Termination Rights apply to**
14 **publicity rights?**

15 MR. SMITH: Form, scope, work-product.
16 Probing his thoughts.

17 A. No. I do not.

18 **Q. Have you ever represented to a court that Tommie**
19 **Rae Hynie Brown was the spouse of James Brown?**

20 MR. SMITH: Object to form and scope.

21 MR. GENDE: Object to form and scope,
22 also.

23 MR. NEWSOME: Same objection.

24 A. I don't recall.

25 **Q. When you have signed pleadings -- I mean, I'm**

1 A. Could you show me that?

2 Q. **I could. I'm sorry, I didn't make multiple**
3 **copies.**

4 MR. SMITH: This is not a document that's
5 been shown to the witness before so if the
6 witness would like, we can confer about it.

7 MS. POPE: Oh, absolutely. And I'm sorry
8 I didn't bring copies, but I was just going to
9 ask him about it without make it an exhibit.

10 MR. SMITH: If Bob would like to talk to
11 me about it, we can step outside.

12 MS. POPE: Oh, absolutely.

13 A. (Witness examines document.) You said my name --
14 oh, okay. I don't recall this document, but yes,
15 my name is on there. What was the question?

16 Q. **I'll just start over. Do you understand that in**
17 **2011, you participated in asking the Supreme Court**
18 **to accept documents that would show that James**
19 **Brown's Trust and Estate at death, rather than**
20 **being worth about 85 million, were in fact worth**
21 **just over \$6 million?**

22 MR. SMITH: Object to form and scope.

23 MR. NEWSOME: Same objections.

24 MR. GENDE: Same objection.

25 A. You said I participated. My name is on the

1 pleadings, but so is Attorney General Wilson's and
2 I'm sure he was not intimately involved in that.
3 I probably had the same involvement that he did.

4 **Q. Who would have been responsible for the Attorney**
5 **General of South Carolina taking a position that**
6 **James Brown's assets were worth just over \$6**
7 **million at his death?**

8 MR. SMITH: Form and scope.

9 MR. NEWSOME: Same objections.

10 MR. GENDE: Same objections.

11 A. That would have been Mr. Jones, who is answerable
12 to Mr. McIntosh.

13 **Q. And so Mr. McIntosh would have had the ability to**
14 **approve a motion filed in the Supreme Court to**
15 **change the value of James Brown's assets at death**
16 **from about 84 million -- 85 million to about six**
17 **million?**

18 MR. GENDE: Object to the form of the
19 question, scope of the question,
20 mischaracterizes the document also.

21 MR. SMITH: Object to form and scope.

22 MR. NEWSOME: Same objection.

23 A. Mr. Jones answered to Mr. McIntosh, correct.

24 **Q. But your name appeared on the document?**

25 A. It is. I cannot deny that.

1 **Q. Mr. Cook, did you and I have a discussion about**
2 **this very problem in March of 2013?**

3 MR. SMITH: Object to form the question
4 and scope.

5 MR. NEWSOME: Same objections.

6 MR. GENDE: Same.

7 A. I know we met with you and Mr. McIntosh and
8 General Wilson and I believe myself. I think you
9 had asked not to have Mr. Jones there I believe as
10 I remember. I can't remember every detail of our
11 discussion, but I'm sure you raised it.

12 **Q. Did I raise my concern that valuing James Brown's**
13 **music empire at about 4.7 million would slash**
14 **James Brown's charity to almost nothing?**

15 MR. SMITH: Object to the form and scope.

16 MR. NEWSOME: Same objection.

17 MR. GENDE: Same objection.

18 A. I believe you did.

19 **Q. Did you get the idea from that meeting that I was**
20 **there to be greedy and get myself a big fee?**

21 MR. SMITH: Object to the form and scope.

22 MR. NEWSOME: Same objection.

23 MR. GENDE: Same.

24 A. No, I did not.

25 **Q. Did I seem to sincerely want to save the James**

1 **Brown "I Feel Good" Trust?**

2 MR. SMITH: Object to the form and scope.

3 MR. NEWSOME: Same objection.

4 MR. GENDE: Same objection.

5 A. Yes, you did.

6 **Q. Did you tell me at that meeting that you were**
7 **hearing some of the things I said for the first**
8 **time?**

9 MR. SMITH: Form and scope objection.

10 MR. NEWSOME: Same objection.

11 MR. GENDE: Same objection.

12 A. I don't remember every detail in the meeting, but
13 I remember you saying some of those things and
14 both myself and General Wilson said that.

15 **Q. Do you recall my concern about Mr. Bauknight's**
16 **having filed documents with the IRS to claim that**
17 **Tommie Rae was the spouse and not changing them as**
18 **a result of the decision?**

19 MR. SMITH: Object to form and scope.

20 MR. NEWSOME: Same objections.

21 MR. GENDE: Same objections.

22 A. I can't particularly recall that, but -- you know,
23 I don't doubt what you're telling me.

24 **Q. Might I have told you that it could cause**
25 **terrible problems for the 900 copyrights James**

1 **Brown gave the "I Feel Good" Trust?**

2 MR. SMITH: Object to form and scope.

3 MR. NEWSOME: Same objection.

4 MR. GENDE: Object to the form and scope.

5 A. I believe you did. You were very concerned in
6 that meeting. I remember that. You came to us to
7 bring those matters to our attention and you did,
8 generally. I can't remember each one, because as
9 I told you, I'm not involved in all of this, but
10 you did do that.

11 **Q. Do you know of any reason why, since 2013, there**
12 **has been a rather vitriolic claim that Bob**
13 **Buchanan and Adele Pope were merely greedy?**

14 MR. SMITH: Object to the form and scope.

15 MR. NEWSOME: Same objections.

16 MR. GENDE: Object to the form and scope.

17 A. No. I will tell you this, as I said in the
18 petition for rehearing: You have a good
19 reputation in the community and that -- and
20 forgive me for saying this, I've never known a
21 Pope who isn't a good lawyer. I knew Mr. Pope way
22 back. I know Margaret; I know you; I know Gary.
23 They're all good lawyers. I cannot comment on
24 4900 and its merits or not merits, but, as I said,
25 you are a good lawyer. That's all I can say.

1 **Q. Did you consult with Henry McMaster about the**
2 **statements made about his actions in that petition**
3 **for rehearing?**

4 MR. SMITH: Object to form, scope, and
5 also assert attorney-client privilege to the
6 extent that any testimony the witness gives
7 would be privileged and ask him to -- not to
8 reveal privileged information to the extent
9 that he can answer the question without
10 revealing privilege, yes.

11 MR. NEWSOME: Object to form and scope.

12 MR. GENDE: Same.

13 **Q. I'll back up a minute to clear that up. Did you**
14 **share any attorney-client privilege with Henry**
15 **McMaster between February and March of 2013?**

16 A. I don't believe I did.

17 **Q. Do you recall talking to him about the petition**
18 **for rehearing?**

19 A. I remember talking to him after it was filed. I
20 believe I provided him a copy. He thought it was
21 very good. I don't remember discussing it with
22 him prior to filing it, but anything I shared with
23 him I think would be public information. Henry
24 and I -- Governor McMaster and I, from time to
25 time go to lunch. And he follows this case

1 generally and he would ask about it and I'm sure I
2 said I'll provide you what we wrote, and I
3 probably did that.

4 **Q. And what you would have shared with him would be,**
5 **as you said, not privileged?**

6 A. No, ma'am. What we filed in court, I believe.

7 **Q. Now, let me just stay with that a minute. So if**
8 **he says he didn't talk to anyone about the**
9 **petition for rehearing, your -- to your knowledge,**
10 **that's absolutely correct.**

11 A. Yes. We talked after the fact.

12 **Q. Who determined that the statement should be made**
13 **to the Supreme Court that the Wingate suit was**
14 **filed on the last day before the statute of**
15 **limitations?**

16 MR. GENDE: Object to the --

17 MR. SMITH: Object to the form and scope.

18 MR. NEWSOME: Same objections.

19 MR. GENDE: Object to the form and scope.

20 A. I put that in the petition for rehearing because I
21 was told that. We were told -- let me back up a
22 minute. We were told frequently by Mr. Jones and
23 Ms. Jowers that the statute of limitations was
24 approaching. It was difficult to get an audience
25 with the Attorney General because he -- as I said

1 in the petition for rehearing was not in favor of
2 that lawsuit. It's just a fact. He says, I don't
3 don't like to sue lawyers. And Mr. McIntosh and I
4 both shared his views about that, but we were told
5 that we would breach our fiduciary duty if we did
6 not authorize the trustee to bring that lawsuit.
7 We met with Mr. McMaster shortly before that suit
8 was brought and I think he reluctantly agreed to
9 let it go forward as reflected in his letter of
10 May 18th.

11 **Q. Did you participate in the six days of trying to**
12 **determine who was going to be on the pleadings and**
13 **on the contract to bring the Wingate suit?**

14 MR. SMITH: Object to the form and scope.

15 MR. NEWSOME: Same objection.

16 MR. GENDE: Object to the form and scope.

17 A. I don't understand the six days. What are you
18 saying?

19 **Q. Are you aware that for a number of days in May**
20 **before the filing of the suit there were**
21 **conferences to determine who was going to sign the**
22 **the complaint and who was going to sign the**
23 **contract?**

24 MR. GENDE: Object to the form and scope.

25 MR. SMITH: Object to form and scope.

1 clients is the Attorney General. You are here.
2 It's not my day to answer questions.
3

4 (Whereupon, U.S. Code 7206 was
5 marked Exhibit No. 11 for
6 identification.)

7 RESUMING EXAMINATION

8 BY MS. POPE:

9 **Q. Mr. Cook, before we leave the May 6, 2011 Motion**
10 **to Supplement the Record in the Wilson versus**
11 **Dallas appeal, I just want to talk a little bit**
12 **more about what we sometimes call the 4.7 million**
13 **valuation of James Brown's music empire. What, if**
14 **anything, today do you know about that?**

15 MR. SMITH: Object to form and scope.

16 MR. NEWSOME: Same objection.

17 MR. GENDE: Same objection.

18 A. Nothing.

19 **Q. And you don't recall anything about this motion to**
20 **supplement the record on May 6, 2011?**

21 A. No. I was not involved in the James Brown, Dallas
22 appeal. I only got involved -- and my name may be
23 on the pleadings, but I was not directly involved
24 in the appeal. I got involved in the petition for
25 rehearing to protect the interest of the Attorney

1 General.

2 **Q. But you have a pretty extensive experience with**
3 **appeals?**

4 **A. Fairly.**

5 **Q. So if you received in September of 2010,**
6 **information necessary to supplement a record,**
7 **would it be unusual to delay that motion to**
8 **supplement the record until May 6, 2011?**

9 MR. SMITH: Object to form and scope.

10 MR. NEWSOME: Same objection.

11 **A. I can only speak generally that delay is never a**
12 **good idea.**

13 **Q. And if a delay is substantial, such as a claim to**
14 **\$79 million difference in the value of the assets**
15 **which are the subject of the proceeding, would it**
16 **be more urgent to advise the court earlier of that**
17 **substantial change?**

18 MR. SMITH: Object to form and scope.

19 MR. NEWSOME: Same objection.

20 MR. GENDE: Same.

21 **A. Only generally, I say you always want to advise**
22 **the court at the earliest possible moment.**

23 **Q. And if someone in your office had participated**
24 **with others in a decision to delay notifying the**
25 **Supreme Court of a change in value of that**

1 **magnitude, would you consider that good policy?**

2 MR. SMITH: Object to form and scope.

3 MR. NEWSOME: Same objection.

4 MR. GENDE: Same.

5 A. I don't have any knowledge one way or the other.
6 That's a hypothetical question, but we would hope
7 everyone in our office would act expeditious --
8 expediently.

9 **Q. So if, for example, an appraisal came in in**
10 **September of 2010, you, yourself, would not have**
11 **participated in delaying notifying the court of**
12 **that until after the briefs and record were filed,**
13 **would you --**

14 MR. SMITH: Object to the form and scope.

15 MR. NEWSOME: Same objection.

16 MR. GENDE: Same.

17 A. I did not participate, no.

18 **Q. Would you think it proper to participate?**

19 MR. SMITH: Object to form and scope.

20 MR. NEWSOME: Same objection.

21 MR. GENDE: Same.

22 A. I'm not sure I understand.

23 **Q. Would you think it appropriate to participate in**
24 **that kind of delay in the James Brown matter with**
25 **a matter of that magnitude?**

1 A. Again, --

2 MR. SMITH: Object to form and scope.

3 MR. GENDE: Same.

4 MR. NEWSOME: Same objection.

5 A. Again, it would be my view as a general matter to
6 always advise the court at the earliest possible
7 moment.

8 **Q. Did you become aware at some point that the**
9 **Attorney General's office was joining in the claim**
10 **that Robert Buchanan and Adele Pope had overstated**
11 **the value of James Brown's assets by \$79 million**
12 **to get a big commission?**

13 MR. SMITH: Object to the form and scope.

14 MR. NEWSOME: Same objection.

15 MR. GENDE: Object to the form and scope
16 of the question.

17 A. I did not that I recall.

18 **Q. Do you recall that that was a subject of a**
19 **conversation you and I had in 2013?**

20 A. Yes, you --

21 MR. SMITH: Object to form and scope.

22 MR. GENDE: Same objections.

23 MR. NEWSOME: Same objection.

24 A. Yes.

25 **Q. And for a lawyer who cares about her reputation,**

1 **such a claim is fairly serious, isn't it?**

2 MR. SMITH: Object to form and scope.

3 MR. NEWSOME: Same objection.

4 MR. GENDE: Same objection.

5 A. Yes.

6 **Q. I'm going to ask you to look -- the documents are**
7 **out of order, but just look at Cook 11.**

8 MR. SMITH: This is not an exhibit that
9 you had shown to him previously, so if the
10 witness would like to discuss it with me
11 outside we have that opportunity?

12 MS. POPE: No. Please, certainly.

13 MR. GENDE: On a break, I'd like to chat
14 outside just a second. It will take ten
15 seconds.

16 (The Witness, Mr. Smith, Mr. Newsome and Mr. Gende
17 exit conference room, then reenter.)

18 MR. SMITH: You may proceed.

19 RESUMING EXAMINATION

20 BY MS. POPE:

21 **Q. And if the allegation had been made that that**
22 **overstatement was made on a federal estate tax**
23 **return filing, would that be even more serious?**

24 MR. SMITH: Object to the form and scope.

25 MR. GENDE: Object to the form of the

1 question. And scope, as well.

2 MR. NEWSOME: Same objection.

3 A. What I'm looking at is a --

4 MR. GENDE: Was there a question asked
5 while we were out of the room?

6 THE WITNESS: No, no.

7 MR. GENDE: Thank you.

8 A. What I'm looking at is a copy of 26 U.S. Code 7206
9 dealing with fraud and false statements. Any time
10 you got fraud and false statements as a general
11 matter, that's very serious.

12 **Q. And to a lawyer who does estate planning in**
13 **particular it's a doubly serious; would you think?**

14 MR. SMITH: Object to the form and scope.

15 MR. NEWSOME: Same objection.

16 MR. GENDE: Object to the form and scope.

17 A. Fraud and false statements are always serious.

18 **Q. Now, I want to go back to the general subject of**
19 **this -- of Case 1337, which is the question of**
20 **whether Bob Buchanan and Adele Pope properly**
21 **performed their duties during three periods.**
22 **First, as special administrators of the Estate of**
23 **James Brown which was from March 7, 2007 until**
24 **November 20, 2007. The second period will be**
25 **their service as personal representatives and**

1 trustees from November 20, 2007 until May 26,
2 2009. And the third phase will be the attempt to
3 reverse a settlement in which they believe
4 dismembered in the James Brown "I Feel Good"
5 foundation, which took place from May 26, 2009
6 until May 8, 2013. Can we ask you about each of
7 those three?

8 A. Sure.

9 Q. First, the service of Adele Pope and Bob Buchanan
10 for the period March 7th through November 20, 2008
11 as special administrators. Do you know anything
12 about the quality of their service during that
13 period?

14 A. No. I do not.

15 Q. Not even from others?

16 A. No. I would only go back to what I said earlier
17 about the Pope reputation, but -- but I -- I have
18 no knowledge about your service or Mr. Buchanan's.

19 Q. And if I told you that during that period, Bob
20 Buchanan and Adele Pope did two things that are
21 still active, shall we say: The discovery of
22 takings by David Cannon, and in and the hauling
23 of the Greenburg Traurig attempt to sell James
24 Brown's assets, would either those trigger any
25 memories?

1 A. No, ma'am.

2 **Q. Do you know anything about the takings of James --**
3 **from James Brown to David Cannon?**

4 MR. SMITH: Object to form.

5 MR. NEWSOME: Object to form and scope.

6 A. I know -- I know --

7 MR. GENDE: Same objection.

8 A. -- that Cannon was prosecuted, I believe, if I
9 recall it correctly, but I don't have any details
10 about that.

11 **Q. Don't know how much it took, for example?**

12 A. No, ma'am. I know that the original trustees -- I
13 know generally that they did not do a good job.
14 Cannon, I believe, was one of them.

15 **Q. That's the extent of your knowledge about that?**

16 A. Yes, ma'am. I was told that and I believe the
17 Supreme Court decision discussed that a bit.

18 **Q. Now, let's move to the second period, the service**
19 **of Bob Buchanan and Adele Pope during the period**
20 **from November 20, 2007 until May 26, 2008. I'd**
21 **like to know everything that comes to mind about**
22 **that, that you know or can recall and no matter**
23 **where you learned it.**

24 MR. SMITH: Object to form.

25 MR. NEWSOME: Same objection.

1 MR. GENDE: Yes. Object to form and
2 scope.

3 A. I don't have any independent knowledge about that
4 from either way.

5 **Q. Do you recall Sonny Jones saying that Mr. Buchanan**
6 **and Mrs. Pope did a bad job?**

7 MR. SMITH: Object to form.

8 MR. GENDE: Same. Object to form and
9 scope.

10 A. I don't recall them saying that, but they may
11 have. I don't know.

12 **Q. But sitting here today, you can't recall?**

13 A. No, ma'am. I know the 4900 case was brought
14 alleging that, but I don't have any independent
15 knowledge about their performance, no.

16 **Q. Glad you mentioned that. One of the allegations**
17 **in the 4900 complaint was that Bob Buchanan and**
18 **Adele Pope failed to accept a hundred**
19 **million-dollar offer for James Brown's assets made**
20 **in 2007. Do you know anything about either the**
21 **offer or the failure to accept it?**

22 MR. GENDE: Object to the form and scope.

23 A. No.

24 MR. NEWSOME: Object to form scope.

25 A. Let me just say, I don't know anything one way or

1 the other about Pope and Buchanan's performance in
2 any of those. I just wasn't involved in it,
3 but -- you know, I don't even recall anything
4 about -- about it, except what's in the 4900 case.

5 **Q. You say "except," you mean --**

6 A. Except the allegations -- you know, I know the
7 allegations. Again, I think that Mr. McMaster had
8 a problem with all of that, bringing that case.
9 He discussed it with us many times, me and
10 Mr. McIntosh, but I don't have any knowledge about
11 the veracity or lack thereof, of that case.

12 **Q. Did you research whether the Attorney General**
13 **would, in fact, breach his fiduciary duty if he**
14 **failed to sue Mr. Buchanan and Mrs. Pope?**

15 MR. SMITH: Object to the form of the
16 question, the scope of the question, and it
17 also treads on work-product. If the witness
18 can answer the question without revealing
19 work-product, then do so.

20 MR. GENDE: Object to form and scope.

21 MR. NEWSOME: Object to form and scope.

22 A. My role in leading up to the bringing of the suit
23 from the standpoint of the Attorney General, was
24 to -- to attempt to make the Attorney General
25 aware of -- of breach of fiduciary duty as a

1 general matter and I believe I did that. I can't
2 tell you, and wouldn't tell you what those
3 discussions were, but without -- without breaching
4 privilege, I think I did do some research on that.

5 **Q. And just one more question about that. Are you**
6 **aware of any case nationwide ever brought with an**
7 **Attorney General named as a plaintiff in which the**
8 **Attorney General is not also a lawyer?**

9 MR. SMITH: Object to the form and scope.

10 MR. NEWSOME: Same objection.

11 MR. GENDE: Same objection.

12 **A. Could you repeat that?**

13 **Q. Yes, sure. Are you aware of any case nationwide**
14 **federal and state courts ever filed in the name of**
15 **an Attorney General of the a state, that is naming**
16 **the Attorney General of a state as a plaintiff, in**
17 **which the Attorney General is not a lawyer of**
18 **record?**

19 MR. SMITH: Same objections.

20 MR. NEWSOME: Same objection.

21 MR. GENDE: Same objections. Another
22 example the question has absolutely nothing to
23 do with 1337 and only to do with 4900.

24 **A. I'm not aware of any other case. I'm not aware of**
25 any case like that to be honest with you.

1 Q. I'm going to just show you this. I'm not going to
2 make it an exhibit because it's all over
3 everywhere. Do you recall that on July 30, 2008,
4 Henry McMaster wrote Bob Buchanan and Adele Pope
5 approving their permanent service as trustees?

6 MR. SMITH: This is not an exhibit that
7 this witness has been shown previously --

8 MS. POPE: Oh, well, that's fine.

9 MR. SMITH: And so if the witness would
10 like to talk to me about it, if he's
11 comfortable going ahead, he may do so.

12 MS. POPE: Oh, sure. That's fine.

13 A. I'm not aware of this letter. I don't know that
14 I've seen this letter.

15

16 (Whereupon, 07/30/2008 Letter
17 was marked Exhibit No. 12 for
18 identification.)

19

20 MS. POPE: Well, just a minute please.

21 I'm going to go ahead and mark that as 12.

22 RESUMING EXAMINATION

23 BY MS. POPE:

24 Q. Were you aware of the fact that on July 30th,
25 Mr. McMaster had approved Mr. Buchanan and

1 **Ms. Pope in -- as shown by Exhibit 12 as --**

2 MR. GENDE: Excuse me. I hate to
3 interrupt, but --

4 MS. POPE: Please don't interrupt.

5 MR. GENDE: We're at Cook 12. It has to
6 do with numbering of the deposition exhibits.
7 I didn't see Cook 1 through 11.

8 MS. POPE: We'll get to them.

9 MR. GENDE: Okay. So, you're going out of
10 order?

11 MS. POPE: Yes.

12 MR. GENDE: Okay. Just wanted to
13 establish that. Thank you.

14 A. I was not aware that Mr. McMaster had approved of
15 Ms. Pope and Mr. Buchanan as -- as trustees.

16 **Q. Were you aware of any of the circumstances between**
17 **July 30th, when the Attorney General McMaster**
18 **wrote Mr. Buchanan and Ms. Pope, and the**
19 **mediation, which was held on July 10th, some 11**
20 **days later?**

21 MR. SMITH: Object to form and scope.

22 MR. GENDE: Same objection.

23 MR. NEWSOME: Same objection.

24 A. No. If I can clarify. My role -- this is just
25 for the record, my role in this matter is

1 basically two things: One, the advice and counsel
2 to the Attorney General leading up to the filing
3 of the 4900, and the participation in the -- in
4 the petition for rehearing. I would hear things
5 about the case from Sonny, Mary Frances, even
6 Henry and John, but I -- I was not involved as a
7 lawyer in those cases if that clarifies for you.

8 **Q. And when you wrote the petition for rehearing, did**
9 **you understand that the statute of limitations you**
10 **referenced was a one-year statute of limitations?**

11 A. I don't remember what it was. I was told it was
12 about to expire.

13 **Q. And if, on July 30th of 2008, Mr. McMaster had**
14 **known virtually everything that was going on and**
15 **the statute of limitations were one year, when**
16 **would his time to complain about that have**
17 **expired?**

18 MR. SMITH: Object to the form and scope.

19 MR. GENDE: Same objection.

20 MR. NEWSOME: Same objection.

21 A. I'm assuming 2009.

22 **Q. Right. And do you know any reason -- do you,**
23 **yourself, know any reason why the Wingate suit was**
24 **delayed until 2010?**

25 MR. GENDE: Object to form the question.

1 MR. SMITH: Object to the form and scope,
2 and also assert attorney-client privilege. If
3 the witness can answer the question without
4 violating privilege, he may do so. I ask that
5 he not reveal privilege in giving his answer
6 object.

7 MR. NEWSOME: Object to form and scope.

8 MR. GENDE: Same.

9 A. I was not aware of any delay by the Wingate Firm.
10 If there was a delay, I wasn't aware of it.

11 **Q. Do you know when the Attorney General first**
12 **established contact with the Wingate Firm about**
13 **the filing of the May 19th 2010 lawsuit?**

14 MR. SMITH: Same objection, including any
15 privilege that might apply and ask the witness
16 not reveal privilege in giving his answer.

17 MR. GENDE: Object to the form and scope.
18 It's a 4900 question.

19 MR. NEWSOME: Same objections.

20 A. I was aware that the Wingate Firm represented
21 Mr. Bauknight shortly before the lawsuit was
22 brought I believe it was. Am I -- am I misstating
23 a --

24 **Q. You can't misstate what you know, Mr. Cook.**

25 A. I only heard about the Wingate Firm's involvement

1 shortly before the 4900 case was brought.

2 **Q. When you say "shortly before," if it was filed on**
3 **May 19, 2010, would it have been weeks or --**

4 A. Weeks.

5 **Q. Weeks?**

6 A. Yes. I remember a meeting with Mr. McMaster and
7 Mr. Medlin and Mr. Wingate prior to bringing that.
8 As I told you, Mr. McMaster was skeptical of the
9 lawsuit in the sense that -- for the reasons I
10 indicated, that he did not like to sue fellow
11 lawyers. So shortly before that lawsuit was
12 brought, he -- he met with those two gentlemen
13 face to face.

14 **Q. Do you know, sitting here today, who Mr. Medlin**
15 **represented?**

16 A. Good grief. All of that is so complicated it.

17 MR. SMITH: Object to form and scope.

18 MR. NEWSOME: Same objection.

19 MR. GENDE: Same.

20 A. Hynie, I believe.

21 **Q. All right. Now, let's go back for just a moment**
22 **and go through what you brought to the meeting**
23 **today.**

24 A. Okay.

25 **Q. If you'll describe first Cook Exhibit 1.**

1 MR. GENDE: Do you have copies, Ms. Pope?

2 MR. SMITH: They should be attached to --
3 no, I think I put packets out for all of you.

4 MR. GENDE: I apologize.

5 MR. SMITH: We provided this pursuant to
6 the subpoena, but I assert a scope objection to
7 the documents to the extent -- the questions
8 related to the extent they apply.

9 A. When I got the subpoena, I went through my e-mails
10 to see if any -- any -- and of course they ran a
11 search, but those searches -- you know, I always
12 like to do that manually, as well. But I found
13 this, I believe this is the April 22, 2010 letter
14 to Jim Richardson from Sonny Jones regarding
15 settlement, and I believe Sonny sent this to me
16 and probably others. And I wasn't aware of all of
17 this settlement discussions, but it was in my
18 file.

19 Same -- same with the Jim Richardson
20 response to Sonny and there is, yeah -- those
21 two documents were in my e-mail files. Sonny
22 sends me stuff and that's what happened here.
23 I'm not involved in this. You know, I don't
24 know what the settlement was even proposed, but
25 trying to be responsive to the subpoena, that's

1 what I found.

2 Q. Thank you. I'm going to just ask you a question
3 or two about Cook Exhibit 1.

4 A. Okay.

5 Q. It relates to settlement discussions that take
6 place in the spring of 2010 prior to the filing of
7 the Wingate suit; is that correct?

8 A. Yes.

9 Q. Now, in one of those letters dated April 27, 2010,
10 and I'll hand it back to you in just a moment,
11 Mr. Richardson writes Mr. Jones and says, "My
12 clients have asked me whether Mr. McMaster has
13 seen their comprehensive settlement offer and if
14 so, what does he think?" Have you had an
15 opportunity to look at that comprehensive
16 settlement offer and see what it said?

17 MR. SMITH: Object to form and scope.

18 MR. NEWSOME: Same objection.

19 MR. GENDE: Same objection.

20 A. No. After I read this letter, discovering it in
21 my e-mail files, I looked to see if I had a copy
22 of that and I did not find it. I can't say with
23 certainty it isn't on there somewhere, but I don't
24 believe I know anything about that comprehensive
25 settlement proposal.

1 **Q. Would you want to have known if Bob Buchanan and**
2 **Adele Pope agreed that the Attorney General could**
3 **have everything he asked for in the settlement if**
4 **there were only two conditions met? First, that**
5 **there be guardians ad litem for the minor**
6 **children, whose education trusts were being**
7 **diminished. And second, that the appellate court**
8 **approve the authority of the Attorney General to**
9 **substitute his judgment for that of the trustees**
10 **so that those fiduciaries could not be held liable**
11 **for the settlement the Attorney General had**
12 **broken?**

13 MR. SMITH: Object to form and scope.

14 MR. NEWSOME: Same objection.

15 MR. GENDE: Same objection.

16 **A. Well, obviously I would want to have known that**
17 **because I looked for it.**

18 **Q. But nobody gave it to you to look at before Bob**
19 **Buchanan and Adele Pope were sued?**

20 MR. GENDE: Object to the form of the
21 question. Form and scope.

22 MR. SMITH: Object to form and scope.

23 MR. NEWSOME: Same.

24 **A. I don't know that -- they didn't give it to me.**
25 **They may have given it to Mr. McMaster. I don't**

1 know. I can't tell you one way or the other. It
2 says -- I believe it says somewhere in here the
3 comprehensive proposal -- settlement proposal and
4 wanted to know if Mr. McMaster had seen it. I
5 don't know if he saw it. I don't know if Sonny
6 and them gave it to him. I -- I have no idea, but
7 I -- I looked for it in my file.

8 **Q. Thank you.**

9 A. 'Cause that -- that did peak my curiosity knowing
10 that Mr. McMaster was not inclined to bring -- to
11 authorize suit.

12 **Q. Did you have anything to do with the settlement**
13 **with Bob Buchanan that was reached in 2012?**

14 MR. SMITH: Object to the form and scope.

15 MR. GENDE: Object to the form and scope.

16 MR. NEWSOME: Same objection.

17 A. No.

18 **Q. Did you know of it?**

19 A. I think someone told me about it, but I don't
20 remember who.

21 **Q. Now, Mr. Cook, would you describe Exhibit 2 which**
22 **you brought to today's deposition?**

23 A. What is that one? Oh, this is a file of documents
24 that were provided to me probably by Sonny and
25 others that I may have looked at in my writing of

1 the petition for rehearing.

2 **Q. Well, aren't there a number of documents in**
3 **Exhibit 2 that are after the petition for --**

4 A. Yes, there are.

5 **Q. Tell me about those.**

6 A. I believe those are -- those are various letters,
7 copies of which I received, maybe from you.

8 **Q. And what was the gist of those letters, if you**
9 **recall?**

10 A. I don't recall. I'd have to look at them, but
11 without looking at them, it was your expression of
12 unhappiness.

13 **Q. About what?**

14 A. The general matter, same types of things you
15 expressed in that meeting with General Wilson.

16 **Q. A concern that our state was losing an opportunity**
17 **--**

18 A. Yes, ma'am.

19 MR. GENDE: Object to the form and scope
20 of the question.

21 MR. SMITH: Object to form and scope.

22 MR. NEWSOME: Same objection.

23 MR. GENDE: Are you ask questions from
24 that or may I look at that while you're --
25 thank you.

1 BY MS. POPE:

2 **Q. Now, from Exhibit 2, we've taken a couple of**
3 **other documents that I wanted to ask you questions**
4 **about.**

5 A. Okay.

6 **Q. Can you identify Cook 3, which is from Exhibit 2?**

7 A. That is a letter that you sent to general Wilson
8 asking for a meeting to air your concerns. In
9 order to bring -- get across the -- your concerns
10 about the estate and the trust.

11 MR. GENDE: What's the date of that
12 letter, please?

13 THE WITNESS: This one is February 28,
14 2013.

15 MR. GENDE: And it's from who to whom?

16 THE WITNESS: Ms. Pope to General Wilson.

17 MR. GENDE: Thank you.

18 RESUMING EXAMINATION

19 BY MS. POPE:

20 **Q. And I'm going to hand you Cook 4. Is Cook 4 the**
21 **first now substituted decision of the South**
22 **Carolina Supreme Court in Wilson versus Dallas?**

23 MR. SMITH: Is Cook 4 from --

24 MR. GENDE: I was going to object to the
25 form and scope of the question.

1 MR. NEWSOME: Same objections.

2 MR. SMITH: Is Cook 4 from the exhibit --

3 MS. POPE: Cook 4 is taken from Mr. Cook's
4 file which is number 2, yes.

5 MR. SMITH: All right. And could you
6 restate your question, please.

7 RESUMING EXAMINATION

8 BY MS. POPE:

9 **Q. Right. Mr. Cook, I was trying to help you, but**
10 **maybe it would be easier to ask you. What is Cook**
11 **4?**

12 A. It's a copy of the Wilson v. Dallas and I believe
13 it may be the revised decision.

14 **Q. Well, let's look at the date.**

15 A. Filed February 27, 2013.

16 **Q. Was that the first decision in Wilson versus**
17 **Dallas?**

18 A. Yes. Yes, it was because I remember our petition
19 for rehearing was due sometime in March.

20 **Q. About March 14th?**

21 A. Yes, ma'am.

22 **Q. And Cook 3, my the letter to the Attorney General,**
23 **was written the day after --**

24 A. Yes, it was. A day after the decision in -- the
25 initial decision in Wilson v. Dallas.

1 Q. And I want to ask you a couple of things about the
2 decision. The decision deals with the James Brown
3 Legacy Trust. What do you know about that?

4 MR. GENDE: Object to the form and scope
5 of the question.

6 MR. NEWSOME: Same objection.

7 MR. SMITH: Same objections.

8 A. Not -- not really anything. I've heard those
9 words. I don't remember precisely what that is.

10 Q. Did the Supreme Court make some findings about the
11 Legacy Trust or -- you're welcome to take a minute
12 to review it if you'd like.

13 MR. GENDE: Object to the form and scope
14 of the question.

15 MR. SMITH: Form and scope.

16 MR. NEWSOME: Same objections.

17 A. I'd have to read the whole decision, but -- but --

18 Q. Well, let me ask you this: Do you know of any
19 oversight the office of the Attorney General
20 conducted with respect to the actions of the James
21 Brown Legacy Trust from May 26, 2009, the date of
22 the approval by Judge Early of the McMaster
23 Settlement, to February 27, 2013?

24 MR. SMITH: Object to form and scope.

25 MR. NEWSOME: Same objection.

1 MR. GENDE: Same.

2 A. I don't.

3 **Q. Did anybody report to you about the actions or**
4 **transactions of Russell Bauknight as trustee of**
5 **the James Brown Legacy Trust during that period?**

6 MR. SMITH: Object to form and scope.

7 MR. NEWSOME: Same objection.

8 MR. GENDE: Same.

9 A. I don't recall that they did.

10 **Q. Do you recall that the stay as to the settlement**
11 **had been lifted in September of 2009?**

12 MR. SMITH: Object to form and scope.

13 A. I don't specifically recall that, no.

14 **Q. Do you recall any discussion whatsoever about the**
15 **James Brown Legacy Trust being a plaintiff in the**
16 **Wingate suit?**

17 MR. GENDE: Object to the form and scope.

18 MR. NEWSOME: Same objection.

19 MR. SMITH: Same objections.

20 A. No. I do not because my concern was the Attorney
21 General.

22 **Q. If the Attorney General exercised effective**
23 **control over the Legacy Trust, would you be**
24 **concerned about it?**

25 MR. GENDE: Object to the form and scope.

1 MR. SMITH: Object to form and scope.

2 MR. NEWSOME: Same objection.

3 A. Yes.

4 **Q. Were you ever told that, in fact, the Attorney**
5 **General did exercise effective control over the**
6 **Legacy Trust?**

7 MR. SMITH: Object to form and scope. And
8 also assert attorney-client privilege. Witness
9 may answer to the extent that he can do so
10 without revealing privileged information.

11 MR. GENDE: Form and scope.

12 MR. NEWSOME: Same objections.

13 A. No.

14 **Q. Would it be troublesome for the Attorney General**
15 **to have oversight over a trust from 2009 to 2013**
16 **without at least an awareness of that duty of**
17 **oversight?**

18 MR. SMITH: Object to form and scope.

19 MR. NEWSOME: Same objection.

20 MR. GENDE: Same.

21 A. Yes.

22 **Q. Now, on March 6th, I think you've described our**
23 **meeting that was Attorney General Wilson and you**
24 **and Mr. McIntosh and me?**

25 A. Correct.

1 Q. Now, just to backup, I forgot to ask you earlier.
2 There was another meeting with the Attorney
3 General on approximately May 28th of 2008 with
4 John Rainey, and there was a person there other
5 than Sonny or me. Do you recall that was whether
6 you or Mr. McIntosh?

7 A. It would not have been me. I have heard about
8 that meeting, but that would've been Mr. McIntosh.

9 Q. And if Sonny Jones said that John Rainey
10 admonished help for trying to work against the
11 James Brown "I Feel Good" Trust, you wouldn't have
12 a different recollection?

13 MR. SMITH: Object to the form -- sorry.
14 Object to form and scope.

15 MR. NEWSOME: Same objection.

16 A. No. I was not at the meeting. I heard about the
17 meeting --

18 Q. Do you recall what you heard? Sorry.

19 A. That it was with John Rainey. I knew John, but
20 for whatever reason, I wasn't at that meeting. I
21 don't know why, but that -- it really wasn't
22 unusual that I wasn't there, but I wasn't.

23 Q. And so, because they are important, the sequence
24 of events between the May 28, 2008 meeting, the
25 July 30th letter that we've discussed, and the

1 **August 10, 2008 hearing, you just don't have any**
2 **information?**

3 A. I don't because as I told you minute ago, my role
4 in this matter has been very limited. So I don't
5 have any information.

6 THE WITNESS: May I take another break?

7 MS. POPE: Oh, absolutely.

8 (Off the record.)

9 RESUMING EXAMINATION

10 BY MS. POPE:

11 **Q. Mr. Cook, after our meeting on March 6th, were you**
12 **present or aware of a call that the Attorney**
13 **General made to me?**

14 A. I'm not aware.

15 **Q. Would it be consistent with what you put in the**
16 **petition for rehearing that Attorney General**
17 **Wilson called me to say he was seeking to be**
18 **dropped as a party in the Wingate suit?**

19 MR. GENDE: Object to the form and scope.

20 MR. SMITH: Form scope.

21 MR. NEWSOME: Form and scope.

22 A. That would be consistent. After the Supreme Court
23 ruled in Dallas, we believed that our role with
24 respect to the charity was more of a monitoring
25 role and we sought -- and I don't believe -- I'm

1 not aware, but I don't believe the courts ruled on
2 that, on the dropping of us from the suit.

3 **Q. Have you followed the progress of that suit?**

4 MR. GENDE: Object to the form and scope.

5 MR. SMITH: Form and scope.

6 MR. NEWSOME: Same objection.

7 A. Only through hearsay.

8 **Q. Who is charged with monitoring the James Brown**
9 **matters now withing the office of the Attorney**
10 **General?**

11 MR. SMITH: Object to form and scope.

12 MR. GENDE: Same.

13 MR. NEWSOME: Same.

14 A. That would be Mr. Jones and Ms. Jowers.

15 **Q. Are you aware that the Attorney General has,**
16 **within the year, moved for summary judgment as to**
17 **parts of that suit?**

18 MR. GENDE: Object to the form and scope.

19 MR. NEWSOME: Same objection.

20 MR. SMITH: Form and scope.

21 A. Yes.

22 **Q. When did you become aware of that?**

23 MR. GENDE: Same objection.

24 MR. SMITH: Same.

25 MR. NEWSOME: Same.

1 A. I believe Ms. Jowers, as is her practice, sent me
2 the memo or brief to review.

3 Q. Is that consistent with the representation to the
4 Supreme Court that the Attorney General was
5 seeking to be dropped?

6 MR. SMITH: Form and scope.

7 MR. NEWSOME: Same objection.

8 MR. GENDE: Objection to form and scope.

9 A. I believe that it is.

10 Q. Are you aware of a letter which I wrote to
11 Attorney General Wilson after learning that
12 Mr. McMaster said he did not bring the Wingate
13 suit?

14 MR. GENDE: Object to the form and scope.

15 MR. SMITH: Object to form and scope.

16 MR. NEWSOME: Same objection.

17 A. I'm not aware specifically, no.

18 Q. Are you aware that recently the Attorney General's
19 office has told me that it cannot investigate the
20 bringing of that suit against me even though
21 Mr. McMaster represented in under oath twice that
22 he did not authorize it to be brought in his name?

23 MR. SMITH: Object to form and scope.

24 MR. NEWSOME: Same objections.

25 MR. GENDE: Same objections.

1 A. I'm not aware of that. I know something about the
2 bringing of the suit, as I have told you. That
3 was probably approved by Mr. McIntosh, but I'm not
4 aware of anything about investigating, no.

5 **Q. Let me understand. Who monitors the day-to-day**
6 **action taking in this lawsuit which is being**
7 **pursued in the name of the Attorney General?**

8 MR. GENDE: Object to the form and scope.

9 MR. SMITH: Object to the form and scope.

10 MR. NEWSOME: Same objection.

11 A. Mr. Jones and Mr. Jowers.

12 **Q. And they have done so since 2013?**

13 A. Yes, ma'am. They report to me from time to time
14 as to the status of the case.

15 **Q. What is your understanding of the status of the**
16 **case?**

17 MR. GENDE: Object to the form and scope.

18 MR. SMITH: Same objection.

19 MR. NEWSOME: Same objection.

20 A. That it is before Judge Early and our efforts to
21 be dropped from the suit are pending.

22 **Q. Have you ever known a person to be dropped from a**
23 **suit where there's a counterclaim pending against**
24 **him?**

25 MR. SMITH: Object to form and scope.

1 Also intrudes on work-product privilege and the
2 witness can answer to the extent that he can do
3 so without revealing any work-product.

4 MR. GENDE: Object to the form and scope.

5 MR. NEWSOME: Same objection.

6 A. Generally, I haven't researched that, but I would
7 be of the view that the plaintiff or the party --
8 and again, we can quibble about what the status of
9 the Attorney General is in the suit -- but
10 generally speaking, the party who brings a suit
11 controls the suit, and I'm not -- I'm not
12 convinced that the counterclaim would be
13 prohibitive on that, but I have not researched it.

14 **Q. From Exhibit 2, I've taken Cook 7. If you would**
15 **just tell me what that is, please.**

16 MR. SMITH: I'm sorry. You said it came
17 from where?

18 MS. POPE: Cook 2.

19 A. This is a letter from Adam Silvernail, dated March
20 the 19, 2013, to Attorney General Wilson, John
21 McIntosh, and myself. Apparently, after our
22 petition for rehearing was filed and it appears to
23 say that the -- that Mr. Silvernail, on behalf of
24 you, is disappointed in certain things not being
25 brought up in our petition for rehearing.

1 Q. Did you, in fact, meet with Mr. McIntosh and
2 Mr. Silvernail and me a few days after I met with
3 the Attorney General and you and Mr. McIntosh?

4 A. I don't recall that meeting, but -- a few days
5 after that -- would you repeat that again?

6 Q. After you, Mr. McIntosh and the Attorney General
7 and Ms. Pope met on March 6th, did you and
8 Mr. McIntosh have a subsequent meeting with
9 Mrs. Pope and Mr. Silvernail on approximately
10 March 8th?

11 A. I just don't recall that meeting. I don't know.

12 Q. That's fine. Have you learned since 2013 that
13 there has been a sale or other disposition of
14 certain of James Brown's copyrights?

15 MR. SMITH: Object to form and scope.

16 MR. NEWSOME: Same objection.

17 MR. GENDE: Same objection.

18 A. I may have heard that from Sonny.

19 Q. Have you heard that Ms. Tommie Rae testified that
20 she had received approximately a million dollars?

21 MR. GENDE: Object to the form and scope.

22 MR. NEWSOME: Same objection.

23 MR. SMITH: Same objection.

24 A. I don't recall a million dollars, no.

25 Q. Do you know anything about the circumstances of

1 **Tommie Rae having received a million dollars**
2 **before she has been finally determined to be James**
3 **Brown's spouse?**

4 A. No, ma'am.

5 MR. SMITH: Form and scope.

6 MR. NEWSOME: Same objection.

7 MR. GENDE: Object to the form and scope.

8 A. No, I don't.

9 **Q. Do you know anything about the decision by the**
10 **office of the Attorney General not to look into**
11 **the finding that Tommie Rae was James Brown's wife**
12 **on summary judgment without the courts having the**
13 **benefit of Tommie Rae's own handwritten admissions**
14 **affirming that she knew she was not James Brown's**
15 **spouse?**

16 MR. SMITH: Object to form and scope.

17 MR. NEWSOME: Object to form and scope.

18 MR. GENDE: Object to form and scope and
19 move to strike the question as a
20 misrepresentation of evidence or the documents.

21 A. No. I don't know anything about that.

22 **Q. Are you not aware that Mr. Jones wrote me and said**
23 **this office will not consider -- asked to be**
24 **involved in the determination that she was the**
25 **spouse?**

1 A. I don't recall that. Do you have that letter? I
2 don't --

3 **Q. I'm sorry, I didn't bring it.**

4 A. I don't recall that.

5 **Q. Have you participated in any of the FOIA matters**
6 **in which the Attorney General sought to prevent**
7 **release of the Wingate contract?**

8 MR. SMITH: Object to form and scope.

9 MR. GENDE: Object to the form and scope.

10 MR. NEWSOME: Same objection.

11 A. I have participated in a number of meetings
12 involving the FOIA issues. I do not agree that
13 the Attorney General has withheld in violation of
14 FOIA, any of those documents.

15 **Q. I didn't ask you if you agreed that he had without**
16 **it. I asked you had you participated --**

17 A. Yes.

18 MR. GENDE: Object to the form and scope
19 of the follow-up.

20 **Q. Have you participated in the assertion on behalf**
21 **of the Attorney General that FOIA matters related**
22 **to James Brown should be consolidated with the**
23 **Wingate suit?**

24 MR. GENDE: Object to the form --

25 MR. SMITH: Object to the form and scope.

1 MR. GENDE: Object to the form and scope.

2 MR. NEWSOME: Same objection.

3 A. I don't recall that.

4 **Q. Are you aware of any other FOIA case in the**
5 **history of South Carolina where the Attorney**
6 **General has taken the position that FOIA must be**
7 **subordinate to discovery?**

8 MR. SMITH: Object to form and scope.

9 MR. NEWSOME: Same objection.

10 MR. GENDE: Same objections.

11 A. I believe that has -- that position has been taken
12 in other cases and I believe there is a circuit
13 court order from Judge Westbrook that supports
14 that.

15 **Q. Have you reviewed the circuit court order from**
16 **Judge Griffith which is more recent?**

17 MR. SMITH: Object to form and scope.

18 MR. GENDE: Same objections.

19 MR. NEWSOME: Same objection.

20 A. I have not.

21 **Q. Do you think that that is a good interpretation of**
22 **FOIA that it must be subject to discovery?**

23 MR. SMITH: Object to form and scope.

24 MR. NEWSOME: Same. Same objection.

25 MR. GENDE: Same objections.

1 MR. SMITH: And I object also on the basis
2 of work-product, attorney-client privilege.
3 Those cases are going on. Witness can answer
4 to the extent that he can do so without
5 revealing privilege or work-product.

6 A. I think that it is a credible position. The
7 Supreme Court has not decided that in my view, but
8 other cases in other jurisdictions have said that.

9 **Q. Thank you. Let me ask you to look at Cook 6,**
10 **which is also from your file.**

11 A. I believe this is yours.

12 **Q. Tell me what that is.**

13 MR. SMITH: This is from Exhibit 2?

14 MS. POPE: It is. It is from Cook 2.

15 A. This is a request by you to -- written to me, to
16 Attorney General Wilson, and to John McIntosh for
17 a meeting, and you request that John's October 1
18 statement, that it appears a meeting will serve no
19 purpose, should be revisited.

20 **Q. What's at the date of that letter?**

21 A. October 17, 2013.

22 **Q. And are you aware that just prior to that, in**
23 **August of 2013, Tommie Rae had filed with the**
24 **federal copyright office termination notices**
25 **attempting to terminate more than 90 of the**

1 **copyrights James Brown gave the "I Feel Good"**
2 **foundation over the next ten years?**

3 MR. SMITH: Object to the form and scope.

4 MR. GENDE: Object to form the question
5 and scope of the question.

6 MR. NEWSOME: Same objections.

7 A. I am not.

8 **Q. Is there reference in that letter to a letter of**
9 **Mr. Toberoff?**

10 A. I'm sorry, mister who?

11 **Q. Toberoff. I'll see if I can help you find it.**
12 **The reference is number two, the purpose of the**
13 **letter.**

14 A. Yes.

15 **Q. And are you aware that Mr. Toberoff had written**
16 **saying that the Tommie Rae terminations were**
17 **improper and that an estate representative was**
18 **helping her file terminations in an attempt to**
19 **secure estate royalties?**

20 MR. GENDE: Object to form and scope of
21 the question.

22 MR. SMITH: Form and scope.

23 MR. NEWSOME: Same objections.

24 A. I'm not aware of Mr. Toberoff or anything about
25 him.

1 **Q. All right. Would you just identify Cook 8,**
2 **please.**

3 MR. SMITH: Is this from box two?

4 MS. POPE: Yes. Sorry.

5 A. It is a letter from you to General Wilson, to
6 myself and to John McIntosh, dated March 21, 2013,
7 and you say in that letter, "I join others who
8 seek to restore to James Brown's "I Feel Good"
9 private foundation the \$50 million former AG Henry
10 McMaster proposed to take from it in being
11 disappointed that Attorney General Wilson failed
12 to endorse, or even acquiesce in, the return of
13 James Brown's private property to his private
14 foundation as constituted before McMaster's
15 August 10, 2008 settlement deal." I'm generally
16 not familiar with this letter. I don't recall it,
17 but --

18 **Q. That's fine. But it came to you?**

19 A. It did.

20 **Q. And it was circulated in addition to Mr. Jones and**
21 **Mr. McIntosh and somebody named Kristy. Who is**
22 **Kristy?**

23 A. Kristy -- I believe that would be Kristy
24 Quattrone.

25 **Q. Tell me who she is.**

1 A. She would be a -- an administrative assistant.
2 She is now in the governor's office.

3 **Q. And Cook 9 also from your file, Cook 2.**

4 A. And that is a letter dated March 21, 2013, from
5 you to Fred Kingsmore, Rick Reames of Nexsen
6 Pruet, copies going to General Wilson, McIntosh,
7 and myself, regarding the failure of Russell
8 Bauknight to file name and address of appraiser
9 and other data relied upon for less than
10 \$4.7 million appraisal of: James Brown claims
11 against David Cannon and others; James Brown
12 royalties rights to more than 800 songs; and James
13 Brown publicity rights.

14 **Q. Have you ever seen an appraisal of the James Brown**
15 **assets?**

16 MR. SMITH: Object to form and scope.

17 MR. NEWSOME: Same objection.

18 MR. GENDE: Same.

19 A. No. I don't believe I have.

20 **Q. So far as you're aware, has anyone in the Attorney**
21 **General -- seen it?**

22 MR. SMITH: Object to the form and scope.

23 MR. GENDE: Same.

24 MR. NEWSOME: Same objection.

25 A. I have heard people talking about it. I can't say

1 whether they've seen it or not.

2 **Q. Who have you heard talking about it?**

3 A. Sonny.

4 **Q. Cook 10 -- and I'll try to make the short -- Cook**
5 **10 is the respondent, James B's, return to the**
6 **petition for rehearing by Adele Pope, which was**
7 **within your file, Cook 2. Do you recall anything**
8 **about that?**

9 A. Not specifically, no.

10 **Q. Is it your position that the Attorney General**
11 **shared a common interest privilege with Tommie Rae**
12 **and her son, James B, after the first Wilson**
13 **decision?**

14 MR. SMITH: Object to the form, scope.
15 Object to the extent that it would intrude on
16 work-product privilege, attorney-client
17 privilege. If the witness can answer the
18 question without violating those privileges, he
19 may do so.

20 MR. NEWSOME: Object to form and scope.

21 MR. GENDE: Same objections. Calling for
22 a legal conclusion.

23 A. I don't have an opinion on that.

24 **Q. Have you ever thought about whether in preparing**
25 **your petition for rehearing, you -- you and Tommie**

1 **Rae or James B or Mr. Bauknight should**
2 **appropriately coordinate your responses?**

3 MR. SMITH: Same objections, including the
4 privilege ones.

5 MR. NEWSOME: Object to the form and
6 scope.

7 MR. GENDE: Same. Object to the form and
8 scope.

9 A. Well, since we didn't coordinate our responses, I
10 don't believe there was any requirement that we do
11 so.

12 **Q. You did not -- you, personally, did not coordinate**
13 **any responses?**

14 A. I did not.

15 **Q. Thank you.**

16 A. In fact, along with the technical aspects as I
17 mentioned from Mary Frances, that's my work and my
18 work only.

19 **Q. Thank you. Okay. And just quickly, if you'll**
20 **define Cook 5 for me, please.**

21 MR. SMITH: And again, that is from
22 Exhibit 2?

23 MS. POPE: Yes, it is.

24 A. This appears to be an affidavit from you. You
25 have a note on here to me. I guess that's to me.

1 **Q. If you can kind of give us the date so we can put**
2 **it in context, please.**

3 A. The date is the 3rd of July 2013. And your
4 affidavit is in support of voiding orders dated
5 June 13th, my birthday, 2013.

6 **Q. And if you'll just tell me what the note to you**
7 **says.**

8 A. "Bob, if AG Wilson allows Bauknight, Nexsen Pruet,
9 and -- I can't read that actually -- Levenson, and
10 lawyers for Tommie Rae to be paid 20 million and
11 contestants with no basis to take 30 million from
12 the "I Feel Good" Trust, our state will suffer for
13 decades. Happy fourth. Adele, July 4, 2013.

14 MS. POPE: Mr. Cook, I thank you for your
15 time.

16 MR. GENDE: Let's just chat for a second
17 and see if there's any follow up questions. I
18 do want to put on the record at this time that
19 we had a discussion, I think before the court
20 reporter started, asking Ms. Pope if it would
21 be all right for us to put a continuing
22 objection for material that went into 4900 and,
23 Ms. Pope, correct me if I'm wrong, she would
24 not consent to that, forcing us to make
25 continuing objections throughout the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of South Carolina) Court of Common Pleas
County of Richland) Case No: 2013-CP-02-1337

Adele J. Pope,)
Plaintiff(s),) Deposition
vs.) of
Henry D. McMaster
Estate of James Brown and The)
James Brown 2000 Irrevocable)
Trust,)
Defendant(s).)
_____)

Deposition of HENRY D. MCMASTER, taken before
Frances C. Gray, Verbatim Court Reporter and Notary
Public in and for the State of South Carolina,
scheduled for 10:00 a.m. and commencing at the hour
of 10:23 a.m., Wednesday, October 19, 2016, at the
Office of the Attorney General of South Carolina,
1000 Assembly Street, Columbia, South Carolina.

Reported by:
Frances C. Gray

1 CONTENTS

2 (Deposition of Henry D. McMaster)

3		Page
4	Exhibit Index	7
5	Stipulations	5
6	Examination by Ms. Pope	5
7	Certificate of Reporter	137
8	Verification Page	138
9	Errata Sheet	139

10 INDEX OF EXHIBITS

11	Exhibit No. 1	Handwritten Notes	16
12	Exhibit No. 2	04/17/98 Herring Letter	19
13	Exhibit No. 3	Pullman Article	20
14	Exhibit No. 4	5/20/2008 Email	21
15	Exhibit No. 5	List of Orders	25
16	Exhibit No. 6	7/30/2008 Letter	26
17	Exhibit No. 7	02/10/2009 Latham Email	41
18	Exhibit No. 8	Petition for Review	47
19	Exhibit No. 9	4/29/09 Email and Memorandum	48
20	Exhibit No. 10	05/01/09 Email	76
21	Exhibit No. 11	08/30/09 Email	77
22	Exhibit No. 12	Tax Crimes Handbook	90
23	Exhibit No. 13	04/07/10 Letter	91
24	Exhibit No. 14	05/03/10 Letter	91
25	Exhibit No. 15	Motion for Judgment	92
	Exhibit No. 16	Watson Affidavit	92

STIPULATIONS

This deposition is being taken pursuant to the South Carolina Rules of Civil Procedure.

— — — — —

The reading and signing of this deposition is reserved by the deponent and counsel for the respective parties.

— — — — —

Whereupon,

HENRY D. MCMASTER, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified and deposed as follows:

THE COURT REPORTER: State your full name
for the record, please.

THE WITNESS: Henry Dargan McMaster.

MS. POPE: Mr. McMaster, before we start, I think your counsel and I may want to say something about the documents you brought with you today on the record.

THE WITNESS: I didn't bring any with me.

MR. SMITH: The ones that you brought with you yesterday. My understanding, from talking to Adele, is that she is -- because of time

1 hand them over to her because you said there
2 were some writings in them, so I'm --

3 THE WITNESS: That's right.

4 MR. SMITH: -- gonna go through them and
5 prepare privilege log as to anything in there
6 that I think is privileged.

7 THE WITNESS: Okay.

8 MR. NEWSOME: Before we start, I just want
9 to get one objection on the record. We object
10 to any questioning related to Case 4900 for a
11 couple of reasons. First, we moved to
12 consolidate the discovery and Ms. Pope objected
13 to that, and now Mr. McMaster has already been
14 deposed in Case 4900 by Mr. Bundy, Ms. Pope's
15 counsel, so it would be not appropriate in Case
16 1337 to go over any of the ground that's been
17 covered in Case 4900, so I want to make the
18 general objection for the record.

19 MS. POPE: If I could just be clear,
20 you're certainly not instructing Mr. McMaster
21 not to answer any questions.

22 MR. NEWSOME: I am not.

23 MS. POPE: And you are making that
24 objection on behalf of the Estate and Trust of
25 James Brown?

1 MR. SMITH: Let me go back to our review
2 of the documents that I have. You had
3 subpoenaed some documents from Attorney
4 Governor McMaster --

5 MS. POPE: Right.

6 MR. SMITH: And if there any in here that
7 are outside the scope of that subpoena, then
8 you would not be entitled to see those. I just
9 have to look at -- compare the documents in
10 here with the subpoena, and we can go over that
11 during break or at a later time, but we're not
12 -- as I understand it, unless -- we're not
13 making those documents an exhibit to this file
14 and we're not going to be going over them with
15 this witness unless you and I have an
16 opportunity to discuss them at break.

17 THE WITNESS: I have a question. May I
18 see the subpoena, please.

19 MR. SMITH: Yes. It's hard to get it out.
20 There it is right there. That's what she asked
21 for.

22 (The Witness views document.)

23 MS. POPE: We are on the record.

24 MR. SMITH: Okay. Also, she
25 cross-references in the subpoena, the documents

1 requested in the notice of deposition and that
2 begins right here.

3 THE WITNESS: I'm going to tear this
4 staple.

5 MR. SMITH: Now, are you going to ask
6 about the deposition in 4900?

7 MS. POPE: Just a few minutes.

8 MR. SMITH: Make that an exhibit or are
9 you going to do that are the course of the --

10 MS. POPE: In just a few minutes, yeah,
11 yeah.

12 BY MS. POPE:

13 Q. Mr. McMaster, we got sort of started without the
14 usual formalities. You are a lawyer, and do you
15 need me to explain the deposition process to you?

16 A. No, ma'am.

17 Q. Okay. We'll proceed on then. You were issued a
18 subpoena in your individual capacity, although you
19 are the Lieutenant Governor, to bring certain
20 documents to this deposition; is that correct?

21 A. Yes.

22 Q. Okay. And yesterday you delivered two red rope
23 files to Mr. Smith --

24 A. I'm sorry. I delivered what?

25 Q. Two red rope files to Emory Smith, who is serving

1 **as your counsel in this deposition.**

2 A. Two -- what kind of files?

3 **Q. Red rope files. Red legal files.**

4 A. Red? I don't -- I don't --

5 MR. SMITH: Excuse me. Are you talking
6 about a red expansion binder?

7 MS. POPE: Yes, yes.

8 MR. SMITH: Excuse me, if you don't mind.

9 MS. POPE: Sure.

10 MR. SMITH: I think she's talking about
11 these documents right here that are in this
12 binder.

13 THE WITNESS: Not those.

14 MR. SMITH: No, not these. These right
15 here.

16 A. I delivered a group of papers that were not in a
17 file that we put in a expandable file holder
18 yesterday.

19 **Q. And those were the documents which you brought**
20 **pursuant to the subpoena; is that correct?**

21 A. No, ma'am. Those are the documents -- those are
22 all the documents that I have in my possession
23 that in any way relate to this case. I don't know
24 how many of them are or are not responsive to your
25 subpoena, but looking at the subpoena again, as I

1 did a moment ago, I don't think many of them are
2 responsive.

3 **Q. Did you make any attempt to comply with the**
4 **subpoena?**

5 A. I went through the -- yes. I went through the
6 documents and attempted to get them in some sort
7 of order so they could be examined.

8 **Q. And are the documents that are in the folder**
9 **beside you, the documents that you put together in**
10 **an attempt to comply with the subpoena?**

11 A. Well, again, all of those documents are not
12 responsive to the subpoena, but all of those
13 documents -- those documents represent all of the
14 documents that I have in my possession. It would
15 probably be up to someone else to determine which
16 of them are responsive to the subpoena because
17 some may be responsive in some way that I do not
18 understand.

19 **Q. Is it not your individual responsibility to**
20 **respond to a subpoena, rather than someone in the**
21 **Attorney General's office?**

22 A. I attempted to do that by bringing every document
23 that I could find that was related.

24 **Q. And do you agree that we may retain that file**
25 **until we've resolved the issues about what is or**

1 **is not responsive to the subpoena?**

2 A. I understand that my attorney will retain
3 possession, and that he and you will examine the
4 documents in the manner prescribed by law.

5 **Q. Thanks. Thanks.**

6 MR. SMITH: Excuse me one minute. This
7 is a call about the Wi-Fi. Hello?

8 MR. NEWSOME: Let's go off the record.

9 MS. POPE: Off the record.

10 (Off the record.)

11 RESUMING EXAMINATION

12 BY MS. POPE:

13 **Q. Mr. McMaster, I have tried to pre-mark certain**
14 **exhibits so that we can go through today's**
15 **deposition a little more quickly, but first I**
16 **would like to ask your permission, which I believe**
17 **I have received from both other counsel and**
18 **perhaps your counsel, to make your deposition,**
19 **which was taken in Richland County case number**
20 **2010-CP-40-4900 on August 18, 2016, and the**
21 **Exhibits number 1 through 6 to that deposition,**
22 **along with your errata sheet, part of this**
23 **deposition. Do you object to that?**

24 A. I do not object if my attorney does not object.

25 MR. SMITH: I do not object to the use of

1 that deposition as an exhibit, except that we
2 reserve, preserve all objections that I made or
3 Ken Wingate made for the Attorney General in
4 that. I also, to the extent permitted in case
5 1337, object to any questions that deposition
6 that go beyond the scope of Case 1337, and --
7 and also, we don't have the errata sheet as an
8 exhibit yet and it would be subject to the
9 errata sheet that the Lieutenant Governor has
10 completed.

11 MS. POPE: Right. I believe --

12 MR. NEWSOME: And I have the same
13 objections.

14 MS. POPE: You're making objections for
15 Mr. McMaster or on behalf of the Estate and
16 Trust?

17 MR. NEWSOME: I represent the Estate and
18 Trust, not Mr. McMaster, but I object. Again,
19 we agreed to make that an exhibit to this
20 deposition, but I'm not waiving any objections
21 that the Estate made at that deposition, and
22 I'm also preserving the objection I've already
23 noted on the record to the extent you're trying
24 to go beyond the scope of 1337.

25 **Q. Let me just suggest I think this is consistent**

1 with what we thought that Exhibit 23 for the
2 moment will be only page 1 and 2 of the August 18,
3 2016 deposition and we will find a convenient and
4 appropriate manner to make the remainder of the
5 deposition, the exhibits and the errata sheet a
6 part of the record.

7 MR. SMITH: Correct.

8 RESUMING EXAMINATION

9 BY MS. POPE:

10 Q. Now, I'm going to hand you certain other documents
11 and I am going to, for ease and speed, identify
12 them by the way I would identify them, and see if
13 they are -- you have any familiarity with them as
14 I mention it. And if you'd like to stop and
15 discuss any one of them as I hand them to you, we
16 can, or we can actually just come back to them
17 later, okay?

18 MR. SMITH: If you would, if you show him
19 any document that I have previously been --
20 that's not been previously noticed as one that
21 will be used as an exhibit in this deposition,
22 if you would call that to my attention, please.

23 MS. POPE: There are not so far, okay?

24 MR. SMITH: Okay.
25

(Whereupon, Handwritten Notes
was marked Exhibit No. 1 for
identification.)

BY MS. POPE:

**Q. Exhibit 1 is copy of certain handwritten notes of
Tommie Rae Hynie. Are you familiar with the
handwritten notes of Tommie Rae Hynie that are
referred to by her lawyer as the "Hynie diary"?**

MR. NEWSOME: Object to the form of the
question.

**A. I think you just asked me two questions. One is
about what I have in my hands, Exhibit 1 --**

Q. Right.

A. And another is the Hynie diary.

**Q. No, no. Well, what I'm telling you is Exhibit 1
is an excerpt from those handwritten notes.**

MR. NEWSOME: Object to the form of the
question.

**Q. Do you know anything about the Tommie Rae Hynie
handwritten notes, sometimes referred to as the
Hynie diary?**

MR. NEWSOME: To object to the form of the
question.

MR. NEWSOME: Same objection.

1 A. I don't believe I do. I don't recall anything
2 like that, but I don't know what this is that
3 you've handed me in Exhibit 1. Is as a part of
4 that?

5 **Q. I will represent to you that it is a part of that**
6 **and it came from the public record.**

7 A. So, your question is am I familiar with Exhibit 1;
8 the answer is no.

9 **Q. Do you know anything about Exhibit 1, or about the**
10 **so-called Hynie diary? Very general.**

11 A. I don't believe I do, no, ma'am.

12 **Q. Did you ever authorize anyone to tell the Supreme**
13 **Court that you reviewed the Tommie Rae Hynie**
14 **handwritten notes before you reached a decision to**
15 **stipulate that she was the wife of James Brown?**

16 MR. NEWSOME: Object to the form of the
17 question.

18 MR. SMITH: Same objection.

19 A. Did I authorize someone to tell the court that I
20 had reviewed the Hynie diary?

21 **Q. Yes.**

22 A. I don't remember.

23 **Q. Do you have any recollection whatsoever of**
24 **reviewing it before August 10, 2010, when you**
25 **reached an agreement that would stipulate that she**

1 **would be considered the spouse of James Brown for**
2 **all purposes?**

3 MR. NEWSOME: Object to the form of the
4 question.

5 MR. SMITH: Same objection.

6 A. Ask the question again, please. I think there are
7 two questions in there.

8 **Q. Do you recall ever looking at handwritten notes of**
9 **Tommie Rae Hynie before reaching your decision on**
10 **August 10, 2008, to declare to be James Brown's**
11 **spouse for all purposes?**

12 MR. SMITH: Object to the form the
13 question.

14 MR. NEWSOME: Same objection.

15 A. I don't remember such a declaration. I don't
16 recall that, making that declaration.

17 **Q. Do you recall the terms of the August 10, 2008**
18 **agreement which you reached with Tommie Rae and**
19 **the clients of Louis Levenson?**

20 A. Do I recall the terms?

21 **Q. Yes.**

22 A. As I sit here today, no, I do not.

23 **Q. Did you, at the time, on August 10, 2008, know**
24 **what the terms were?**

25 A. I do not know if I did or not. I presume that I

1 was kept aware of the events in the case, but
2 today I cannot tell you that I remember what you
3 just asked me.

4
5 (Whereupon, 04/17/98 Herring
6 Letter was marked Exhibit No. 2
7 for identification.)
8

9 BY MS. POPE:

10 **Q. All right. Exhibit 2 is a letter from H. Dewain**
11 **Herring to Mr. James Brown dated April 17, 1998.**
12 **Do you recognize that document?**

13 A. You mean, have I seen it before?

14 **Q. Right, or do you have any recollection of either**
15 **--**

16 A. I have no recollection of this document.

17 **Q. Do you know anything about Dewain Herring as it**
18 **relates to James Brown or James Brown Estate**
19 **Plan?**

20 A. As I sit here today, no.

21 **Q. Do you recall anything about Dewain Herring having**
22 **done estate planning work for James Brown?**

23 A. I don't recall that.

24 **Q. Does Exhibit 2, which is dated April 17, 1998,**
25 **refer to James Brown's estate planning documents?**

1 A. Does this letter refer to estate planning
2 documents?

3 **Q. Yes.**

4 A. Yes.

5 **Q. And, specifically, what estate planning documents**
6 **does it refer to?**

7 A. It refers to a Will, the Will and Trust that
8 Mr. Herring says he prepared for Mr. Brown, and it
9 sets out what the documents do.

10 **Q. Does it refresh your recollection that James Brown**
11 **actually executed two estate plans?**

12 MR. NEWSOME: Object to the form of the
13 question.

14 A. I don't remember that. I remember there was -- I
15 vaguely remember there was some confusion about
16 which documents were the right -- were the
17 operative documents, but I'm really not sure. I
18 don't remember that.

19
20 (Whereupon, Pullman Article was
21 marked Exhibit No. 3 for
22 identification.)
23

24 BY MS. POPE:

25 **Q. Exhibit 3 is an article about David Pullman and**

1 James Brown dated June 16, 1999. Do you know
2 anything about David Bowman, James Brown, or what
3 we called the TIAA debt?

4 A. I do not believe so. I'm pretty sure I've never
5 seen this document, but I don't think I know
6 anything about that.

7 Q. Do you recall that in some years before his death,
8 about the time he was executing the first of his
9 Wills, Brown took out a \$26 million loan. Does
10 that sound familiar to you?

11 A. That has a familiar ring of a loan. Perhaps if
12 you could tell me more I can remember, but that's
13 -- it has a familiar ring that he had taken out a
14 loan -- Mr. Brown had borrowed some money, but I'm
15 not sure.

16
17 (Whereupon, 5/20/2008 Email was
18 marked Exhibit No. 4 for
19 identification.)
20

21 BY MS. POPE:

22 Q. Now I'd like you to please look at Exhibit 4 which
23 is an e-mail from Adele Pope to two members of
24 your office, and if you could just -- I want to
25 talk about that just a little bit.

1 **believe that was incorrect?**

2 A. That what was incorrect?

3 MR. SMITH: Object to the form of the
4 question.

5 MR. NEWSOME: Same objection.

6 BY MS. POPE:

7 **Q. That it was, in fact, attached.**

8 A. I would presume that whatever it says was attached
9 was attached, but I've got no idea whether it was
10 or not.

11 **Q. And if --**

12 A. Or what it was.

13 **Q. Well, what does it say was attached?**

14 A. A memo.

15 **Q. Well, let's look carefully and see what it says is**
16 **attached.**

17 A. Oh, I see. Subject, first semiannual report of PR
18 /Trustees; attachment, first report.
19 first.semi.annual.pdf.

20 **Q. Right. So you have no evidence that that was not**
21 **received when it was sent?**

22 A. No, I don't. I mean, I don't know anything about
23 it.

24 **Q. And if my records show that in addition to that,**
25 **approximately eight days later I handed you**

1 **another copy --**

2 A. You didn't hand me a copy, ma'am.

3 **Q. Are you certain about that?**

4 A. No. Eight days after --

5 **Q. Eight or nine days --**

6 A. May the 20th, 2009, you handed me a copy?

7 **Q. Eight or nine days later.**

8 MR. NEWSOME: Object to the form of the
9 question.

10 A. I don't recall that.

11 **Q. Do you recall a meeting with John Rainey?**

12 A. I recall a meeting with John Rainey.

13 **Q. With me?**

14 A. I don't remember your being there.

15 **Q. Oh, okay. Who do you remember being there?**

16 A. John Rainey. I can't say whether you were there
17 or not. You may have been, I don't know.

18 **Q. Oh, okay.**

19 A. That was a question at the last deposition.

20 **Q. So, if you can't remember where I was there, then**
21 **you wouldn't remember whether I handed you**
22 **another copy of that same document, would you?**

23 A. Well, I -- that's what I just said, I don't
24 remember you giving me a copy of a document.

25 **Q. But you don't deny that I gave it to you if I was**

1 **there?**

2 MR. SMITH: Asked and answered.

3 A. Ms. Pope, I can't confirm it. I just don't
4 remember it.

5 **Q. That's fine. That's fine. If you don't remember,**
6 **that's fine. It was long time ago, wasn't it?**

7 A. Yes, it was.

8
9 (Whereupon, List of Orders was
10 marked Exhibit No. 5 for
11 identification.)
12

13 BY MS. POPE:

14 **Q. Next, this is a list of orders -- this is Exhibit**
15 **number 5-- this is a list of orders, James Brown**
16 **orders, dated June 5, 2008. Does this document**
17 **refresh your memory at all about the number of**
18 **orders that were issued in the James Brown**
19 **matters?**

20 A. Well, I know there were a lot of orders. I don't
21 think that I have seen this list before dated
22 June 5, 2008, unless I saw it at the last
23 deposition, but I don't remember seeing this
24 document before.

25 **Q. But you don't have any reason to think that**

1 Q. I'm sorry. Did you request that SLED make an
2 investigation of David Cannon?

3 A. I don't remember.

4 Q. Do you remember anything about David Cannon?

5 A. He was one of the original people in the trust,
6 one of the original trustees or -- of the trust.

7 Q. Did you ever investigate how much of any money
8 David Cannon took from James Brown?

9 A. You mean, did SLED ever do that?

10 Q. You. Your office.

11 A. The Attorney General does not investigate, ma'am.

12 Q. The Attorney General --

13 A. The Attorney General is the lawyers; they do not
14 investigate. The investigative agency does the --

15 Q. Mr. McMaster, did you not --

16 A. -- investigation.

17 MR. NEWSOME: Excuse me. Let the witness
18 finish answering the question.

19 Q. I'm sorry. Go ahead. I apologize. Go ahead.

20 A. The Attorney General is not an investigator. The
21 lawyers are not investigators. They are --
22 they -- the SLED agents are the people who conduct
23 investigations at the request of the Attorney
24 General or other solicitors or others.

25 Q. Did you ever receive information in 2009 from SLED

1 **about David Cannon?**

2 A. We received some -- in what year?

3 **Q. 2009 when you were Attorney General.**

4 A. I know we received some information about a lot of
5 stealing going on involved with the James Brown
6 matter, but the details of when and about whom, I
7 don't know, but I -- I think Mr. Cannon was one of
8 those that we received information from SLED or
9 from somewhere.

10 **Q. Well, wasn't he indicted by -- indicted in 2010**
11 **for taking more than \$10 million and -- and**
12 **covering it up with a forgery?**

13 A. I think he was charged. I don't remember the
14 details of it, though.

15 **Q. And after he was charged, you named him as a**
16 **witness for the State of South Carolina in**
17 **Richland 4900?**

18 MR. NEWSOME: Object to the form of the
19 question.

20 A. Ma'am, I didn't name him as a witness. I mean,
21 perhaps a lawyer in this office named him as a
22 witness, but I was not involved in those kinds of
23 details.

24 **Q. You are not involved in the details of a person**
25 **who took more than \$12 million from funds James**

1 **Brown gave to charity?**

2 MR. SMITH: Object to the form of the
3 question.

4 MR. NEWSOME: Same objection.

5 A. I would have -- if I were Attorney General at the
6 time of any investigation in this office, I would
7 have been advised of the process and the progress
8 of the investigation by the investigators and what
9 the lawyers' views of those findings were, but I
10 cannot remember today what I learned and when I
11 learned it about Mr. Cannon.

12 **Q. But if you were taking action related to James**
13 **Brown and authorizing your office to take action,**
14 **it was your responsibility?**

15 A. No doubt about that.

16 **Q. Okay. And if you sign documents as a lawyer, you**
17 **had the same Rule 11 obligations as everyone else;**
18 **is that correct?**

19 A. That is correct.

20 **Q. Good. Well, we'll come back to it. We'll see if**
21 **we can find something that'll refresh your**
22 **recollection.**

23 A. Now, you must understand, Ms. Pope, that a lot of
24 things that an Attorney General signs are
25 presented by assistants who are more familiar with

1 the details than the Attorney General would be.
2 But the Attorney General would be given an ample
3 explanation and understanding of the nature of
4 what was happening, but he is not involved and
5 cannot possibly be involved in all the details
6 every day of every case going on in the office.

7 **Q. Mr. McMaster, how many times have you sued a South**
8 **Carolina citizen using a private attorney?**

9 A. Say it again. How many times have I sued --

10 **Q. How many times did you, as Attorney General, sue a**
11 **South Carolina citizen using a private attorney?**

12 A. We had a number of those cases, yes.

13 **Q. In which the Attorney General was not an attorney**
14 **of record?**

15 A. No. The Attorney General was an attorney of
16 record when we hired outside counsel to handle
17 cases.

18 **Q. Right. So the suit that you brought against Bob**
19 **Buchanan and me is the --**

20 A. I did not bring that suit, ma'am.

21 **Q. Mr. McMaster, how does someone who's sued by the**
22 **Attorney General of South Carolina know --**

23 MR. SMITH: Object to the -- to the
24 question and line of questions that's going
25 beyond the scope of this deposition of this

1 witness in 1337.

2 MR. NEWSOME: Same objection.

3 RESUMING EXAMINATION.

4 BY MS. POPE:

5 **Q. Mr. McMaster, did you sue Adele Pope and Bob**
6 **Buchanan in your capacity as Attorney General in**
7 **2010?**

8 A. No, ma'am.

9 **Q. When did you first learn that your name as the**
10 **Attorney General had been used on a lawsuit?**

11 MR. NEWSOME: I object to this whole line
12 of questioning so I just want to preserve that.
13 This is all after you were no longer PR.

14 MR. SMITH: Same question. I mean, same
15 objection, I mean.

16 RESUMING EXAMINATION.

17 BY MS. POPE:

18 **Q. When did you first learn that your name had been**
19 **used as a plaintiff on a pleading in a lawsuit**
20 **that you did not bring?**

21 MR. NEWSOME: Same objection.

22 MR. SMITH: Same objection.

23 A. Is that the end of your question?

24 **Q. Yes.**

25 A. I'm not sure, but I would -- I believe it was

1 after I had left office, although I'm not sure.

2 **Q. Did you ever take any action to correct the use of**
 3 **your name as a plaintiff on a pleading when you**
 4 **did not authorize the lawsuit?**

5 MR. NEWSOME: Same objection.

6 MR. SMITH: Same objection. Object to the
 7 form.

8 A. I believe I commented on that or I asked some
 9 questions about it, but that was the extent of my
 10 inquiry.

11 A. And again, I'm not sure when when I found that
 12 out.

13 **Q. Well, wasn't it pretty important that you, in your**
 14 **capacity as Attorney General, you brought a suit**
 15 **against South Carolina citizens --**

16 A. I did not bring a suit against South Carolina
 17 citizens.

18 MR. NEWSOME: Same objection to the --

19 MR. SMITH: Same objection --

20 MR. NEWSOME: -- question as being outside
 21 of the scope of Case 1337.

22 MR. SMITH: Same objection, and also
 23 redundant questioning.

24 A. I didn't -- I did not bring the case against you
 25 and Mr. Buchanan.

1 Q. But you did nothing to correct the use of the
2 Attorney General's name on that lawsuit for years
3 after you realized that your name and been
4 illegally used in the lawsuit?

5 MR. SMITH: Object to the form of the
6 question. Same objections as to beyond the
7 scope of this deposition.

8 MR. NEWSOME: Same objections.

9 A. There are a number of presumptions in your
10 questions, but illegally used -- I don't --

11 Q. Well, let me back up. Is it illegal for someone
12 to bring a lawsuit in the name of the Attorney
13 General that is not authorized?

14 A. Well, ma'am, the Attorney General -- there was an
15 Attorney General in the office at the time all of
16 that was done, and that would be Mr. Wilson. And
17 I raised the question with someone about the
18 caption in that case. I don't recall the
19 explanation I got, but that was -- that was my
20 response to that. It was I was no longer the
21 Attorney General.

22 Q. Mr. McMaster, were you Attorney General on May 19,
23 2010?

24 A. Yes.

25 Q. The date that Richland County 2010-CP-40-4900 was

1 **filed?**

2 A. I'm not sure when it was filed, but it was filed
3 before I left office.

4 **Q. Right. It was filed before you left office and it**
5 **has continued until today, six years later, and**
6 **you don't know when you learned that your name was**
7 **on that pleading as a plaintiff?**

8 MR. SMITH: Object to the going beyond the
9 scope of this deposition in 1337. The witness
10 has also been asked this question, or similar
11 ones, multiple times.

12 MR. NEWSOME: Same objections.

13 A. That is correct.

14 **Q. Did you answer interrogatories in Case 4900?**

15 MR. SMITH: Object -- same objection.

16 MR. NEWSOME: Same objections.

17 A. I don't think so. Personally, me? I don't
18 remember doing that, no.

19 **Q. Did you respond to a motion to dismiss that suit**
20 **as improper -- did you respond to a petition to**
21 **remove that to dismiss that lawsuit as improper?**

22 MR. SMITH: Object to the going beyond the
23 scope of this deposition, and object to the
24 form of the question -- the extent this applies
25 and I don't know how much longer this line of

1 questioning is going to exist, but the witness
2 is here for Case 1337 not Case 4900.

3 MR. NEWSOME: Same objection and this is
4 beyond the scope of Case 1337.

5 THE WITNESS: What was the question again,
6 please.

7 (Court reporter reads back previous question.)

8 A. Which lawsuit?

9 **Q. Richland 4900.**

10 A. I don't recall. Ms. Pope, there are lawyers in
11 the office that would be much more familiar in
12 conversing with these facts than I am, like,
13 Mr. Jones, perhaps Mr. McIntosh, or some of those
14 others that you mentioned.

15 **Q. Who makes the decision for the Attorney General of**
16 **South Carolina to sue a South Carolina citizen**
17 **using a private attorney?**

18 MR. NEWSOME: Same objection. This is
19 beyond the scope of Case 1337.

20 MR. SMITH: Same objection.

21 A. The Attorney General ultimately makes all of those
22 decisions, and it's his or her responsibility.

23 **Q. If the Attorney General has been inadvertently**
24 **named as a party to a lawsuit that he doesn't**
25 **believe he authorized, who has the responsibility**

1 **to undo that?**

2 MR. NEWSOME: Object to the form of the
3 question. Object to it going beyond the scope
4 of Case 1337.

5 MR. SMITH: Same objections. Again, this
6 is -- we're not here for Case 4900. We're here
7 for Case 1337.

8 A. Ultimately, that would be the Attorney General.

9 Q. **Mr. McMaster, do you understand that I have not**
10 **been paid for my work since 2007 because of the**
11 **lawsuit you brought?**

12 A. Ma'am, I did not bring that lawsuit.

13 Q. **So what do we need to do to make a lawsuit go**
14 **away?**

15 A. That's a question that would have to be answered
16 by the lawyers involved in the case.

17 Q. **Well, so once the Attorney General is in a case,**
18 **there's nothing he can do to straighten it out if**
19 **he wasn't there -- legally there?**

20 MR. NEWSOME: Object to the form of the
21 question.

22 A. Well, legally there, that's another
23 characterization that I suppose would have to be
24 explored, but yes, an Attorney General or any
25 lawyer involved in any case can make modifications

1 to the case according to the rules and the law at
2 the times allowed by the rules and the law.

3 **Q. And you know a lot about the due process aspects**
4 **of using special counsel, don't you?**

5 MR. SMITH: Object to the form of the
6 question. It may be -- object to the form of
7 the question.

8 MR. NEWSOME: Same objection.

9 A. I don't understand what you mean about due
10 process.

11 **Q. When the Attorney General uses a special outside**
12 **counsel, are there special rules that require**
13 **oversight by the Attorney General to comply with**
14 **due process?**

15 A. I don't think there are special rules, but there
16 are the same rules that apply to anyone handling a
17 case. The rules apply to all lawyers generally,
18 of which the Attorney General is one.

19 **Q. And certainly it would be a rule, do not bring a**
20 **lawsuit in the name of someone who hasn't**
21 **authorized the lawsuit?**

22 A. I presume that that is a well-established rule.
23

24 (Whereupon, 02/10/2009 Latham

25 Email was marked Exhibit No. 7

for identification.)

BY MS. POPE:

Q. Good. Okay. Let's just look at some other documents February 10, 2009 Exhibit 7 is an email to Jones and Jowers from Bill Latham dated February 10, 2009. Do you know anything about Mr. Latham, Mr. Copsidas, or the subject of that e-mail? If you'll just take a moment to look at it

A. February 10, 2009, to Mary Frances and Sonny.

Q. Right.

A. To my knowledge, I have not seen this e-mail before.

Q. Well, let me ask you now, this email is after you reached your -- your settlement agreement on August 10, 2008. Is that --

A. That is -- yes, this date is February 10, 2009.

Q. Right. Tell me generally what the terms of the settlement agreement were.

A. The -- it was an agreement that I thought was an excellent agreement that provided for about 46 or 7 percent of the assets or those that could be produced by the existing assets to go to the charity for the children, and about an equal about 46 or 7 percent would go to the various relatives

1 of James Brown. I think his wife, Ms. Hynie, and
2 children, and I don't remember who else, and then
3 there was some percent -- six percent,
4 seven percent, eight percent, that was to go
5 somewhere else. And that was -- I thought that
6 was a very good settlement because of the federal
7 law concerning royalties and residuals that
8 operates on a separate authority, that requires
9 most of those assets to go to the family members,
10 as I understand it. I thought it was a good
11 settlement.

12 **Q. Well, when you reached the settlement on**
13 **August 10, 2008, it had nothing in it about**
14 **royalties, did it?**

15 A. I thought that was the purpose of it was to
16 establish the -- either that document or one that
17 was to follow would accomplish what I just said.

18 **Q. So, but you, on August 10, 2008, had no**
19 **understanding of the federal copyright law?**

20 MR. NEWSOME: Object to the form of the
21 question.

22 MR. SMITH: Same objection.

23 A. No. I did have an understanding, that's why it
24 was -- at some point in there, that was why we --
25 we understood -- that's why I understood it was a

1 **nothing about the copyright law on August 10,**
2 **2008, would that be a problem?**

3 MR. NEWSOME: Object to the form of the
4 question.

5 MR. SMITH: Same objection.

6 A. Would that be a problem for what?

7 **Q. Would that be a problem that you had given away**
8 **half of James Brown's charity?**

9 MR. SMITH: Object to the form of the
10 question.

11 MR. NEWSOME: Object to the form of the
12 question, and object to this going beyond the
13 scope of Case 1337.

14 MR. SMITH: Same objection as beyond the
15 scope.

16 A. What I can tell you is I thought it was a good
17 settlement and the copyright angle was important.

18 **Q. Have you done anything since August 2008 to check**
19 **to see whether you were right about the copyright**
20 **angle?**

21 A. No, ma'am, other than talk to the lawyers.

22 **Q. Which lawyers have you talked -- who's told you**
23 **that the copyright angle was a good idea?**

24 A. I think Mr. Jones told me that, or perhaps it was
25 someone else in the office.

1 Q. But it would've been within the office?

2 A. Yes, ma'am.

3 MR. NEWSOME: Object to the form of the
4 question. Object to it going beyond the scope
5 of Case 1337.

6 Q. Do you know anything about the Ray Charles
7 litigation?

8 A. No, ma'am. I don't.

9 Q. Do you know anything about the Ray Charles
10 Foundation?

11 A. No, ma'am. I don't.

12 Q. Do you know anything about what a bad idea it is
13 to declare someone the wife when she's not from a
14 copyright standpoint?

15 MR. SMITH: Object to the form of the
16 question.

17 MR. NEWSOME: Object to the form of the
18 question.

19 MR. SMITH: -- (Inaudible) beyond the
20 scope.

21 MR. NEWSOME: -- (inaudible) being beyond
22 the scope.

23 A. I'm not familiar with those things. I am familiar
24 with Ray Charles.

25 Q. Are you familiar with who are James Brown's

1 **children?**

2 A. I remember there are a number of them. I can't
3 tell you the names right now.

4 **Q. Do you know that fewer than half were parties to**
5 **your August 10, 2008 agreement?**

6 MR. NEWSOME: Object to the form --

7 A. I don't recall one way --

8 MR. NEWSOME: -- of the question.

9 A. -- or the other.

10 MR. NEWSOME: Object to the question as
11 being beyond the scope --

12 MR. SMITH: Same objection.

13 MR. NEWSOME: -- of Case 1337.

14 BY MS. POPE:

15 **Q. Do you acknowledge -- do you acknowledge that**
16 **knowing about who the heirs are is critical to**
17 **Federal Copyright Act?**

18 MR. SMITH: Object to the form, object to
19 beyond the scope.

20 MR. NEWSOME: Same objections.

21 A. The question again, please.

22 **Q. Well, I'll say that a different way. Is knowledge**
23 **of who the heirs are important under the Federal**
24 **Copyright Act provisions?**

25 A. I believe so, but I am unfamiliar with the

1 copyright laws.

2
3 (Whereupon, Petition for Review
4 was marked Exhibit No. 8 for
5 identification.)
6

7 BY MS. POPE:

8 **Q. Look at number eight. That is a petition by James**
9 **B. for a review of compensation dated February 26,**
10 **2009 in Aiken County.**

11 A. A petition by whom?

12 **Q. Well, I'll ask you to identify who did it.**

13 A. Peter Shahid, attorney for Stephen --

14 **Q. Slotchiver.**

15 A. Can't pronounce it.

16 **Q. Slotchiver.**

17 A. Okay. A guardian ad litem, and James Joseph
18 Brown, II.

19 **Q. And we sometimes refer to him as "James B." Who**
20 **is James B.?**

21 A. I don't know.

22 **Q. So, if you don't know who James --**

23 A. I know he's -- I presume is a relative of James
24 Brown, but I don't remember that name.

25 **Q. Do you know anything about whether on February 26,**

1 **2009, James B. was an heir of James Brown?**

2 A. I do not. Your question was do I know?

3 **Q. Right. Do you know about whether he was or wasn't**
4 **an heir of James Brown?**

5 A. What I know -- I don't know anything about it now.
6 What I may have known back then, I can't tell you.
7 I don't remember.

8 **Q. Do you recall that your agreement stopped the DNA**
9 **testing program which was in place?**

10 MR. SMITH: Object to going beyond the
11 scope of 1337. We're here on that case, not
12 4900.

13 MR. NEWSOME: Same objection.

14 A. I don't recall.

15 **Q. Now, let's look at Exhibit No. 9, please.**

16
17 (Whereupon, 4/29/09 Email and
18 Memorandum was marked Exhibit
19 No. 9 for identification.)
20

21 BY MS. POPE:

22 **Q. I want you to take all the time you need to review**
23 **that, please. And I will identify it as an email**
24 **and a memorandum in support of approval of**
25 **settlement dated April 24, 2009, and signed by**

1 question. And object to going beyond the scope
2 of case of 1337.

3 A. Is that what this memorandum -- this memorandum
4 sets out, is the reasons?

5 Q. This memorandum signed by you on April 24, 2009,
6 is entitled, "Memorandum in Support of Approving
7 the Settlement Agreement". And you have several
8 times told me today that you thought the
9 settlement agreement was wonderful, but you can't
10 remember why.

11 A. You've used the word "wonderful," ma'am. I
12 thought it was a good settlement.

13 Q. I want to know all the reasons why, and I believe
14 that this document -- and I've tried even to
15 underline to help you understand why you -- I want
16 on the record why you thought it was a good
17 settlement.

18 A. All right. And those reasons are in writing in
19 this memorandum, correct?

20 Q. You'll have to tell me.

21 MR. SMITH: I believe the witness has
22 already answered this question to the extent of
23 his knowledge, hasn't he? On the record,
24 hasn't he already answered the question?

25 MS. POPE: I believe he said if he had

1 time to read it, it would refresh his
2 recollection. And I want him to have all the
3 time it takes.

4 A. Well, I'll do the best I can.

5 **Q. Thank you.**

6 A. Well, it looks like there were two trusts. The "I
7 Feel Good" Trust is the one that was of concern to
8 the Attorney General's office because that is
9 the -- that is the charitable trust, provides for
10 the tuition, education expenses, financial
11 assistance of and for the poor and financially
12 needy children, youth and young adults in South
13 Carolina and Georgia. Educational institutions
14 there, and I know we thought that was very good.
15 That was a good thing for Mr. Brown to have done.

16 Now, I know the probate court removed
17 everything to the Court of Common Pleas. I think
18 that's significant, but I can't remember why at
19 the moment. Maybe it'll -- I'll be refreshed when
20 we get past page four. I remember there were many
21 lawsuits, many lawyers involved. It seemed to me
22 there were -- many as six, maybe many as a dozen
23 lawsuits all challenging the trusts.

24 **Q. Well, weren't there only four challenging the**
25 **Trust; two by Tommie Rae and two by Louis**

1 scope of Case 1337.

2 MR. SMITH: Same objection.

3 BY MS. POPE:

4 **Q. Are the you aware that the Estate's current**
 5 **position, despite what Mr. -- despite**
 6 **Mr. Newsome's objections, is that Tommie Rae is**
 7 **not James Brown's spouse?**

8 A. I'm not --

9 MR. NEWSOME: Object to the form of the
 10 question.

11 MR. SMITH: Same.

12 A. I'm not involved in whatever is happening in the
 13 cases now.

14 **Q. Are you aware that she is up in the Court of**
 15 **Appeals now saying that James Brown's estate plan**
 16 **is no good?**

17 A. No, ma'am.

18 MR. SMITH: Object to the form of the
 19 question. Object to being beyond the scope of
 20 1337.

21 MR. NEWSOME: Same objection.

22 A. I'm not aware of current status of the case or
 23 cases.

24 **Q. What's the date --**

25 A. Other than they were sent back to Judge Early.

1 Q. What's the date on Exhibit 1, Ms. Hynie's
2 handwritten notes?

3 A. June 20, 1997.

4 Q. And when was her marriage to Javed Ahmed,
5 according to page four?

6 A. She had previously -- I'm quoting page four,
7 quote, she had previously been involved in a
8 putative marriage ceremony with Javed Ahmed on
9 February 17, 1997 in Texas.

10 Q. So this was a few months later, and her
11 handwritten notes show that she was living in
12 Texas and thought she was pregnant?

13 A. Ma'am, I don't know. I haven't read it.

14 Q. Well, it's been represented to the Supreme Court
15 that you reviewed that before you reached your
16 settlement.

17 A. Ma'am, I may have, but that was a long time ago.
18 I just don't remember it one way or the other.

19 Q. Well, we're trying to refresh our recollection
20 here.

21 A. Well, I'm afraid that's not going -- that's not
22 going to help me much.

23 Q. Exhibit 1 is just a few months after her marriage
24 to Ahmed and she's in Texas, where she married
25 him, and thinks she may be pregnant.

1 MR. NEWSOME: Object to the form of the
2 question. And object to questions going beyond
3 the scope of Case 1337.

4 MR. SMITH: Same objections.

5 A. That was a statement. You want me to find that in
6 the --

7 MS. POPE: Excuse me. Excuse me just one
8 minute. I'm going to make an objection to this
9 continued interruption. It may cause this
10 deposition to last much longer. Both of you
11 have, on the record, said that the discovery in
12 these two matters are a different side of the
13 same coin, and you are interrupting repeatedly
14 and damaging the flow of this deposition
15 intentionally and I intend to bring it up with
16 the Court.

17 MR. NEWSOME: Let's do that.

18 MR. SMITH: We'd be glad to do that,
19 Ms. Pope. You have gone beyond the scope of
20 1337 and took the position that the cases
21 should not be consolidated for discovery
22 purposes. This witness was brought here to
23 answer questions about Case 1337, not to reply
24 all ground over Case 4900. And we are not
25 directing him not to answer. I am simply

1 A. Well, while y'all were discussing points of
2 procedure, I was reading page four and it said
3 that she and Mr. Brown were married on December
4 the 14th. She'd been involved in a ceremony with
5 Mr. Ahmed. Mr. Brown brought an action to annul
6 her marriage, and the Charleston County Family
7 Court found the marriage to Ahmed to be void. It
8 seems to me that he had been married to someone
9 and not properly divorced. I may be mixing it up
10 with something else. Oh, well, there you go.
11 "Among other conclusions, the court found that
12 Mr. Ahmed was married at the time he entered into
13 his marriage with Ms. Brown." Okay. Well,
14 that's -- all right.

15 **Q. Mr. McMaster, --**

16 A. So it was annulled and also -- that's what I
17 thought -- I remembered that correctly. He was
18 married to someone else at the time. So that
19 would support what you'd asked me earlier about
20 the conclusion of the Attorney General's office
21 that -- well.

22 **Q. Well, Mr. McMaster -- excuse me. Go ahead.**

23 A. Wait a minute. I'm sorry.

24 **Q. No, no. By the time you did this document, you**
25 **are speaking as one with Tommie Rae; is that**

1 **correct?**

2 MR. SMITH: Object to the form of the
3 question.

4 MR. NEWSOME: Object to the form.

5 A. I don't know what you mean.

6 **Q. Well, Mr. Medlin announced to us that he speaking**
7 **for Tommie Rae and the Attorney General were**
8 **speaking as one. Is there something unusual about**
9 **that?**

10 MR. NEWSOME: Object to the form of the
11 question.

12 MR. SMITH: Same.

13 A. I don't know what you're referring to.

14 **Q. Well, let me ask you this. If it would help James**
15 **Brown's charity for a person who may not be the**
16 **wife not to be the wife, what would be your duty**
17 **as Attorney General?**

18 MR. SMITH: Same objection.

19 MR. NEWSOME: Same objection.

20 MR. SMITH: Same form objection. Form
21 objection.

22 A. It depends on what the facts -- we have to go with
23 the facts, whatever they are.

24 **Q. Well, but you have to go with the facts that help**
25 **the charity, don't you?**

1 MR. SMITH: Form objection.

2 A. Yeah, if they're facts. If they are true facts,
3 of course.

4 Q. Okay. That's all I wanted to know. Let's look at
5 page five. There were a number of children of
6 James Brown, DNA proven children, who were not
7 parties to your settlement.

8 A. I'm sorry. You are reading from where?

9 Q. Page five. James Brown had a number of DNA proven
10 children who were not parties to your settlement.
11 Is that correct?

12 A. Are you -- I'm trying to find where you are.

13 Q. Well, "In addition to the six named children,
14 several others have appeared and claimed to be
15 children."

16 A. I see that.

17 Q. And do you know anything about how children are
18 determined under the Federal Copyright Act?

19 A. I do not.

20 Q. Would you be surprised that they are, in fact,
21 your DNA proven children and your illegitimate
22 children?

23 MR. SMITH: Form objection.

24 MR. NEWSOME: Same objection.

25 A. I would not be surprised. I presume there are

1 probably many ways to determine that. I just
2 don't know.

3 **Q. Right. And in Social Security and other things,**
4 **their federal determination of heirs is sometimes**
5 **different from the state, isn't it?**

6 **A. I mean, federal law is different from state law in**
7 **terms of social -- well, the state has to go by**
8 **what the federal law is, if there's a law on the**
9 **point involved in a federal program. I'm not --**
10 **I'm not sure I understand your question, Ms. Pope.**

11 **Q. Well, let me ask you this, you know nothing about**
12 **the determination of heirs under federal copyright**
13 **law? Is that fair to say?**

14 **A. I understand there's a process. I don't know what**
15 **it is.**

16 **Q. Okay. All right. Let's look at the bottom of**
17 **page six. It says, "The South Carolina Attorney**
18 **General continues to be -- continues to remain**
19 **involved in this case." Did you understand in**
20 **April 2009 that you had a continuing obligation to**
21 **make sure this was done right?**

22 MR. SMITH: Object to the form.

23 MR. NEWSOME: Same objection.

24 **A. This was in 2009?**

25 **Q. Uh-huh.**

1 A. Yes. I mean, we were -- we were still -- well,
2 let's see what was going on in 2009. It was after
3 the date of this? Well, if it says we were
4 involved, then we were involved.

5 **Q. Okay. Well, let --**

6 A. And I presume under the obligations imposed on the
7 Attorney General of South Carolina concerning
8 charities, I presume that those obligations and
9 duties would continue until the matter was
10 completely resolved.

11 **Q. Well, I want to now --**

12 A. Or at least until there was no problem.

13 **Q. I now want to talk to you -- well, first of all,**
14 **do you need anything else -- I mean, do you**
15 **need -- do you want -- would it help to just keep**
16 **going through to see if you can refresh your**
17 **recollection at all because I want to know if you,**
18 **yourself, remember any good reason -- not**
19 **something anybody told you -- but any good reason**
20 **to have supported this settlement?**

21 A. Everything that I knew at the time would've been
22 based on what my assistants told me. I didn't do
23 independent research or independent fact-finding.
24 It would have been in discussions with the lawyers
25 in the office. And there were a lot of them.

1 MR. NEWSOME: Same objection.

2 A. No. I don't remember anything about that. That
3 is giving Corbis two years right to use the image
4 or whatever for two years?

5 **Q. No. They would be the Estate and Trust agent for**
6 **the exploitation of the image and persona.**

7 A. They would be the agent?

8 **Q. Yes. Greenlight.**

9 A. I don't remember those names. I have some vague
10 recollection of something like that, but I -- I
11 can't remember today.

12 **Q. Okay. Let's look at -- I want to find -- I want**
13 **to talk to you a little bit about The James Brown**
14 **Legacy Trust. Can you tell me what that is.**

15 A. It's one of the trusts. That's all I know at this
16 point.

17 **Q. Well, no. It was a trust you created.**

18 A. Well, that's -- you mean, that we in the office
19 created.

20 **Q. Well, let me just put it this way, The James Brown**
21 **Legacy Trust is a plaintiff in Richland 4900. Do**
22 **you know that?**

23 A. I don't know that.

24 **Q. Do you have any idea whoever controlled The James**
25 **Brown Legacy Trust?**

1 the name of one of them, but I did not sit down
2 myself, personally, and draw up these details. It
3 sounds like, from the words of your question, is
4 that you are presuming that I was doing all of
5 that work myself. I had an office full of
6 lawyers, very good ones, who were doing the work,
7 all of which would be submitted or approved by me
8 at some point.

9 **Q. Well, Mr. McMaster, after this settlement was**
10 **approved, you asked that the stay be lifted, which**
11 **meant that you began managing -- being in charge**
12 **of the James Brown assets on May 26, 2009, and you**
13 **continued to be in charge of them until**
14 **January 11th of 2011, and you have no recollection**
15 **whatsoever of anything you did to protect the**
16 **James Brown assets --**

17 **A. I didn't say that, ma'am.**

18 MR. SMITH: Object to the form of the
19 question.

20 MR. NEWSOME: Same objection.

21 **A. I didn't say anything like that, Ms. Pope.**

22 **Q. Okay. Well, I want to hear what you did with The**
23 **James Brown Legacy Trust.**

24 **A. I'm telling you, as I've tried to explain, that I**
25 **am not familiar -- I cannot remember at this point**

1 appointed trustee for any reason was a big
2 decision, wasn't it?

3 A. Is that what this did?

4 Q. Well, it says on page 40, "As a Trustee of the
5 2000 'I Feel Good' Trust will be selected by and
6 can be removed for any reason by the South
7 Carolina Attorney General, the settling parties
8 believe there is no private inurement." And then
9 it says again on page 41, "As the Trustee of the
10 2000 'I Feel Good' Trust will be selected and can
11 be removed by any reason for the South Carolina
12 Attorney General, the parties believe there can be
13 no private inurement as to members of the Brown
14 family who participate in the James Brown Legacy
15 Trust."

16 A. What's the question?

17 Q. All of the -- is it not true that the whole saving
18 of the trust was on your shoulders, Mr. McMaster?

19 MR. SMITH: Object to the form.

20 MR. NEWSOME: Same objection.

21 A. Well, I think the whole purpose of our getting
22 into cases was to save the trust.

23 Q. I'm not talking about getting in. Everybody was
24 happy with your getting in. It's creating a
25 legacy trust that put you in absolute control of

1 **James Brown's assets.**

2 MR. SMITH: Object to the form of the
3 question. I just note that we continue the
4 running objection to questions beyond the
5 scope.

6 MR. NEWSOME: Same objections.

7 A. What was the question? You're asking was that a
8 good idea?

9 Q. **Was saving the -- according to what you told the**
10 **court, you were going to be responsible for making**
11 **sure that this trust was run right to help James**
12 **Brown, weren't you?**

13 A. That was the goal of my office. Everything --

14 Q. **Was it your goal?**

15 A. It was, yes. It was my goal and it was the goal
16 of all of us working on this case.

17 Q. **Well, you can't really speak for everyone working**
18 **on the case.**

19 A. Ms. Pope, I didn't go to court and say thing --
20 make representations to the court. Everything
21 I've done was done through the office.

22 Q. **Well, Mr. McMaster, you --**

23 A. I'm not -- I'm not saying that I'm not responsible
24 for it. It's just I was -- I was acting as the
25 Attorney General with a staff of attorneys and

1 we -- we were very much involved in this matter,
2 and I think we did a very good job. I still think
3 we did a very good job.

4 **Q. Let's look at the end. "If such options fail**
5 **to" -- page 49. "If such options fail to protect**
6 **the charitable exception, the settling parties are**
7 **required by the" --**

8 **A. Wait. I'm sorry. Let me catch up with you,**
9 **please.**

10 **Q. Just above the conclusion.**

11 **A. Okay.**

12 **Q. "If such options fail to protect the charitable**
13 **exception, the settling parties are required by**
14 **the settlement agreement to take whatever curative**
15 **action is necessary to protect the charitable**
16 **exception which would be enforced by the Attorney**
17 **General."**

18 **A. Yes.**

19 **Q. After this day, April 24, 2009, did you do**
20 **anything to see that what James Brown wanted to do**
21 **was done?**

22 **MR. SMITH: Object to the form.**

23 **MR. NEWSOME: Same objection.**

24 **A. Well, I'm sure we did after --**

25 **Q. You. You. Did you?**

1 A. If the office did anything, then I did something.
 2 I don't -- I don't remember dates of conversations
 3 and things of that nature, but I know I was
 4 involved in the matter fully with my lawyers.

5 **Q. And if people in your office made mistakes which**
 6 **damaged James Brown's trust, they should be**
 7 **corrected, shouldn't they?**

8 MR. SMITH: Object to the form.

9 MR. NEWSOME: Same objection.

10 A. Certainly. As in any matter, if something was
 11 done incorrectly, it ought to be fixed.

12 **Q. Let's look at number ten.**

13
 14 (Whereupon, 05/01/09 Email was
 15 marked Exhibit No. 10 for
 16 identification.)

17
 18 BY MS. POPE:

19 **Q. I will represent to you that 10 is an e-mail of**
 20 **J.C. Nicholson about the Corbis/Greenlight**
 21 **Settlement. Does that refresh your recollection?**

22 A. I don't know if I've seen this before now.

23 **Q. That's fine.**

24 MR. SMITH: May 1st '09?

25 MS. POPE: Yes.

1 **Q. Does that refresh your recollection about the**
2 **publicity rights contract?**

3 A. No, ma'am.

4 **Q. And if I told you that it was projected to bring**
5 **in at least a million dollars a year and maybe**
6 **two, that wouldn't surprise you?**

7 A. I don't know how much those publicity rights are
8 worth. I would think that they would be worth a
9 lot.

10 **Q. Okay. Good. Now, I want you look at Exhibit 11.**

11

12 (Whereupon, 08/30/09 Email was
13 marked Exhibit No. 11 for
14 identification.)

15

16 BY MS. POPE:

17 **Q. And that is an e-mail of Alan Medlin to your**
18 **office and others dated August 30, 2009, Re: tax**
19 **valuation. Do you recall anything either about**
20 **that e-mail or about the subject?**

21 A. Tax valuation is the subject?

22 **Q. Uh-huh.**

23 A. Does this refresh my memory of what?

24 **Q. Of anything about the value of James Brown's**
25 **assets, the topic, the value of copyrights, the**

1 Q. Right. Good. And then that was in February of
2 2008, and --

3 A. I don't remember when it was.

4 Q. And do you recall that one of the problems with
5 David Cannon was he had said that Mrs. Pope and
6 Mr. Buchanan were trying to run him off so they
7 could get the \$5 million commission payable on
8 James Brown's hundred million-dollar estate?

9 MR. NEWSOME: Object to the form of the
10 question.

11 MR. SMITH: Same objection.

12 A. Do I remember Mr. Cannon saying that?

13 Q. Making that allegation.

14 A. I don't remember that.

15 Q. Do you remember Mr. Hammond or anyone making it on
16 behalf of mister --

17 A. I don't remember one way or the other.

18 Q. Do you remember there was a lot of concern that
19 Mr. Buchanan -- that Mr. Buchanan and Mrs. Pope
20 were not reacting quickly to a hundred
21 million-dollar offer?

22 A. I remember vaguely.

23 Q. Anything in particular?

24 A. I remember criticisms of the behavior of the -- of
25 the steps that Mrs. Pope and Mr. Buchanan were

1 taking, but I don't remember specifically that,
2 that one, but that may have been.

3 Q. Do you remember Sonny writing us on December sixth
4 or fifth of 2007 saying, tell me why nobody's
5 accepting the hundred million-dollar offer? Does
6 that sound familiar?

7 A. I don't remember that.

8 Q. Do you remember that in January of 2009, you
9 amended your settlement agreement to give Terry
10 Brown a right of first refusal to buy James
11 Brown's assets?

12 A. I don't recall that.

13 Q. Do you recall that Mr. Buchanan and Ms. Pope
14 raised concern that there would be an attempt to
15 devalue the assets?

16 A. I don't recall that either.

17 Q. Written to you in about March of 2009?

18 A. I don't recall that.

19 Q. Okay. Did you --

20 A. Written to me or to Mr. Jones or others?

21 Q. To you.

22 A. I don't recall that.

23 Q. Did you understand when you gave more than half of
24 James Brown's assets to persons who were not
25 charities that it created estate tax concerns?

1 A. Did I have concerns?

2 **Q. No, no. Did you understand that taking funds that**
3 **had been formerly given to a charity and giving**
4 **them to individuals would create estate tax**
5 **issues?**

6 MR. NEWSOME: Object to the form of the
7 question.

8 MR. SMITH: Same.

9 A. I don't remember one way or the other, but I'm
10 sure that those of us in the office discuss every
11 ramification that we were aware of and, of course,
12 there were other lawyers involved outside, as
13 well.

14 **Q. Were you taking advice from outside lawyers about**
15 **--**

16 A. No. I mean, other lawyers involved in the case.
17 There was a lot of discussion going on, of course.

18 **Q. But the decision to take charitable assets and**
19 **make them non-charitable from an estate tax**
20 **standpoint was yours?**

21 A. I don't remember whose decision that was, but if
22 that's what the -- that's what the documents
23 accomplished, and I was supporting those
24 documents, you could say that was my decision, as
25 well as everyone else involved in the settlement.

1 Q. Now, do you know that somehow by September 2010
2 there was a representation made to the IRS that
3 James Brown's assets, his music empire at his
4 death, was worth 4.7 million dollars or less?

5 MR. NEWSOME: Object to the form of the
6 question.

7 MR. SMITH: Same.

8 A. I don't recall that, one way or the other.

9 Q. Would a valuation of his assets at -- his music
10 empire at 4.7 million be inconsistent with lots of
11 other information?

12 A. I don't know what the other information is, but I
13 really don't know. Which information?

14 Q. Well -- well, did you have the information that
15 James Brown's earned \$18 million in road revenues
16 between 2003 and 2006?

17 A. I don't recall if I had that or not.

18 Q. Well, you had it from the William Morris Agency.
19 I'll represent to you, you did.

20 MR. NEWSOME: Object to the form of the
21 question.

22 MR. SMITH: Same.

23 A. If that information had been sent to us in the
24 office, --

25 Q. Right. Right.

1 A. -- then you would be correct, but I cannot tell
2 you that I remember that specific piece of
3 information.

4 Q. Well, and you also had the information that his
5 copyrights had earned \$3 million a year for a
6 decade?

7 A. I don't know what information we had, but we had a
8 lot of information.

9 Q. Okay, right. Now, I'm just going to show you
10 Exhibit 12 and that's just to -- I know you're an
11 old prosecutor and I'm not, but it is a crime to
12 make a false statement on a Federal Estate Tax
13 return to receive a benefit. You'd agree with me
14 on that, wouldn't you?

15 A. Yes, it's a crime to file a false tax return
16 period. Right.

17 Q. Period. Good.

18 A. Whether you're getting a benefit or not, I
19 presume.

20 Q. Right. So if someone were to accuse a lawyer who
21 -- whose livelihood rest on fair dealings with the
22 IRS of overstating James Brown's assets by
23 \$79 million for the purpose of receiving a
24 \$5 million commission, that would be a very
25 serious charge wouldn't it?

1 MR. SMITH: Object to the form.

2 MR. NEWSOME: Same objection.

3 A. The question again, please.

4 **Q. If someone were to accuse a lawyer whose practice**
 5 **relied on fair dealings with the IRS of having**
 6 **intentionally overstated James Brown's assets on**
 7 **the Estate Tax Return, by \$79 million for the**
 8 **purpose of achieving a \$5 million commission, that**
 9 **would be a very serious allegation wouldn't it?**

10 MR. SMITH: Object to the form.

11 MR. NEWSOME: Same objection.

12 A. Well, there are lots of parts to that question,
 13 but accusing a lawyer of filing any sort of false
 14 return is -- is serious.

15 **Q. Very serious, isn't it?**

16 A. Well, serious or very serious or maybe very, very
 17 serious. It's serious.

18 **Q. And in September, your office received information**
 19 **that they were going to use to try to show that**
 20 **James Brown's music empire was worth \$4.7 million**
 21 **at his death. Did you know that?**

22 A. In September of --

23 **Q. 2010, when you were in office.**

24 A. Do I recall getting that information? No, I
 25 don't.

1 **Q. Should you have gotten that information if it came**
2 **into your office in September of 2010?**

3 A. Was that representation made my office? Then, if
4 the office made that representation, then I'm sure
5 that that information came to us from somewhere.

6 **Q. Well, they didn't actually make that**
7 **representation until the following May. They**
8 **agreed on the information. Do you know about**
9 **that?**

10 MR. NEWSOME: Objection. Object to the
11 form.

12 MR. SMITH: Object to the form.

13 A. No, ma'am. I don't.

14 **Q. Should you have known about that?**

15 MR. SMITH: Object to the form in relation
16 to prior questioning.

17 MR. NEWSOME: Same objection.

18 A. I don't know that -- I can't give you an answer to
19 that question. Anything important coming into the
20 office, the Attorney General should know about, at
21 least in -- at some point.

22 **Q. Well, in James Brown, it would it matter if the**
23 **charitable trust were 80 million or about a**
24 **million wouldn't it?**

25 A. Of course it would.

1 **Q. That's huge, isn't it?**

2 A. That's a difference of \$79 million.

3 **Q. Right, right. So if something comes into the**
4 **office to suggest that difference, you should be**
5 **told, shouldn't you?**

6 A. I guess it would depend on the context, but I
7 don't know how we were evaluating the estate or
8 the assets. I just -- I don't know the answer to
9 that.

10 **Q. Well, you had access to how Mr. Buchanan and**
11 **Ms. Pope were valuing the assets, didn't you?**

12 A. I presume that we did, yes.

13 **Q. Right. That was presented to the Court before**
14 **they became PR's in November of 2007.**

15 A. You're asking me to recall things that I can't
16 recall, as I've explained.

17 **Q. But you don't have any reason not to think that's**
18 **not correct, do you?**

19 MR. SMITH: Object to form.

20 MR. NEWSOME: Same objection.

21 A. That you and the gentleman had presented
22 something to the court?

23 **Q. To the court as a method of valuing James Brown's**
24 **assets before we even became Personal**
25 **Representatives.**

1 A. I have no reason to believe that you did or did
2 not do that.

3 Q. Okay. All right.

4 A. I mean, the record would show.

5 Q. Right. It would show. And if that was received
6 by your office, the record would show that. And
7 so, can you --

8 A. Are you asking me that?

9 Q. No, no. Sorry. Just -- if you'd like to say
10 something else, that's fine.

11 A. No.

12 Q. So, when your office received information that
13 James Brown's assets were worth nearly \$80 million
14 dollars less than that been previously represented
15 by all fiduciaries, that was big news, wasn't it?

16 A. I don't know. All fiduciaries -- I just don't
17 know. But if -- if that would certainly be a
18 difference. Now, the explanation for that
19 difference, I don't know.

20 Q. But there'd be no reason to hide that difference
21 from September to May, would there?

22 A. I don't know that it was hidden. I just don't
23 know that.

24 Q. But if it were, just take my word for it.

25 A. You're asking a hypothetical question?

1 **Q. Yes, right.**

2 A. That all that came in and it was hidden?

3 **Q. Right. And there was a decision not to reveal it**
4 **to the court for months.**

5 A. I just -- the question is, is there something
6 wrong with that?

7 **Q. Is that troublesome? Not to tell you, and not to**
8 **reveal it to the court?**

9 A. You're presuming again that I wasn't told and
10 there was an opportunity to present it to the
11 court. Or a reason to present it to the court at
12 that time. There are a lot of parts of your
13 question that make it difficult to answer. I
14 presume something like that would come up in due
15 course, but we'd have to go -- I'd have to go back
16 and look at the -- what the events were at the
17 time to determine if that's something that
18 should've been immediately brought to the court or
19 brought at a later time in a different procedural
20 step. I just -- I don't know the answer -- don't
21 know how to answer your question.

22 **Q. So we just have to find something in the record?**

23 MR. NEWSOME: Object to the form of the
24 question.

25 MR. SMITH: Object to the form.

1 A. I don't know what you mean by that, Ms. Pope. I'm
2 sorry.

3 **Q. Have you heard the estate of Harland Howard?**

4 A. I don't think so. I don't remember.

5 **Q. Do you know anything about the value of his**
6 **copyrights in relation to those of James Brown?**

7 A. I do not.

8 MR. SMITH: Object to the form.

9 MR. NEWSOME: Same objection.

10 A. At least, I do not as I am sitting here.

11 **Q. Do you think there's any chance that the publicity**
12 **rights of James Brown had a value of zero at his**
13 **death?**

14 MR. SMITH: Object to the --

15 A. That the publicity rights of James Brown had a
16 zero value at his death? Do I think that is
17 possible?

18 **Q. Uh-huh.**

19 A. No.

20 **Q. Thank you.**

21 MR. NEWSOME: Adele, can we take just a
22 quick bathroom break? I'm sorry.

23 MS. POPE: Oh, sure. Yeah.

24 (Off the record.)

25 RESUMING EXAMINATION

1 BY MS. POPE:

2 Q. Mr. McMaster, I'm going to try to go quickly
3 through these remaining exhibits.

4
5 (Whereupon, Tax Crimes Handbook
6 was marked Exhibit No. 12 for
7 identification.)
8

9 BY MS. POPE:

10 Q. We looked at Exhibit 12, which is the Tax Crimes
11 Handbook for 2009, and just wanted to make sure
12 you agree that -- and I think you've said clearly
13 that making false statements on tax returns is a
14 crime?

15 A. Yes, ma'am. I guess it has to be an intentional
16 statement.

17 Q. Right, right. Now, and to certainly to overstate
18 assets by a large amount in order to secure a big
19 commission would qualify?

20 A. Whatever reason, to intentionally overstate I
21 think would be be. Intentionally and knowingly
22 overstating, yes, I think.
23

24 (Whereupon, 04/07/10 Letter was
25 marked Exhibit No. 13 for

1 **sure that Mr. Cannon did not come back as a**
2 **trustee?**

3 MR. NEWSOME: Object to the form.

4 MR. SMITH: Object to the form.

5 A. I know there was an effort to see that he was not
6 a trustee. About coming back, I really don't
7 remember.

8 **Q. You didn't remember that Forlando brought a**
9 **lawsuit that lasted four years to try to return**
10 **Mr. Cannon?**

11 A. I don't remember that. I may have known it very
12 well at the time, but I don't remember it now.

13 **Q. Can you think of any reason why it would not have**
14 **been appropriate to ask Mr. Cannon to pay for the**
15 **cost of getting rid of him?**

16 A. Getting rid of --

17 **Q. Mr. Cannon.**

18 A. Of himself?

19 **Q. Yes. Why he should not bear the cost.**

20 A. Do I know any reason why he should not be
21 required?

22 **Q. Uh-huh.**

23 A. I don't know what the rules provide or the law,
24 but I really -- I really can't say one way or the
25 other. I presume there's support for all of this.

1 Q. Right. Well, I mean, is there support for if a
2 trustee steals and then a legal effort is taken to
3 get rid of him, is there support for seeking the
4 cost of that effort in the law, or do you know?

5 A. I don't know, but I would presume there is
6 something, some application, but I don't know.

7 Q. Good.

8
9 (Whereupon, 05/19/10 Letter was
10 marked Exhibit No. 18 for
11 identification.)

12 BY MS. POPE:

13 Q. Now, number 18 is a letter from Louis Levenson,
14 Esquire, dated May 19, 2010. And does that date
15 ring a bell with you?

16 A. No, ma'am.

17 Q. That's the day Case 4900 was brought. Does
18 that --

19 A. I think it was in -- I recall it was in May, just
20 from looking at the documents in either this
21 deposition or the other one.

22 Q. May of 2010, okay?

23 A. That's right.

24 Q. In that letter, does Mr. Levenson say that you are
25 the settling parties and you were a settling party

1 **then, weren't you?**

2 A. Yes. That is of the settlement, the earlier
3 settlement?

4 **Q. Right.**

5 A. Yes.

6 **Q. And does it say that the settling parties oppose**
7 **standing of Mr. Buchanan and Mrs. Pope to try to**
8 **seek recovery from David Cannon?**

9 A. Tell me where it is and I'll tell you that it's
10 there.

11 **Q. Let's see. Right there.**

12 A. Okay. It refers, in paragraph 1, to quote, Letter
13 brief on the issue of whether Adele Pope and
14 Robert Buchanan have standing to participate as
15 fiduciaries or in their quote, in their individual
16 capacities, end quote, in prosecuting the Cannon
17 remand on May 20, 2010. We -- and it continues --
18 quote, We believe that Mrs. Pope and Mr. Buchanan
19 do not have such standing.

20 **Q. Would there be any reason to try to prevent**
21 **recovery for the cost that Mr. Cannon had caused**
22 **to be incurred?**

23 A. Well, if the law allows it, I can think of no
24 reason unless he's judgment proof or has no money.

25 **Q. Well, he has a million-dollar home in Roatan,**

1 Complaint was marked Exhibit No.
2 20 for identification.)
3

4 BY MS. POPE:

5 **Q. Now, number 20 is the complaint in Richland County**
6 **2010-CP-40-4900, just portions of the complaint.**

7 A. I have it. I have the document in my hand.

8 **Q. I'm particularly interested in a couple of the**
9 **questions. First of all, do you today know**
10 **anything about any allegations made under your**
11 **name in that complaint?**

12 A. Do I today know?

13 **Q. Yes, today?**

14 A. Yes. What I know is the complaint alleges in some
15 form and maybe in numerous particulars, which I
16 don't know until I read it, that the trust was not
17 handled properly. Was not maximized, or the
18 various deficiencies in the performance of
19 Mrs. Pope and Mr. Buchanan are alleged in the
20 complaint.

21 **Q. Do you think there was a conflict for the same**
22 **attorney to be representing Tommie Rae Hynie and**
23 **the Attorney General of South Carolina?**

24 MR. SMITH: Object to the form.

25 MR. NEWSOME: Same objection.

1 MR. SMITH: And just note the continuing
2 objection that the question is beyond the scope
3 of 1337.

4 MR. NEWSOME: Same objection.

5 A. Is Tommie Rae Hynie a -- it says, Tommie Rae Brown
6 here. Is that the same person?

7 **Q. Well, I think that's the same person. Yes.**

8 A. Okay. So, do I think there's a conflict?

9 **Q. For a person, a lawyer to be speaking for Tommie**
10 **Rae, individually, and for the Attorney General of**
11 **South Carolina?**

12 A. That would be Mr. Wingate and Mr. Kendall.

13 **Q. Yes.**

14 A. I guess it depends on -- I don't know. It would
15 depend on the facts or allegation of the case, I
16 presume.

17 **Q. Do you recall when you learned that Mr. Kendall**
18 **and Mr. Wingate were speaking for the Attorney**
19 **General and for Ms. Hynie at the same time?**

20 A. No, I don't.

21 **Q. Do you understand today they continue to speak for**
22 **the Attorney General and Ms. Hynie?**

23 MR. NEWSOME: Object to the form.

24 MR. SMITH: Same.

25 A. I actually don't know what they are saying today,

1 worth tens of millions of dollars less.

2 **Q. Do you know anything about that allegation made on**
3 **May 19, 2010?**

4 A. Not the specific wording of the allegation, but
5 the failure of Pope and Buchanan to maximize the
6 value of the estate and trust, yes. That was the
7 point that was one of the points presented to me
8 in the dissatisfaction of the Attorney General's
9 office with Ms. Pope and Mr. Buchanan.

10 **Q. Let me be sure. You said all of the**
11 **dissatisfaction was expressed to you before you**
12 **reached the agreement on August 10, 2008?**

13 A. I don't know that all of it was. If I said that,
14 I didn't mean to say that. I know there was --
15 there was dissatisfaction expressed fairly early
16 on as I remember.

17 **Q. And you contracted on August 10, 2008 to replace**
18 **Mr. Buchanan and Ms. Pope?**

19 A. I believe so.

20 **Q. Do you know when the statute of limitations passed**
21 **for issues that you knew about on August 10, 2008?**

22 MR. NEWSOME: Object to the form of the
23 question.

24 A. No, I don't. I didn't. I don't know what I knew
25 at the time, but I don't know now.

1 A. That's correct.

2 **Q. Okay. Good.**

3 A. Now, there may have been motions filed with Judge
4 Early complaining or pointing out deficient -- I
5 just -- I'm not familiar with all those in my
6 recollection right now.

7 **Q. Right.**

8 A. But I do know there was concern about the -- about
9 the work being done by Mrs. Pope; that would be
10 you and Mr. Buchanan.

11 **Q. So, do you know anything about the November 2007**
12 **hundred million-dollar offer?**

13 A. No. I -- only vaguely, and -- but I think I have
14 read about it somewhere since -- since the time of
15 this complaint.

16 **Q. Would it surprise you that shortly thereafter,**
17 **your office told the Supreme Court there were**
18 **never any offers?**

19 A. Well, that would -- if -- I really don't -- I can
20 answer that. This is -- this is Mr. Wingate and
21 Mr. Kendall writing these things. I don't know
22 what the Attorney General said.

23

24 (Whereupon, Litigation Retention
25 Agreement was marked Exhibit No.

1 19 for identification.)

2

3 BY MS. POPE:

4 Q. Well, let's look at Exhibit 19 and see if
5 everybody didn't approve the complaint. I'm
6 sorry. Let's identify. Exhibit 19 is --

7 A. This is a -- this is a fee agreement.

8 Q. Litigation retention agreement marked Bauknight
9 confidential 129 to 144. But I'll represent to
10 you that it is not confidential.

11 A. Oh, I know it's not -- it's not. I wrote it.

12 Q. Never has been?

13 A. No, ma'am. We put on the website.

14 Q. No, you didn't.

15 A. Yes, we did.

16 Q. Okay. Well --

17 A. I mean, not -- not with the numbers filled in of
18 anyone, but the agreement itself was on our
19 website back sometime after we developed this in
20 consultation with other AGs around the country.

21 Q. So, any time an Attorney General -- the Attorney
22 General engages a lawyer in a special counsel
23 arrangement it should've gone on your website,
24 right?

25 A. No, ma'am.

1 **Q. No? What not?**

2 A. Because it's -- that's not public information.

3 But the form, that is, with the blanks --

4 **Q. Well, aren't all the contracts now on the website**
5 **except this one?**

6 A. I don't know that, but this is not an Attorney
7 General's -- this is the form that we developed in
8 the office when I was there. And we used it with
9 maybe minor tweaks here and there for everyone
10 that we hired during the time I was there. We did
11 not hire Mr. Wingate and Mr. Buchanan, at least
12 not while I was -- I mean, Mr. Kendall. Not while
13 I was there.

14 **Q. Let's look at these documents and see if by the**
15 **signatures of David Bell, Louis Levenson and Alan**
16 **Medlin, each of them states, "The undersigned**
17 **further acknowledges and confirms" -- sorry, okay,**
18 **-- "that the undersigned has reviewed the attached**
19 **Complaint and that there is good ground to support**
20 **it. The undersigned confirms the allegations**
21 **contained therein, and the undersigned approves**
22 **the filing of same on behalf of the undersigned's**
23 **clients by Sweeny, Wingate and Barrow." And do**
24 **Alan Medlin and David Bell and Louis Levenson sign**
25 **those documents?**

1 writing to confirm our understanding that you will
2 be retaining Mr. -- this is to Mr. Bauknight --
3 will be retaining Mr. Wingate and Mr. Kendall to
4 file this action on behalf of the beneficiaries of
5 the James Brown Estate and Trust, including the
6 charitable interests."

7 **Q. That's you, isn't it?**

8 A. Well, I don't know that.

9 **Q. Well, hadn't you just told --**

10 A. I'm not sure what --

11 **Q. -- Judge Early that you were going to be the one**
12 **to protect the charity?**

13 A. That's right. And that's what I've said at this
14 deposition and I think at the other one, as well.
15 That that's the job of the Attorney General. But
16 those are -- including the charitable interests,
17 the Attorney General gets no money out of this
18 case.

19 **Q. Well, now look, don't you get ten percent of**
20 **Mr. Wingate's legal fee? Sure you do.**

21 A. No, ma'am.

22 **Q. Well, look at it.**

23 A. I'll look at it.

24 **Q. Let's look together.**

25 A. Well, I can tell you what's in there. That is --

1 A. That is what it says.

2 Q. And doesn't it say in there that the Attorney
3 General is entitled to ten percent of
4 Mr. Wingate's fee if the charitable portion gets
5 any money?

6 A. I don't think that that is what was contemplated
7 -- let me find the fee schedule. There is a
8 provision that provides that when the Attorney
9 General hires outside counsel, that the Attorney
10 General's office would receive ten percent of the
11 attorney's fees.

12 Q. Right.

13 A. The Attorney General did not hire outside counsel.

14 Q. Well, I hear you, but that's in this document
15 right here.

16 A. It's not in this documents, Ms. Pope.

17 Q. Well, let's --

18 A. The Attorney General did not sign this contract.
19 I'm having difficulty making that clear. The
20 Attorney General did not sign this --

21 Q. You are.

22 A. Unless it was signed after I left office.

23 Q. Well, you were there on May 19th -- May 18, 2010.

24 A. Yes, ma'am. And I did not sign this office --

25 Q. Right.

1 Q. Well, let's look. Let's look at appendix page
2 eight -- no, sorry. Appendix page nine. Let's
3 look at the proposed adjustment in --

4 A. It says on page nine of Exhibit 21, the total of
5 these items \$4,697,736.

6 Q. And what is it adjusting it from?

7 A. It says shown on return. I presume that is what
8 it's adjusting it from, is 48 -- excuse me,
9 84 million.

10 Q. Right. And you received the estate tax return
11 filed by Mr. Buchanan and Mrs. Pope in October of
12 2008 that showed the 84 million?

13 A. I don't recall that. One way or the other.

14 Q. You don't have any reason to think you didn't?

15 A. Or -- that's right. No reason to, but I just
16 don't know.

17 Q. And between October of 2008 and when this lawsuit
18 -- I mean, and when this filing was made with the
19 Supreme Court, you made no objection to that
20 estate tax return other than in the complaint
21 which you said you didn't file?

22 MR. NEWSOME: Object to the form of the
23 question.

24 A. I don't know that I made any objection. I recall
25 no objection or comment one way or the other, but

1 there may have been some. I may have made some or
2 the lawyers in the office may have had concerns.

3 **Q. Well, let's see if you -- someone using your name**
4 **said, "Artificially inflating the reported value**
5 **of the estate without any substantiation and**
6 **without any consistency for the purpose of**
7 **justifying their claim for approximately**
8 **\$5 million in fees." That was made in your name**
9 **in May of 2010.**

10 **A.** That is a statement from the complaint which I had
11 nothing to do with other than to implore the
12 council that was being hired -- that were being
13 hired by Mr. Bauknight to not charge any more than
14 I, or we, the AG's office, would have allowed for
15 outside counsel.

16 **Q. You were Attorney General for eight years?**

17 **A.** That's right.

18 **Q. Ever, in that experience, did you know of a lawyer**
19 **who filed a lawsuit unauthorized in your name?**

20 **A.** No, ma'am.

21 **Q. Have you done anything to correct a lawsuit filed**
22 **in and under your name using your high office**
23 **against two South Carolina citizens six years ago?**

24 MR. NEWSOME: Object to the form of the
25 question.

1 MR. SMITH: Same.

2 A. Well, that is -- as I think I mentioned earlier,
3 when I learned of this, I contacted someone or
4 several people in the office to ask about it. I
5 don't remember what the explanation that was given
6 was, but other than raising the issue and
7 receiving that explanation, I did nothing further.

8 **Q. Well, Mr. McMaster, that's kinda hard on citizens,**
9 **isn't it?**

10 MR. SMITH: Object to the form.

11 MR. NEWSOME: Same objection.

12 A. The issue is one in -- with the Attorney General's
13 office. When I learned of this, as I recall, when
14 I learned of it, I had been the office for some
15 time. That is that my name was -- was listed like
16 that. And I don't know what the legal basis for
17 that is, I really don't know. And it may have
18 been explained to me when I made that call or
19 calls or inquiry.

20 **Q. So someone may have explained to you why it was**
21 **okay to use your name without your knowledge as a**
22 **plaintiff in a lawsuit and you don't remember?**

23 MR. SMITH: Object to the form.

24 MR. NEWSOME: Same objection.

25 A. I remember discussing it with at least one person,

1 may have been several, and commenting on the fact
2 that I didn't understand it, and I know I -- it
3 was explained to me, but I don't remember what the
4 explanation was.

5 **Q. Who explained to you that it was okay to use your**
6 **name in a lawsuit?**

7 MR. SMITH: Object to extent that it would
8 call for revealing privileged information and
9 would instruct the witness to -- not to reveal
10 privileged information, but he can answer to
11 the extent he should answer to the extent that
12 he can without revealing privileged
13 information.

14 **Q. Do you share a privilege with anybody who is**
15 **trying to explain why your name was used in a**
16 **lawsuit you didn't acknowledge?**

17 A. That would depend on the law. Which I -- I don't
18 know which procedural law or which law would apply
19 to something like this. That's what I thought it
20 was odd, but it would've been -- I imagine that it
21 would've been Mr. Jones, or I don't think it was
22 Mr. Wilson. It may have been Mr. Cook. It may
23 have been probably Mr. Jones or Mr. Cook or maybe
24 Mr. McIntosh. I really don't remember who -- whom
25 I spoke to or how many times.

1 Q. Was it Attorney General Wilson?

2 A. That's what I just said. I don't think it was,
3 but it may have been.

4 Q. Oh, I'm sorry. Okay. Now, if was all a big
5 accident, let me ask you if Exhibit 22 --

6 A. I'm not saying it was an accident. I mean, it
7 just was not known to me. I don't know -- I don't
8 have the explanation.

9 Q. Well, but for the Attorney General to be a
10 plaintiff is serious business, isn't it,
11 Mr. McMaster?

12 A. Well, of course, it is.

13 Q. You carry a high office and a lot of prestige,
14 don't you?

15 A. The office carries a lot of prestige. It's a very
16 good office --

17 Q. Yeah, that's you who you were carrying it.

18 A. That's right.

19 Q. And you have the ability to ruin careers with that
20 office, don't you, Mr. McMaster?

21 MR. NEWSOME: Object to the form of the
22 question.

23 MR. NEWSOME: Same objection.

24 A. Yes. Anyone any -- anyone -- any -- any lawyer
25 has the power to do that. And those that can

1 bring criminal cases, of course, have an even
2 heightened power and responsibility.

3
4 (Whereupon, Pope's Offer of
5 Judgment was marked Exhibit No.
6 22 for identification.)
7

8 BY MS. POPE:

9 Q. Now, let's look at Exhibit 22 and let's see if
10 that wasn't an attempt to fix the problem that you
11 discuss. I'll just identify it and you can see if
12 you disagree with me. This an offer of judgment
13 by Adele Pope to the South Carolina Attorney
14 General and to Russell L. Bauknight as agent for
15 the South Carolina Attorney General dated June 18,
16 2012, seeking to allow the Attorney General to get
17 out of Richland 4900.

18 A. You want me to read it.

19 Q. Yes, if you will, please. Or I'll looking at what
20 I'm asking to have a settlement with the Attorney
21 General of South Carolina on page three, it says,
22 "Attorney General Alan Wilson and Russell L.
23 Bauknight in his capacity as agent for the
24 Attorney General and for former Attorney General
25 Henry McMaster, with Adele J. Pope, shall submit a

1 A. All right. And your question, please, ma'am?

2 **Q. And my question is, would that have solved the**
 3 **problem of this suit being brought in the high**
 4 **name of the Attorney General without his**
 5 **knowledge?**

6 MR. SMITH: Object to the form.

7 MR. NEWSOME: Same objection.

8 A. You're talking -- speaking about without my
 9 knowledge?

10 **Q. Right, right.**

11 A. Well, that would've -- yes, that would've taken
 12 Attorney General Wilson and me, and it would've
 13 taken us out of the case.

14 **Q. Right. And Mr. Bauknight is your purported agent,**
 15 **right?**

16 MR. NEWSOME: Object to the form.

17 A. That's what this document says.

18 **Q. Right. And you never authorized Mr. Bauknight to**
 19 **serve as an agent for the Attorney General in this**
 20 **lawsuit, did you?**

21 A. I did not, correct.

22 MR. NEWSOME: Object to the form.

23 **Q. So that would've gotten all of you out of this**
 24 **lawsuit way back in 2012, right?**

25 MR. SMITH: Object to the form.

1 MR. NEWSOME: Same objection.

2 A. Well, it's an offer of judgment. I bet if it were
3 adopted by the court in the fashion it is written,
4 I would say yes, of course, it would have, but I
5 can't answer that question that way.

6 Q. Now, we'll just go quickly through the rest of
7 these documents.

8
9 (Whereupon, First Two Pages of
10 Transcript was marked Exhibit
11 No. 23 for identification.)
12

13 BY MS. POPE:

14 Q. Twenty-three is just the first two pages of the
15 deposition that we've agreed to put in as part of
16 your deposition here, and that's just to remind us
17 of that. You recognize 23 as the first two pages
18 of your deposition taken --

19 A. I do.

20 Q. -- on August 16 in 2012 -- 2016, sorry.

21 A. Yes, ma'am, I do.

22
23 (Whereupon, 05/20/08 Memorandum
24 was marked Exhibit No. 24 for
25 identification.)

1
2 BY MS. POPE:

3 Q. And then this document is one of those exhibits.
4 This Exhibit 24, which is te May 20, 2008,
5 "Memorandum to all devisees, Will of James Brown,
6 all qualified beneficiaries of The James Brown
7 2000 Irrevocable Trust, The Honorable Henry D.
8 McMaster, Attorney General of South Carolina,
9 counsel for the beneficiaries and other interested
10 parties in the Estate and Trust" dated May 20,
11 2008, first semiannual report of trustees covering
12 the period from November 20, 2007 to May 20, 2008.
13 Mr. McMaster, I'll represent to you that that was
14 the attachment to Ms. Jowers' May 20th e-mail. I
15 had not attached it before, because it was made an
16 an exhibit to the other deposition, but I thought
17 it important to put it in. Do you understand --

18 A. This was the email we referred to at the beginning
19 of this deposition --

20 Q. Right.

21 A. -- of this --

22 Q. And also the document that you discussed in detail
23 in your earlier deposition.

24 A. Well, the document that I responded to in as much
25 detail as I could with --

1 Q. You did a great job.

2 A. Thank you very much -- with several -- a number of
3 questions. So, what is your question here, ma'am?

4 Q. All I'm saying is, do you agree that that's what
5 it is so we can have it here for easy reference
6 without having to go to the other deposition?

7 A. Well, it appears to be.

8 Q. Thank you.

9 A. I'm not familiar with the document, but it appears
10 to be so labeled.

11 Q. Thank you.

12

13 (Whereupon, Forbes List was
14 marked Exhibit No. 25 for
15 identification.)

16

17 BY MS. POPE:

18 Q. And 25 is the October 25, 2008 Forbes List of 13
19 Top-Earning Dead Celebrities. Do you know that
20 Forbes does that around Halloween each year?

21 A. No, I don't know that.

22 Q. Okay. Well, that was the year after James Brown
23 died and --

24 A. I heard -- I heard something about this somewhere.

25 Q. Yeah. And I think he's maybe number 11 at about

1 **5 million a year?**

2 A. Uh-huh.

3 **Q. Any reason to --**

4 A. I'm sorry. Is there a question?

5 **Q. Yes. Is there any reason to think Forbes wasn't**
6 **close to right on that?**

7 A. I have no idea how they do these things.

8
9 (Whereupon, 04/23/14 Order was
10 marked Exhibit No. 26 for
11 identification.)

12
13 BY MS. POPE:

14 **Q. I'm going to just hand you Exhibit 26 is an Order**
15 **of The Honorable R. Knox McMahon dated April 23,**
16 **2014 granting restitution in the David Cannon case**
17 **with a cover letter that is copied to Assistant**
18 **Attorney General Creighton Waters. I know this**
19 **was after your time, but it discusses some issues**
20 **related to David Cannon.**

21 A. What's the question?

22 **Q. Does that refresh your recollection that the David**
23 **Cannon criminal proceeding was handled by your**
24 **office and not by the local solicitor?**

25 A. That's what it reflects. I really don't remember,

1 **throughout?**

2 A. Throughout what?

3 **Q. Throughout -- through -- from his death until**
4 **today, nearly ten years later?**

5 A. Well, you have this -- I would -- yeah, there is
6 media interest in James Brown, period. I mean,
7 he's a celebrated entertainer.

8 **Q. Right. And if he had created what should've been**
9 **the largest ever private foundation for the**
10 **education of needy students, that should be even**
11 **more news, shouldn't it? In our state?**

12 A. In our state, that's -- that is a great thing.

13 **Q. It is. It should be.**

14 A. Of course, now, I've got to say it was challenged
15 by all sorts of people, as you know, asserting all
16 sorts of claims.

17
18 (Whereupon, 10/24/11 Email was
19 marked Exhibit No. 28 for
20 identification.)

21

22 BY MS. POPE:

23 **Q. Twenty-eight is an e-mail from Alan Medlin to Fred**
24 **Kingsmore preparing for the arguments in the**
25 **Supreme Court dated October 24, 2011, just before**

1 **and his -- his lawsuit and relationships after you**
 2 **left office?**

3 A. I don't believe so. I can think of nothing at
 4 this time.

5 **Q. And Exhibit 29 is an e-mail chain among Sonny**
 6 **Jones, Russell Bauknight, Bill Custer, related to**
 7 **events of November 2011. You don't know anything**
 8 **about that?**

9 A. About is this email?

10 **Q. Right.**

11 A. No, ma'am.

12 **Q. Before you left office, in fact, just before,**
 13 **however, you did sign an amendment to The Legacy**
 14 **Trust. Do you recall that?**

15 A. I don't.

16 **Q. Do you recall that immediately after you signed it**
 17 **and still before you left office, Terry Brown**
 18 **signed an assignment to his son, Forlando, of his**
 19 **interest in James Brown's Estate?**

20 A. I don't recall that --

21 **Q. You don't --**

22 A. Not sitting are today. I can't recall that.

23 **Q. You don't deny that you signed it, though?**

24 A. No, ma'am.

25 **Q. If you did, you did.**

1 question of where those assets would end up was a
2 very open question at the time. It was never --
3 it was never certain that all of those assets or
4 even most of them would go to the charitable
5 trust. We wanted to see if we could -- we wanted
6 to get the maximum amount we could into the
7 charitable trust.

8 **Q. Well, Mr. McMaster, --**

9 A. And we -- and to finish the answer --

10 **Q. Oh, sorry.**

11 A. I believe that we did use all the power that we
12 had. In fact, I think the Supreme Court has
13 commented that we overdid it.

14 **Q. My question is for today, if there was something**
15 **you could do today?**

16 A. If I could snap my fingers and make everything
17 perfect I certainly would.

18 **Q. I'm going to ask you just a couple more questions.**
19 **Are you aware that James B's guardian ad litem has**
20 **asked and received an award of nearly \$700,000 of**
21 **legal and GAL fees?**

22 A. I'm not aware.

23 **Q. Are you aware that there was a sale of three of**
24 **James Brown's approximately 900 copyrights and a**
25 **million dollars was distributed to Tommie Rae**

1 **before she was finally determined to be James**
2 **Brown's wife?**

3 MR. SMITH: Object to the form.

4 MR. NEWSOME: Same objection.

5 A. I don't recall that, but I can't tell you what I
6 knew at the time, but for right now, I don't
7 remember such a thing happening.

8 Q. **Are you aware that another million was distributed**
9 **to some of James Brown's children?**

10 A. I don't recall one way or the other.

11 Q. **Do you think that \$3.5 million is a high amount**
12 **for legal fee -- legal and Special Administrator**
13 **fees for three years for a 5 million-dollar**
14 **estate?**

15 MR. SMITH: Object to the form.

16 MR. NEWSOME: Same objection.

17 A. Three point five in fees for a 5 million-dollar
18 estate? That sounds like a lot to me. I know
19 there are -- our Supreme Court and perhaps the
20 court rules have a list of factors to consider and
21 -- in determining whether a fee is not enough, too
22 much, or just right, which is always very
23 subjective. I would go to those factors.

24 Q. **Do you think if -- well, I'll ask you this. The**
25 **complaint alleges that Mr. Buchanan and Mrs. Pope**

1 failed to account to the Attorney General as
2 required by law. In 2010 or 2009, when they left
3 office, there was no requirement for accounting to
4 the Attorney General, was there?

5 A. I don't recall that one way or the other.

6 Q. But even if there were, even though there was
7 none, we did provide accountings?

8 A. I don't know that.

9 Q. You don't know?

10 A. I don't that, no.

11 Q. Well, if a fiduciary went from 2014 to 2016
12 without providing an accounting, that would be
13 troublesome wouldn't it?

14 MR. NEWSOME: Object to the form.

15 MR. SMITH: Same.

16 A. It all depends on the facts, I suppose, Ms. Pope.
17 I don't know.

18 Q. Good.

19 MS. POPE: I appreciate your time,
20 Mr. McMaster.

21 THE WITNESS: Happy to provide it.

22 MR. NEWSOME: No questions.

23 MR. SMITH: No questions. We're done.

24 Further deponent sayeth not.

25 (Whereupon, the taking of this deposition was

State of South Carolina) In the Court of Common
) Pleas
 County of Aiken) Case No: 2013-CP-02-1337

Adele J. Pope,)
)
 Plaintiff(s),) Deposition of
)
 vs.) Alan M. Wilson
)
) March 21, 2017
)
 The Estate of James Brown and)
 The James Brown 2000)
 Irrevocable Trust,)
)
)
 Defendant(s).)

Deposition of ALAN M. WILSON, taken before Frances C. Gray, Verbatim Court Reporter and Notary Public in and for the State of South Carolina, scheduled for 10:00 a.m. and commencing at the hour of 10:15 a.m., Tuesday, March 21, 2017, at the Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Columbia, South Carolina.

Reported by:
Frances C. Gray

1 CONTENTS

2 (Deposition of Alan M. Wilson)

3		Page
4	Exhibit Index	3
5	Direct Examination by Ms. Pope	4
6	Cross-Examination by Mr. Smith	82
7	Redirect Examination by Ms. Pope	83
8	Recross-Examination by Mr. Smith	86
9	Further Direct Examination by Ms. Pope	86
10	Further Cross-Examination by Mr. Smith	87
11	Certificate of Reporter	89
12	Verification Sheet	90
13	Errata Sheet(s)	91

14 - - - - -

15 INDEX OF EXHIBITS

16	Exhibit No. 1	Written Statement	9
17	Exhibit No. 2	Motion to Dismiss	55
18	Exhibit No. 3	Motion to Supplement the Record	...81
19	Exhibit No. 4	AJP Offer of Judgment	65
20	Exhibit No. 5	Motion to Strike	70
21	Exhibit No. 6	SWB Litigation Agreement	66
22	Exhibit No. 8	02/16/2011 Petition for Writ	56
23	Exhibit No. 9	Wilson's Verification of Answers	..63

24 - - - - -

25

1 This deposition is being taken pursuant to
2 the South Carolina Rules of Civil Procedure.

3 - - - - -

4 The reading and signing of this deposition
5 is reserved by the deponent and counsel for the
6 respective parties.

7 - - - - -

8 Whereupon,

9 ALAN M. WILSON, being duly sworn and
10 cautioned to speak the truth, the whole truth,
11 and nothing but the truth, testified and
12 deposed as follows:

13 Court Reporter: Please state your full
14 name for the record.

15 Witness: Alan McCrory Wilson.

16 - - - - -

17 DIRECT EXAMINATION

18 BY MS. POPE:

19 **Q. Attorney General Wilson, I am Adele Pope, and I am**
20 **the pro se plaintiff in Aiken County case number:**
21 **2013-CP-02-1337, the case in which we are here**
22 **today for a deposition. Do you mind if I refer to**
23 **that case as Aiken 1337?**

24 A. Yes, ma'am.

25 **Q. I'll also be referring to another case, which is**

1 the Richland County case number: 2010-CP-40-4900.

2 Do you mind if I refer to that as the Wingate
3 suit?

4 A. Sure. Yes, ma'am.

5 Q. Now, my duty as the attorney in this case is to
6 advise you of the deposition process, if you would
7 like me to. Would you -- do you need for me to
8 advise you of the deposition process?

9 A. That's up to you. I'm happy for you to or not,
10 whatever you want to do.

11 Q. Well, I'm happy not to, to save us time, if that's
12 okay with you.

13 A. Yes, ma'am. Yes, ma'am.

14 Q. And you do want to read and sign your deposition?

15 A. Yes, ma'am.

16 MR. SMITH: Excuse me. I don't want to
17 interrupt, but may I take up a couple of
18 housekeeping things?

19 MS. POPE: Absolutely.

20 MR. SMITH: Okay. First of all, reading,
21 doing an errata sheet, signing you deposition,
22 you have the right to do that as a deponent.
23 Would you like to exercise that right here?

24 THE WITNESS: Sure.

25 MR. SMITH: Secondly, to make this thing

1 go smoothly and to avoid interrupting the flow,
2 when I have an objection to the form of the
3 question, I'm just going to say, "objection
4 form." If I have an objection that the
5 question goes beyond the scope of 1337, I will
6 say, "objection scope."

7 MS. POPE: That's fine. And I agree that
8 at the end, you make take -- after we release
9 the Attorney General, we may take as long as
10 anybody would like to put more detailed
11 objections on the record; is that all right?

12 MR. SMITH: Uh-huh.

13 RESUMING EXAMINATION

14 BY MS. POPE:

15 **Q. Now, Attorney General Wilson, I have prepared a**
16 **statement which is simply my statement, but of the**
17 **purpose of this deposition and -- and the**
18 **statement is in partial response to a motion on**
19 **your behalf not to be deposed today. Now, I**
20 **realize that it was not in this case, that it was**
21 **at the Wingate suit, but nevertheless, to set the**
22 **record clear why I believe I need your deposition,**
23 **I have a statement to make and I've handed you**
24 **that statement in writing. Have you read it?**

25 **A. I read just a few moments before I walked in here.**

1 made that statement. To be respectful of your
2 high office and busy schedule, I have put my
3 questions in writing. I consent to your attorneys
4 making all objections at the end of the deposition
5 or in writing on the copy of these questions I am
6 giving them. I hope both your attorneys and those
7 for the Estate of James Brown and the James Brown
8 2000 Irrevocable Trust will not interrupt this
9 deposition so that it may be concluded
10 efficiently. When I ask you a question, would you
11 kindly answer it yes or no, if possible?

12 MR. BLACK: For the record, Adele, the
13 Estate and Trust objects to your statement.

14 **Q. When I ask a question, would you kindly answer it**
15 **yes or no, if possible? If you do not agree with**
16 **the statement, kindly explain why you do not.**
17 **Thank you.**

18 MR. BLACK: Ms. Pope, do you have a copy
19 of Exhibit 1 for the Trust and Estate? I don't
20 have a copy.

21 MS. POPE: As soon as I make it an
22 exhibit, I will hand you a copy.

23 MR. BLACK: Thank you.

24 MS. POPE: Now, I want to make that
25 statement exhibit number one to this

1 and truthful with you since you've asked for this
2 time. So, to your question number one, is that I
3 really don't have any knowledge that I had any
4 privileged -- I've never met Ms. Hynie or her
5 counsel and I'm not quite sure how to answer that
6 question beyond I don't know.

7 **Q. Good. That's helpful and perhaps I could ask a**
8 **few questions where we could make all of the**
9 **questions --**

10 **A. Yes, ma'am.**

11 **Q. -- easy for both of us; how about that?**

12 **A. Yes, ma'am.**

13 **Q. How many tort suits is the State of South Carolina**
14 **now conducting against South Carolina citizens?**

15 **A. I can't answer that off the top of my head.**

16 **Q. Are you aware of any tort --**

17 **A. I -- I'm sorry.**

18 **Q. Are you aware of any tort suit being conducted by**
19 **the State of South Carolina against a South**
20 **Carolina citizen other than the Wingate suit?**

21 **A. I -- not to my knowledge.**

22 **Q. Are you aware of any lawsuit in which the Attorney**
23 **General is a named plaintiff, in which the**
24 **Attorney General is not a party to the lawsuit --**
25 **not counsel in the lawsuit?**

1 A. Could you say the question again.

2 Q. I'm sorry, that was my fault. Are you aware of
3 any lawsuit being waged by the Attorney General of
4 South Carolina in which the Attorney General is
5 not a lawyer of record in the case?

6 A. There was a case several years ago in which the
7 former treasurer brought a suit against Bank of
8 New York Mellon and the Attorney General was not
9 originally a member, but that the treasurer and
10 the attorney at that time had to sign a litigation
11 retention agreement, but we weren't originally a
12 party of that suit, but that is no longer ongoing.

13 Q. Are you aware that you are a named party in the
14 Wingate suit?

15 A. Yes, ma'am.

16 Q. Have you condoned the continuation of the Wingate
17 suit since January 2011?

18 MR. SMITH: Object the form of the
19 question.

20 A. I remember in that first year that I was in
21 office -- as I stated earlier, I inherited several
22 thousand -- more than several thousand cases, and
23 as I was being briefed by senior staff and
24 attorneys handling cases, this case was brought to
25 my attention. And while I don't recall

1 specifically what was mentioned in that meeting --
2 those meetings at that time, I do know that I
3 authorized the continuation of that suit in order
4 to maintain the status quo of the office from the
5 previous administration to mine.

6 **Q. Did you -- was it explained to you when you**
7 **authorized the continuation of the lawsuit that**
8 **the Attorney General was a named plaintiff in the**
9 **lawsuit?**

10 A. The issue of whether or not we were -- I would
11 assume we were a named plaintiff because it was a
12 lawsuit in which this office was involved. So it
13 was never been raised -- the issue of whether or
14 not we were or were not named has never been an
15 issue until this year. I've always assumed and
16 thought that we were a named party and that we
17 were in this lawsuit.

18 **Q. So, well, let me ask you this: As a**
19 **constitutional principal, is the Attorney General**
20 **required to control the lawsuits in which he's a**
21 **party on behalf of the state?**

22 A. When the Attorney General and his staff and
23 designees, when we are a party to a lawsuit are
24 involved to the extent we're required by law.
25 This particular lawsuit is a little unique because

1 I do not believe that when it was brought that it
2 required our approval. Because it was brought by
3 the trustee, my understanding, on behalf of the
4 beneficiaries and our permission was not needed to
5 bring the lawsuit. That's my understanding, that
6 we elected to be part of this lawsuit at -- prior
7 to my taking office.

8 **Q. From whom did you understand that?**

9 A. From the numerous meetings that I've had.

10 **Q. So have you heard that Henry McMaster has said he**
11 **did not authorize the lawsuit to be brought in the**
12 **name of the Attorney General?**

13 A. I have read Mr. McMaster's first deposition. I
14 have not read his the second deposition. And in
15 the first deposition -- I brought it with me and I
16 haven't read the whole thing, but I did read -- it
17 would be page 32 -- oh, and by the way, it was a
18 deposition taken on August 18, 2016. And in that,
19 Mr. McMaster was asked the question, as an
20 example, this particular action against Ms. Pope
21 now, would Mr. Jones have consulted you before
22 filing this lawsuit? Mr. McMaster answers, yes.
23 Next question, and he would've had your approval?
24 Mr. McMaster answered, yes. And then the next
25 question, and he wouldn't have been able to file

1 it without your approval; is that correct? Well,
2 he would've have or filed it without your
3 approval, I'll put it to you that way.

4 Mr. McMaster answered, well, it Mr. Bauknight who
5 filed the case. Okay. And then Mr. McMaster
6 answered, and he did not need my approval. He may
7 have wanted it, but he doesn't work for me.

8 That was from Mr. McMaster's deposition in
9 August. So I did not have any direct knowledge
10 of Mr. McMaster's involvement prior to taking
11 office and I only just recently read this
12 deposition of his impressions last August. My
13 understanding, when I took office in 2011, was
14 that senior staff and members of my office
15 staff downstairs brought the case before me. I
16 was under the impression it was ongoing and
17 that I needed to continue it in order to
18 maintain the status quo.

19 **Q. In preparation for this deposition, did you not**
20 **review the sworn testimony of Henry McMaster in**
21 **this case made after the deposition which you just**
22 **read?**

23 A. I have not.

24 **Q. Do you dispute that he said in that, that he did**
25 **not authorize the lawsuit to be filed in the name**

1 **of the Attorney General?**

2 A. I can't dispute what he said because I haven't
3 read it.

4 **Q. Do you dispute that he said he did not authorize**
5 **Russell Bauknight to bring the Wingate lawsuit in**
6 **the name of -- on behalf of the Attorney General**
7 **of South Carolina?**

8 A. I would have no way to dispute it because I
9 haven't read it.

10 **Q. Okay. Have you and Tommie Rae Hynie had**
11 **75 percent control of the James Brown Legacy Trust**
12 **since you took office?**

13 MR. BLACK: Object to form.

14 MR. SMITH: Object to the form and scope.

15 A. As I stated earlier, I can't answer specifics
16 about the litigation because I'm personally not
17 aware.

18 **Q. You're unaware that you have had personal control**
19 **of the James Brown Legacy Trust during your**
20 **service as Attorney General?**

21 A. You say my personal control and I will go back to
22 my preamble statement that I supervise probably
23 close to 90 attorneys and over 200 personnel that
24 handle between 7 and 8,000 cases at any given
25 point in a year, and that number fluctuates

1 constantly. I have to rely on what I am told by
2 those attorneys in making decisions. So I don't
3 know the specifics of every case, but when they
4 are brought to my attention, I make decisions
5 based on what I am told. I don't have that
6 detailed a knowledge about what percentage of what
7 -- I just can't answer because I don't have any
8 personal knowledge.

9 **Q. Have you discussed the Wingate suit with Ken**
10 **Wingate?**

11 A. No, ma'am.

12 **Q. Never?**

13 A. I've talked to Mr. Wingate a couple of years ago
14 about this, but I don't recall specifically what
15 we discussed. I haven't talked to him about this
16 case in several years.

17 **Q. Have you ever reviewed a pleading filed by**
18 **Mr. Wingate in the name of the state on your**
19 **behalf?**

20 A. I don't recall reading any pleadings from several
21 years ago. I may have; I may not have. I just
22 don't recall.

23 **Q. Who have you relied on for the decisions that**
24 **you've made or that have been made in your name in**
25 **the Wingate lawsuit?**

1 Q. Should I say the question again?

2 A. Please.

3 Q. At what period between the time you took office in
4 January 2011 and today, March 21, 2017, do you
5 claim you have shared a privilege with Tommie Rae
6 Hynie and her counsel under the Tobaccoville
7 doctrine or otherwise?

8 A. I believe --

9 MR. SMITH: Excuse me. Just for the
10 record, same objections as previously stated,
11 but answer the question to the extent you can.

12 A. I don't know the answer to that question. I'm not
13 aware that I've ever exercised that privilege.

14 Q. Do you claim any privilege with -- do you claim
15 any privilege with Ken Wingate who is currently
16 the attorney for Tommie Rae Hynie?

17 A. Not that I'm aware of. I don't know the answer.

18 Q. Have you been instructed to limit your answer?

19 A. No.

20 Q. Do you believe that stipulating that Tommie Rae is
21 James Brown's spouse when there is strong evidence
22 she is not, has helped protect James "I Feel Good"
23 Charity or its 900 copyrights?

24 MR. BLACK: Object to the form.

25 MR. SMITH: I'm sorry. Could you repeat

1 the question please.

2 MS. POPE: You have a copy of the --

3 THE WITNESS: It's question number two.

4 RESUMING EXAMINATION

5 BY MS. POPE:

6 **Q. Do you believe that stipulating that Tommie Rae is**
7 **James Brown's spouse when there is strong evidence**
8 **she is not has helped protect James Brown's "I**
9 **Feel Good" Charity or its 900 copyrights?**

10 A. I'm not in a position to answer that question.
11 That's litigating it and I wouldn't have direct
12 knowledge of that.

13 **Q. You don't know -- so the answer is, you don't**
14 **know?**

15 A. Again, I'm not involved in the direct litigation
16 of this case so I don't want to -- I don't want to
17 litigate facts or positions in this deposition.

18 **Q. I want to know, do you have any opinion about**
19 **whether stipulating that Tommie Rae is James**
20 **Brown's spouse when there is strong evidence she**
21 **is not, would help protect James Brown's "I Feel**
22 **Good" Charity or its 900 copyrights?**

23 MR. SMITH: Object --

24 A. And I don't -- I don't --

25 MR. SMITH: Excuse me. Excuse me. If I

1 may assert a object -- leading. Object to the
2 scope.

3 A. And I -- I understand that the court has already
4 ruled that she is his spouse so I don't know how
5 to answer that question with any specific
6 knowledge myself. I don't know how to answer
7 beyond what the court has already stated.

8 **Q. What court was that?**

9 A. I believe -- didn't Judge Early find that she was
10 his spouse.

11 **Q. Are you aware that the Estate of James Brown**
12 **appealed that finding?**

13 A. Yeah, I am aware.

14 **Q. So do you have any knowledge about whether**
15 **stipulating that Tommie Rae is James Brown's**
16 **spouse when there is strong evidence she is not**
17 **would help her protect James Brown's "I Feel Good"**
18 **Charity --**

19 A. No.

20 **Q. Or its 900 copyrights?**

21 A. No.

22 **Q. In eight years, two attorneys general have been**
23 **involved in the James Brown litigation. During**
24 **that period, has any member of the AG's staff**
25 **developed any expertise in, or understanding of,**

1 **from at least January 2011 until May 8, 2013?**

2 MR. SMITH: Object to form and scope.

3 MR. BLACK: Same objection.

4 A. What question are you reading from; I'm sorry.

5 Q. **Well, I was trying to respond to your response to**
6 **ten to get to 11. But, did you exercise control**
7 **through Russell Bauknight -- question 11 -- and a**
8 **dozen Nexsen Pruet lawyers who have been paid**
9 **millions of dollars from funds James Brown gave**
10 **his "I Feel Good" Charity?**

11 A. I am unaware --

12 MR. BLACK: Object to form and scope.

13 MR. SMITH: Same.

14 A. I am unaware of this office exercising control,
15 personally unaware.

16 Q. **At any time since January 21, 2011?**

17 A. I am unaware.

18 Q. **Do you believe that you had a duty to exercise**
19 **control after you took control of the James Brown**
20 **Legacy Trust?**

21 MR. SMITH: Same form and scope objection.

22 MR. BLACK: Same objection.

23 A. I'm unaware. I don't know.

24 Q. **Have you, personally, with Tommie Rae, had**
25 **75 percent control of the James Brown Legacy Trust**

1 office litigates thousands of cases which you
2 could say "I" am making an allegation, but I am
3 relying on the advice and counsel of attorneys in
4 this office that have involved in this case and
5 more deeply involved in this case than I have ever
6 been or was prior. So I would have to say that
7 this office has the legal position that it was a
8 private suit, but that we were on it for
9 procedural reasons and strategic reasons. That --
10 I can't -- I can't go beyond that because I don't
11 know the answer.

12 **Q. Attorney General Wilson, I'm not talking about a**
13 **suit. I'm talking about a trust, the James Brown**
14 **Legacy Trust created by Henry McMaster. Not a**
15 **lawsuit, a trust created by Henry McMaster.**

16 MR. BLACK: Object to form.

17 MR. SMITH: Object to form and scope.

18 A. Okay.

19 **Q. Why have you told the courts a trust created by**
20 **Henry McMaster is private?**

21 MR. SMITH: Object to form and scope.

22 A. I'm not aware of where I have ever said that.

23 **Q. Do you know whether Mr. McMaster expected to**
24 **receive any private gain from the James Brown**
25 **Legacy Trust?**

1 A. No. I do not know.

2 Q. Do you expect to receive any private gain from the
3 James Brown Legacy Trust?

4 MR. SMITH: Object to scope.

5 A. No.

6 Q. Do you expect to receive any gain for you office
7 from the Wingate law suit?

8 MR. BLACK: Object to scope.

9 A. No.

10 Q. Does the contract that you entered into with the
11 Wingate Firm provide that your office will be paid
12 ten percent of Mr. Wingate's legal fee?

13 MR. BLACK: Object to form and scope.

14 A. I'm not aware of that.

15 Q. Should you be aware of that?

16 MR. BLACK: Object to form and scope.

17 A. I can't be aware of every single thing that
18 happens in this office; it's impossible.

19 Q. Do you and Tommie Rae have the obligation, based
20 on your 75 percent voting control, to assure that
21 the Legacy Trust, which AG McMaster created, was
22 terminated properly because it had charitable
23 beneficiaries?

24 MR. SMITH: Object to form and scope.

25 A. I don't know.

1 16s and I don't know if mine is the only one
2 that has a typo because I have: 15, 16, 14,
3 15, 16.

4 MS. POPE: Thank you.

5 A. And again, I'm not prepared to litigate the merits
6 of this case or agree or disagree with your legal
7 positions. So, and look, I'm not trying to be
8 difficult or evasive, I just don't want to
9 litigate a case that I'm not ultimately involve
10 the day-to-day operation of.

11 **Q. Nor am I seeking to be litigious or evasive --**

12 A. Yes, ma'am.

13 **Q. But I do need to know your opinion, your answers,**
14 **what you know, what you agree to. Do you agree**
15 **that James Brown's fiduciaries have a duty to**
16 **uphold his Will, which leaves the bulk of his**
17 **fortune to his "I Feel Good" Charity to educate**
18 **needy students?**

19 MR. SMITH: Object to form and scope.

20 A. And I don't know how to answer that question.

21 **Q. Has your stated purpose in being involved in the**
22 **James Brown litigation for six years been to**
23 **protect funds James Brown gave his "I Feel Good"**
24 **charity?**

25 MR. SMITH: Object to scope.

1 A. The purpose as I understood was to protect the
2 interest of the charitable beneficiaries.

3 Q. Do you believe that because of your ability to
4 remove and replace Russell Bauknight at will, you
5 had a fiduciary duty under James Brown's estate
6 plan?

7 MR. SMITH: Object to the form and scope.

8 A. I don't know how to answer that question.

9 Q. Do you agree that your public duty applies to
10 James Brown's "I Feel Good" Charity, which is a
11 private foundation?

12 MR. SMITH: Object to form and scope.

13 A. Again, don't know how to answer that question.

14 Q. Do you agree with the South Carolina Supreme Court
15 that the 2008 settlement broken by now Governor
16 Henry McMaster when he was AG, dismembered James
17 Brown's noble estate plan in favor of persons who
18 may have no entitlement to any of his assets?

19 MR. SMITH: Object to form and scope.

20 A. I'm reading the question because it's leading and
21 --

22 MR. BLACK: Ms. Pope, rather than
23 interrupt, I'm going to put a standing
24 object -- I've now had the opportunity to
25 review each one of your questions. For the

1 record, I want to be clear this deposition is
2 being taken in Case 1337 which is your narrow
3 claim case pursuant to Judge Early's order, and
4 every single question I look at here has to do
5 with the case that you described as Case 4900,
6 which is a separate lawsuit, not concerning
7 your claim against the Estate.

8 A. This -- I do not -- to your, I do not agree with
9 the Supreme Court based on my general knowledge of
10 the case.

11 **Q. Are you taking action to go against the Supreme**
12 **Court's ruling?**

13 MR. SMITH: Object to form and scope.

14 A. The only action I've taken since this Supreme
15 Court ruled was to try to remove the Attorney
16 General's office from this case.

17 **Q. Well, haven't members of your staff taken**
18 **substantial and aggressive action other areas?**

19 A. I have can't answer that; I wouldn't know.

20 **Q. Well, haven't you, under FOIA, prevented the**
21 **release of private documents which would've helped**
22 **protect the estate plan -- public documents that**
23 **would've help protect the estate plan?**

24 A. We are one thousand percent supportive of FOIA and
25 have -- would have no objection to any things that

1 Q. Do you know that Tommie Rae's lawyer, Robert
2 Rosen, engaged a second lawyer for Tommie Rae
3 after James Brown sought James B?

4 MR. SMITH: Object to form and scope.

5 A. I did -- did not know.

6 Q. Do you know that shortly after James B sought DNA
7 testing, his lawsuit against Tommie Rae was
8 settled with her contract never to claim to be
9 James Brown's spouse and no provision for her son?

10 MR. SMITH: Object to form and scope.

11 A. Again, no personal knowledge.

12 Q. Do you think you should have known about these
13 things before joining with Tommie Rae to sue Bob
14 Buchanan and Adele Pope?

15 MR. SMITH: Object to the form and scope..

16 A. Again, Ms. Pope, and as I stated at the beginning
17 of the deposition, the questions are applied to
18 me, personally, but this office was managing the
19 litigation prior to me being Attorney General and
20 since I've been elected Attorney General, and I
21 rely on attorneys to be involved heavily in the
22 cases and to make these day-to-day decisions. So
23 I'm not going to have personal knowledge of the
24 merits of every case, only that when it's brought
25 to me and a recommendation is made and I've

1 agreed that we have got for the Attorney
2 General a running objection to all the
3 questions on the basis of form and scope. I'm
4 not directing him not to answer those
5 questions, I'm just noting those for the record
6 and I don't need to restate them for each
7 question. If I've got a privilege objection, I
8 will assert that specially.

9 MS. POPE: That's fine good.

10 RESUMING EXAMINATION

11 BY MS. POPE:

12 **Q. Attorney General, I would suggest maybe if you're**
13 **looking at the document I sent you this morning,**
14 **that you switch with Bob. I corrected a couple of**
15 **typos, but they're not essentially any different.**

16 A. May I ask what number we're on?

17 **Q. As soon as I figure out where we are, I'll be glad**
18 **to tell you. I kind of lost my track also.**

19 A. Yes, ma'am. Yes, ma'am.

20 **Q. Do you know that between the 2000 -- 30, please.**
21 **Do you know that between the 2004 settlement and**
22 **Brown's death on December 25, 2006, Tommie Rae**
23 **begged James Brown to marry her, but he refused?**

24 A. And -- and what question?

25 MS. POPE: Thirty.

1 A. I have no knowledge whatsoever.

2 Q. Are you aware from emails that NP lawyer, Freddie
3 Kingsmore was simultaneously working with Alan
4 Medlin to devalue Brown's music Empire to 4.7
5 million in IRS filings, and sue Bob Buchanan and
6 Adele Pope for not accepting the hundred
7 million-dollar offer for Brown's assets made in
8 2007?

9 A. I just do not recall. I'm not aware.

10 Q. Are you aware that the valid -- among the valid
11 reasons for not accepting the 2007 hundred
12 million-dollar offer, and two additional letters
13 of intent in 2008, included that Greenburg
14 Traurig, Cannon, Dallas, and Frank Copsidas were
15 claiming nearly half of any sale under something
16 known as the October 18th letter?

17 A. I have no knowledge.

18 Q. Do you know anything about the October 18th
19 letter?

20 A. No.

21 Q. Do you agree that --

22 A. To my recollection. Again, when I'm saying "no,"
23 I just don't remember, but I have no knowledge if
24 I have seen a letter, I just don't recall.

25 Q. Thank you. Do you agree that today the Estate and

- 1 2000 Trust are properly asserting in the lawsuit
2 that Mr. Buchanan and Ms. Pope instituted in
3 February -- excuse me. Do you agree that today
4 the Estate and 2000 Trust are properly asserting
5 in the lawsuit Mr. Buchanan and Ms. Pope
6 instituted in February 2008 that the October 18th
7 letter was unconscionable and could not be
8 enforced by GT, the Cannon trustees or Copsidas?
- 9 A. I can't agree or disagree. I just don't know.
- 10 Q. Do you know anything about the service of Bob
11 Buchanan and Adele Pope at any time between
12 March 7, 2007 and May 26, 2009?
- 13 A. Are you --
- 14 Q. That's not a question. Just --
- 15 A. Would you repeat so I can look at you.
- 16 Q. Sure. Sorry. I didn't mean to trick you.
- 17 A. Yes, ma'am.
- 18 Q. Do you know anything sitting here today about the
19 service of Bob Buchanan and Adele Pope to the
20 Estate and Trust of James Brown between March 7,
21 2007 and May 26, 2009.
- 22 A. I know nothing firsthand. I know what I was
23 briefed on in 2011 when I authorized the lawsuit.
24 I -- also, but I will say this: I know that
25 senior members of my staff hold you in the highest

1 if I wanted to because I don't remember the
2 contents of those conversations, but I will
3 just give you an idea. When was sworn in
4 January 2011, for the next six months I was
5 drinking from a firehose and I was getting
6 briefed on hundreds and hundreds of civil and
7 criminal cases that were ongoing, not to
8 mention the administration of the office and
9 the personnel, and the finance and the budget.
10 So I know that I had a rather large number of
11 meetings about a number of cases. This is one
12 of those cases I remember getting briefed on a
13 great deal as to the legal posture of the case.
14 I have no direct knowledge of the specifics of
15 the case and the reason it was brought, only
16 the -- the recommendation by the staff at that
17 time to maintain a status quo of the case from
18 Mr. McMaster's term and my term. So I
19 authorized it based on those meetings and those
20 briefings I received.

21 **Q. I'm sorry. Thank you. But based on that, let me**
22 **ask you again, you have not spoken to Governor**
23 **McMaster about this case; is that correct?**

24 **A.** I do not remember talking to him about this
25 specific case in a long time.

1 **mind --**

2 A. Sure.

3 **Q. -- what have been marked as exhibits eight and I**
4 **will try to find a copy for your counsel.**

5

6 (Whereupon, Motion to Dismiss
7 was marked Exhibit No. 2 for
8 identification.)

9

10 MS. POPE: I'm trying to find one for
11 mister --

12 MR. SMITH: Is this in the original group
13 that you gave me at the beginning of the
14 deposition?

15 MS. POPE: Yes, yes, it is. Mr. Cook,
16 could you share two with Mr. Black, please.
17 Thank you.

18 **Q. Attorney General Wilson, wasn't the question of**
19 **the legality of this lawsuit being brought by the**
20 **Attorney General against private citizens placed**
21 **in the appellate court in 2011 shortly after you**
22 **took office?**

23 A. I believe so.

24 **Q. And did you recall that -- do you recall that that**
25 **happened in February of 2011?**

1 A. I'm seeing right here February of 2011 on this
2 letter that you just provided me.

3 Q. And was that an opportunity for the Court to --
4 well, let's identify Exhibit 2 is -- well, let's
5 identify the first -- the later numbered exhibit
6 and then Exhibit 2 if you will, please.

7
8 (Whereupon, 02/16/2011 Petition
9 for Writ was marked Exhibit No.
10 8 for identification.)

11
12 A. Exhibit 8.

13 Q. Yeah, Exhibit 8. Yes, just -- if you'll just
14 tell -- let's say what it is for the record if you
15 will, please. Exhibit 8.

16 A. Exhibit 8 is entitled, Petition and Memorandum for
17 Writ of Prohibition.

18 Q. And it is filed in the Wingate suit in the Court
19 of Appeals and what's the date of that document?

20 A. February 16, 2011.

21 Q. Okay. And do you remember that the gist of that
22 document was to try to determine whether the
23 Wingate lawsuit was legal?

24 A. Are you asking me if I remember the gist of it?

25 Q. Right.

1 A. I mean, I don't really recall this because I don't
2 remember reading it.

3 Q. Wouldn't someone in your office have to take
4 responsibility for putting your name on responses
5 to filings in the appellate court?

6 A. Yes, that's why I have 90 attorneys that represent
7 my name every day in court and sometimes I'm not
8 even aware of it.

9 Q. Right, but somebody under the Rules of
10 Professional Responsibility has to take
11 responsibility for acting as a lawyer on your
12 behalf, don't they?

13 A. Yes, ma'am.

14 Q. And wasn't the question squarely before the Court
15 whether it was legal for the Attorney General to
16 be using a private lawyer to sue two South
17 Carolina citizens?

18 A. Again, I just don't -- didn't read it. So you're
19 asking me if I have personal knowledge. If it is
20 what it is, if that's what it is, I don't dispute
21 it.

22 Q. Well, I'd ask you -- I don't want you to spend all
23 day, but I would like you to glance at it because
24 -- you know, somebody's career was involved here.

25 A. I am reading the conclusion and you're seeking to

1 A. I know that members of my staff made the
2 recommendation that I maintain the status quo of
3 this lawsuit, and so based on that recommendation
4 I authorized it. Mr. Wingate was representing all
5 the beneficiary interest at that time, and to the
6 degree that he represented their interests, he was
7 representing the State's interest in that narrow
8 set.

9 **Q. All right. Again, specifically as to number two,**
10 **--**

11 A. Yes, ma'am.

12 **Q. Did you authorize a filing of the Court of Appeals**
13 **by a private attorney on your behalf?**

14 ✓ MR. SMITH: Previously asked and answered.

15 **Q. Go ahead.**

16 A. I'm trying to remember. Could you ask the
17 question again.

18 (Court reporter reads back previous question.)

19 A. I have no recollection today about what happened
20 in 2011. The only recollection I have is that at
21 that time I was aware Mr. Wingate's firm was
22 representing the beneficiaries of this Trust and
23 that he was engaged by Mr. Bauknight and that he
24 was representing their interest. To the extent he
25 was representing their interest, he was

1 representing the State's interest. This is a
2 lawsuit they could've brought with or without the
3 AG's office being on that pleading. They didn't
4 need our permission to bring the lawsuit. My
5 understanding is we were added to the lawsuit kind
6 of as a prophylactic measure to ensure that the
7 lawsuit was protected in the event that
8 Mr. Bauknight was removed as the Trustee, at least
9 another plaintiff, the State, would remain on
10 there to protect it.

11 **Q. Did Alan Medlin explain that to you?**

12 A. No. I don't remember talking with Mr. Medlin.

13 **Q. Do you agree that -- you said the beneficiaries of**
14 **"this trust." What trust are you referring to?**

15 A. The "I Feel Good" Trust, the charitable
16 beneficiaries.

17 **Q. Well, did you think that Tommie Rae Hynie was a**
18 **beneficiary of the "I Feel Good" Trust?**

19 A. Again, I don't have specific information on the
20 specifics of the case.

21 **Q. Do you know whether Tommie Rae Hynie is a**
22 **beneficiary of the "I Feel Good" Trust or any**
23 **trust created by James Brown?**

24 A. She was -- I know that she was found by a circuit
25 judge to be the spouse of James Brown. So --

1 Verification of Answers was
2 marked Exhibit No. 9 for
3 identification.)
4

5 **Q. Let me ask you to look at Plaintiff's 9.**

6 A. Okay.

7 **Q. On May 9th -- May 3rd, I believe it was, 2011, did**
8 **you verify the Interrogatory Answers that Henry**
9 **McMaster had given in the Wingate lawsuit?**

10 A. I see my signature here, yes.

11 **Q. Do you understand what one's obligation is when**
12 **they verify interrogatory answers?**

13 A. Yes, ma'am.

14 **Q. And you understood that you had an obligation to**
15 **know the truthfulness of the answers you were**
16 **verifying?**

17 A. Yes, ma'am.

18 **Q. Individually?**

19 A. Well, I verified the answers as I knew them to be
20 based on the briefings from the staff and based on
21 what I had firsthand knowledge of at the time.

22 **Q. And you understood your obligations under the**
23 **rules?**

24 A. Yes, ma'am.

25 **Q. Is a plaintiff in the lawsuit?**

1 A. Well, I understood that I was verifying the
2 answers on behalf of the office that I was briefed
3 on.

4 Q. Let me just see if you have seen Wilson --
5 Plaintiff's four before. Tell me what is.

6
7 (Whereupon, AJP Offer of
8 Judgment was marked Exhibit No.
9 4 for identification.)

10
11 A. Adele Pope's Offer of Judgment to the South
12 Carolina Attorney General and Russell Bauknight as
13 Agent for South Carolina Attorney General.

14 Q. Do you have any memory of that offer --

15 A. No.

16 Q. -- by Ms. Pope -- oh, sorry.

17 A. No, ma'am.

18 Q. Do you know that in 2012, Ms. Pope offered to let
19 the Attorney General out of the Wingate lawsuit?

20 A. I may have known it the time; I just don't recall.

21 Q. Do you know that instead of responding to the
22 offer, the Attorney General filed the offer and
23 moved to strike it?

24 A. I obviously can't speak specifically to it because
25 I have no direct knowledge or don't recall.

1 Brown Estate and Trust, including the charitable
2 interest. Mr. McMaster in his letter also states,
3 "As you know, by law this office has a duty to
4 protect charitable trusts. Also, per your
5 conversation with Senior Assistant Attorney
6 General C.H. Jones, in connection with the
7 charitable trust portion of this matter, you have
8 agreed to use the terms and conditions as outlined
9 in the attached 'Agreement for Legal Services'
10 which references and incorporates the Attorney
11 General's standard Litigation Attention Agreement.
12 Of course, this office has no authority over your
13 agreement with Messrs. Wingate and Kendall
14 concerning the other portions of this matter."
15 And he signed it.

16 **Q. Well, do you believe that this document, Wingate**
17 **12, constitutes the State of South Carolina's**
18 **contract and the contract of others to bring the**
19 **Wingate suit?**

20 **A.** I believe that Mr. McMaster, to the degree that it
21 was representing the charitable interest,
22 authorized Mr. Wingate to bring the suit.

23 **Q. That's not the question. Do you believe as**
24 **Mr. Wingate has represented, that this document**
25 **Wingate 12 and Exhibit 4 -- 6 to your deposition,**

1 relationship we had with them.

2 **Q. Let's look here in -- at the page that's marked**
3 **134.**

4 A. In which document; I'm sorry.

5 **Q. Number six.**

6 A. I don't think I have number six in front of me.

7 Oh, sorry. At what pages?

8 **Q. I think it has a Bates number 134.**

9 MR. BLACK: Adele, do you have an extra
10 copy of number six? We don't have a copy down
11 here.

12 (Ms. Pope passes document.)

13 **Q. Does that agreement provide that the Office of the**
14 **Attorney General will be paid ten percent of**
15 **Mr. Wingate's legal fee?**

16 A. That is what the standard contract says here, yes.

17 **Q. Does this contract provide it?**

18 A. It says here, it's a boilerplate provision, yes.

19 **Q. And do you expect to receive ten percent of**
20 **Mr. Wingate's legal fee if he obtain's one?**

21 A. I do not expect that.

22 **Q. Does the State expect it?**

23 A. Not to my knowledge, no.

24

25 (Whereupon, Motion to Strike was

1 acquire or control the James Brown assets if he
2 could make Tommie Rae appear to be James Brown's
3 spouse?

4 A. I have no knowledge of this.

5 MR. BLACK: Ms. Pope, you're -- for the
6 record, you're saying, "Mick Jagger." I
7 believe you mean, Peter Afterman.

8 Q. Do you agree that since 2009 Peter Afterman has
9 worked with Russell Bauknight and Nexsen Pruet to
10 try to make Tommie Rae Brown's spouse, with
11 Afterman even helping Tommie Rae file defective
12 Termination Rights elections in 2013 in an effort
13 to take a portion of the royalties from 90 of the
14 900 copyrights Brown gave his "I Feel Good"
15 Charity between now and 2023?

16 A. I have no knowledge or even any recollection of
17 that.

18 Q. Do you believe in your oversight of James Brown's
19 charity since May 8, 2013, you had a duty to
20 either stop or the Tommie Rae Terminations or to
21 see that Russell Bauknight took action to stop
22 them?

23 A. I don't know.

24 Q. Do you believe that since May 8, 2013, while your
25 office has continued to oversee the James Brown

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF AIKEN

- - -

ADELE J. POPE,	:	
	:	Civil Action No.:
Plaintiff,	:	
	:	2013-CP-02-1337
vs.	:	
	:	
ESTATE OF JAMES BROWN and THE	:	
JAMES BROWN 2000 IRREVOCABLE	:	
TRUST,	:	
	:	
Defendants.	:	

DEPOSITION OF WALLACE K. LIGHTSEY, ESQUIRE

DATE TAKEN: April 10, 2017

TIME BEGAN: 10:00 a.m.

TIME ADJOURNED: 10:50 a.m

LOCATION: Nexsen Pruet
55 E. Camperdown Way
Greenville, South Carolina

REPORTED BY: Tami I. Watters, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
(803) 212-0012

1 (It is hereby stipulated and agreed by
2 and between counsel for the respective parties
3 that this deposition is being taken in
4 accordance with the South Carolina Rules of
5 Civil Procedure, and that the deponent waives
6 reading and signing of this deposition
7 transcript.)

8 - - -

9 WALLACE K. LIGHTSEY, ESQUIRE, after
10 having been first duly sworn, was examined and
11 testified as follows:

12 - - -

13 EXAMINATION

14 - - -

15 BY MR. WILLIAMS:

16 Q Good morning, Mr. Lightsey.

17 A Good morning.

18 Q You are a member of the South Carolina
19 Bar. Is it okay if I dispense with the rules for a
20 deposition?

21 A Sure. I understand.

22 Q Okay. Mr. Lightsey, my name is
23 Burl Williams. I'm a lawyer for the estate and
24 trust defending a case that we are here for a
25 deposition for.

1 I was also interested in the FOIA issues
2 that had come up in the case and was interested in
3 that, because I'd done a lot of litigation on
4 Freedom of Information Act issues.

5 So I was just interested in the case, and
6 we talked about it and said if I could help, I'd be
7 glad to help. And then I think last summer is when
8 she communicated to me about acting as an expert in
9 the case.

10 And so some -- at some point over the
11 course of the summer through maybe September she
12 proposed that, and I agreed to do that.

13 Q Okay. Have you been -- did you enter
14 into a signed contract?

15 A No.

16 Q Okay. Have you been paid anything for
17 your services?

18 A I have not.

19 Q Okay. You mentioned that you do
20 copyright work.

21 A Yes.

22 Q Is any of that musical copyright?

23 A Some has been.

24 Q Can you tell me about your experience
25 with musical copyright work?

1 A Well, most of my copyright work has been
2 with litigation; in infringement litigation. There
3 have been several cases that involved alleged
4 infringement of musical compositions.

5 I've also done a fair bit of consulting
6 with a local musician -- talented musician and have
7 assisted him with some of his copyright issues.

8 Q Okay. I know that you've done a lot of
9 architectural copyright work.

10 A Uh-huh.

11 Q Can you generally say this percent of my
12 copyright work was musical? Can you give me a
13 guesstimate?

14 A Less than 10 percent.

15 Q Okay. Have you -- let's start with this.
16 It might be the easy way to do this.

17 I'm gonna mark Defense 1, which is -- the
18 first page is the top page of an expert witness
19 disclosure, just to make clear what it is, but then
20 the second and third pages of it are actually
21 information related to you.

22 A All right.

23 - - -

24 (Expert Witness Disclosure marked Defense
25 Exhibit Number 1, for identification.)

1 BY MR. WILLIAMS:

2 Q Have you seen this before?

3 A Yes, I have.

4 Q The opinions written in here on pages 2
5 and 3, or 11 and 12 of the original, are these your
6 opinions in this case?

7 A Yes.

8 Q Okay. Have you ever been involved with
9 termination rights as a lawyer?

10 A Not directly. I had a case in the early
11 nineties for a music -- excuse me -- a publisher.
12 Not a music publisher, a publisher -- and we were
13 going through the renewal of copyrights with the
14 heirs of the original author, who's deceased. And
15 at that time there was some discussion about
16 termination rights, but they were not directly
17 involved with that case, so ...

18 Other than that, as a lawyer, I have not
19 been involved with termination rights.

20 Q Okay. So it's that one case in the
21 nineties?

22 A Uh-huh.

23 Q Okay. So, then, I guess you would
24 acknowledge that termination rights were around
25 even in the nineties; is that correct?

1 A There was an awareness of them. I don't
2 recall any cases in which that issue came up, but
3 the --

4 Termination rights were put in effect
5 with the 1976 Act, which went into effect in 1978,
6 so I had a -- just a general awareness that there
7 was that provision in the Copyright Act.

8 Q Okay. Were there termination rights in
9 the previous Copyright Act?

10 A Not, per se. There was a renewal
11 procedure that was intended to provide an
12 opportunity for the author or his heirs to
13 recapture more value from the copyrighting works,
14 but there wasn't an express termination in the
15 recapture provision like what was put in effect
16 with the '76 Act.

17 Q I'm looking at paragraph 2 of your
18 opinion. By opinion, I mean under the heading of
19 Opinions and then the second paragraph.

20 A Right.

21 Q I'll read it for the record: "Not much
22 was known about Termination Rights in 2008 and
23 2009, even among IP counsel not directly involved
24 in specific matters."

25 Tell me what you mean by that sentence.

1 A Just what it says and just using my own
2 experience and level of awareness at the time.

3 I, by that time, had been doing a
4 substantial copyright practice for 15-plus years,
5 and, like I said, I had a vague awareness of
6 termination rights, that there was this provision
7 in the Act, but I really did not have any awareness
8 of how it worked or anything near the complexity
9 that's involved with that area of the law.

10 Q Okay.

11 A And I'd consider myself, you know, pretty
12 representative of somebody who is a general IP
13 litigation practitioner with significant experience
14 at that time, so just basing it on my own level of
15 awareness and what I read in the literature.

16 I would get, you know, frequent
17 newsletters or electronic newsletters from various
18 intellectual property lawyer associations, and just
19 seeing what people were talking about, what the
20 cases were talking about, I think at that time,
21 even with IP lawyers, there wasn't much awareness
22 of termination rights.

23 Q What about entertainment lawyers? If I
24 were to tell you that entertainment lawyers have
25 known about termination rights for -- you know,

1 since the inception, would you have any reason to
2 disagree with that?

3 A I couldn't disagree with that.

4 Q Okay. So the statement that: "Not much
5 was known about Termination Rights in 2008 and
6 2009, even among IP counsel," that doesn't
7 necessarily involve entertainment lawyers who deal
8 with this on a daily basis?

9 A No.

10 Q Okay. Do you hold yourself out to be an
11 entertainment lawyer?

12 A No. I've got some experience in the
13 field, but not a lot.

14 Q Okay. The second sentence: "At that
15 time -- of the second paragraph -- Termination
16 Rights were described as a 'coming storm,' with the
17 first substantial impact expected in 2013."

18 What is that -- does that refer -- how --
19 Explain that to me, I should say.

20 A Well, and that's not my phrase, the
21 "coming storm," but I think it's a good description
22 of the sense, again, among the sort of general IP
23 lawyer community.

24 Again, there was an awareness of
25 termination rights; that there was a provision for

1 it in the '76 Act, and to my awareness and what I
2 was seeing from the groups that I belonged to,
3 there was a growing sense that this was an issue
4 that was gonna start coming up with more frequency.
5 And for post-'78 grants, the 35-year window for
6 termination would go into effect -- or would start
7 in 2013, and then for the works from the late
8 fifties through the sixties, which would be kind of
9 the heyday, really, of the recording industry, the
10 56-year window for those works would start coming
11 up again around that same time.

12 Q Okay.

13 A And this was -- too, this was about when
14 you started to see some significant case law
15 developing on termination rights, particularly in
16 the kind of situation that this case presents.

17 Q Okay. Is it your opinion that the
18 absence of case law is somehow an excuse for not
19 knowing about the operations of termination rights?

20 A I wouldn't call it an excuse. But,
21 again, what I'm -- what I understand I'm being
22 asked to talk about is the general awareness among
23 the IP community.

24 Q So does the absence of case law, in your
25 opinion, account for --

1 What does case law -- or there being no
2 case law, where does that fit in your mind?

3 A Well, I mean, that's how lawyers become
4 aware of issues. You know, unless you are a
5 Hollywood entertainment lawyer and you're being
6 asked to deal with these issues on a day-to-day
7 basis, for somebody like me, how I would become
8 aware of this would be through hearing about a
9 case, like the Winnie the Pooh case or something
10 like that, which is the first one I remember.

11 Q Okay. The next sentence says -- well,
12 paragraph 3, sentence 1: "There are ways for
13 charities to limit losses from the exercise by
14 heirs of Termination Rights."

15 Where does that fit inside of your
16 opinion? What does that sentence have to do with
17 general awareness?

18 A Well, in connection with this matter,
19 I've attempted to educate myself a little more on
20 termination rights, so I have done some reading and
21 some research on it to learn how these things work.

22 And like I said, I remember hearing about
23 the Winnie the Pooh case. I remember hearing a
24 little bit about the Marvel cases and the Superman
25 case. So I had a vague notion that that -- those

1 issues being out there.

2 When Adele asked me to get involved with
3 this, I tried to learn a little bit more about it.
4 And, in the course of doing that, I feel very
5 strongly that what that sentence says is correct.

6 Q Okay.

7 A But that's been a process of
8 self-education for this case.

9 Q Okay. Do you know whether Mrs. Pope made
10 any inquiry into how to find ways for charities to
11 limit losses from the exercise by heirs of
12 termination rights during her fiduciary service?

13 A I've read the article that she drafted
14 with Jeff -- Smith? Is that right?

15 So I've got -- I've got that
16 understanding of what she did.

17 Q Okay. Do you know whether or not that
18 article was drafted during her fiduciary service?

19 A I'm not sure.

20 Q Okay. So beyond that article, do you
21 know of any other instance in which Mrs. Pope made
22 efforts to limit losses from the exercise by heirs
23 of termination rights during her fiduciary service?

24 A Well, all my communications with Ms. Pope
25 about this have been over the last year plus.

1 legatee, if that's the right word, that cuts out
2 the heirs.

3 Q Uh-huh. The next sentence you have here
4 is paragraph 3: "The Ray Charles Foundation case
5 makes clear that a charity owning copyrights has a
6 right to be part of the Termination Rights process
7 because its royalty stream is at stake."

8 Is that just a -- what are you trying to
9 communicate with that sentence?

10 A Well, just that the Ninth Circuit in that
11 case held that the foundation had standing to
12 contest a notice of termination by the heirs.

13 Q Okay. Do you intend to offer any
14 opinions besides what's written right here?

15 A I haven't been asked to, so ...

16 Q Okay. Can you generally tell me your
17 opinion of what role your opinion has, if I can ask
18 that question?

19 A I really don't know.

20 Q Okay.

21 A I'm not sure exactly how this fits into
22 the whole broader issues in the case.

23 Q Okay. Do you have any -- do you know how
24 much Mrs. Pope is asking the estate to pay for her
25 work?

1 A I've seen a figure of 1.4 million.

2 Q Okay.

3 A I don't know if that -- I'm thinking
4 there may be something more.

5 Q Yes. Okay. So you generally would come
6 to Aiken County and you would testify that
7 termination rights were a new thing and IP
8 lawyers -- even IP lawyers weren't fully familiar
9 with the workings of it?

10 A Well, again, I'd -- you know, I can't say
11 exactly what I'll be asked to testify to or what
12 the judge might consider me an expert on or not an
13 expert. That's up to the court to decide.

14 Q Sure.

15 A As I've said, I do believe, within the
16 general community of lawyers who practice
17 intellectual property, which I do believe I'm
18 representative of -- a good representative of, that
19 there was only a vague awareness of termination
20 rights up until, you know, starting maybe in the
21 mid-2000s; 2006 and later --

22 Q Okay.

23 A -- when some of these cases started
24 coming down and we started hearing more about this.

25 Q Okay. Would you agree that a fiduciary

1 should seek entertainment counsel in trying to
2 learn about these rights?

3 A I wouldn't have an opinion on that.

4 Q Okay. Those are all the questions I
5 have. I may want to make some copies of your file.

6 A Sure. Sure.

7 - - -

8 EXAMINATION

9 - - -

10 BY MS. POPE:

11 Q Mr. Lightsey, can you describe for me how
12 thick your file is?

13 A It's, I guess, about 2 or 3 inches.

14 Q All right. So would you say there are at
15 least a couple of hundred pages in there?

16 A Probably.

17 Q And is it fair to say you've done a good
18 bit of thinking about this issue since we first
19 talked?

20 A Yes.

21 Q Okay. You were asked about the knowledge
22 of entertainment lawyers with respect to
23 termination rights back in 2008 and today.

24 Do you know of any entertainment lawyers
25 within the state of South Carolina?

1 A No.

2 Q Okay. In researching termination rights,
3 have you thought about whether, in certain
4 instances, a knowledge of state probate law is as
5 important as a knowledge of the copyright law?

6 A Yes. I think -- my understanding is
7 that when there are questions about who is a child
8 or who is a spouse for purposes of the termination
9 rights, that that's determined by state law.

10 Q Certainly the spouse, if not the
11 children?

12 A Uh-huh.

13 Q Is that correct?

14 A Yes.

15 Q So does that mean that if a foundation
16 such as the "I Feel Good" Charity wanted to protect
17 itself in the termination rights area, job one
18 would be not to create a spouse if there isn't one?

19 A I think -- if there's a question about
20 whether somebody who claims to be a spouse really
21 is or really qualifies, I think that's an essential
22 question, just because of this whole negotiation
23 process I've touched on.

24 Under the termination provisions of the
25 Copyright Act, if the person is -- does qualify as

1 a spouse, they get -- and there are children, the
2 spouse has a 50 percent vote on whether to
3 terminate. And since a majority is required, if
4 there is a spouse and children, then the spouse has
5 to be part of that majority or you won't be able to
6 get the necessary percentage to terminate.

7 So, yeah, I think that would be
8 absolutely essential.

9 Q And in connection with the determination
10 of heirs under the federal Copyright Act, is it
11 fair to say that even today there has been very
12 little litigation over the issue of how to
13 determine who are children?

14 A Yeah. I'm not aware of any, other than
15 this litigation.

16 Q And if, for example, James Brown had a
17 child who was acknowledged in his divorce but not a
18 biological child, to date, do we have any guidance
19 about whether that child would be considered an
20 heir under the federal Copyright Act?

21 A None that I know of.

22 Q Okay. What if, for example, James Brown
23 had a child who was not born of a marriage and
24 acknowledged only in a will, which the child
25 contested? Do we have any guidance that you're

1 aware of under the federal Copyright Act about that
2 child's entitlement to termination rights?

3 A No.

4 Q What if James Brown, in his documents,
5 intentionally disinherited any child who claimed --
6 who challenged his estate plan? Do we have any
7 court guidance on whether -- the impact of such a
8 provision in the will might affect termination
9 rights?

10 A None that I know of.

11 Q Okay. Now, at least during those early
12 years after the death of a person who owns as many
13 as 900 copyrights, could the probate process be
14 even more important than the entertainment law
15 process?

16 A You'll have to explain that one.

17 Q Well, during the early years after
18 James Brown's death -- let's just use him as the
19 example -- could the proper determination of heirs
20 have been as important to termination rights
21 protection as anything else?

22 A Yeah. I think that would be an essential
23 early step.

24 Q So if Mrs. Pope was replaced in 2009,
25 would there be any reason to stop that process?

1 A No. I mean, I think -- I think anybody
2 who was trying to maximize the income for the trust
3 would have to get to a firm conclusion as to who
4 the people are who are entitled to exercise the
5 termination rights so that you can then decide on
6 the best strategy for dealing with that.

7 Q And so if on August 10, 2008 the attorney
8 general agreed to stipulate that a claimed spouse
9 would be treated as a spouse, despite overwhelming
10 evidence to the contrary, would that be a wise
11 method of protecting the copyrights?

12 A Based just on what you've said, I would
13 say no.

14 I would acknowledge, I think you have to
15 look at all the circumstances in the case,
16 including, as I said, the personalities of the
17 people involved.

18 Q Okay.

19 A You know, if -- for example, if the
20 spouse were very supportive of the trust position
21 and wanted to give full effect to the desires of
22 Mr. Brown, in that circumstance, it might move the
23 trust to try to work something out quickly with
24 her. But I think it just depends on the whole
25 situation.

1 Q Well, that reminds me. Did the Smith and
2 Pope article suggest a mechanism called splitting
3 heirs?

4 A Yeah.

5 Q Can you explain how what you've just said
6 relates to the term "splitting heirs"?

7 A Well, because the -- a termination has to
8 be done by people who have a majority of the rights
9 to terminate.

10 If there are multiple heirs and the --
11 again, I'm not sure if I'm using the right word.
12 I'm not a probate lawyer. The legatee or devisee
13 or whoever -- the recipient under the will has the
14 opportunity to negotiate and try to get the best
15 deal it can for the trust. So if there are
16 multiple heirs, it's possible to split them up.
17 Some may be more cooperative, some may be less.
18 And if you can split them and get a majority and
19 work out a deal that's good for the trust, that's a
20 good strategy.

21 Q And -- back to the attorney general. If
22 on August 10, 2008 the attorney general stopped the
23 DNA testing process which had been in place since
24 shortly after James Brown's death, would that have
25 helped the protection of the "I Feel Good" Trust

1 termination rights?

2 A I don't see how it could. Again, I
3 think -- I think a good strategy for the trust is
4 to try to work out something with the music
5 publishers initially and, if possible, with the
6 heirs.

7 But whatever -- whatever is done, I don't
8 think you'd want to have it subject to a later
9 attack on the grounds that somebody who was part of
10 that didn't really have a termination right.

11 Q You were asked what you knew about
12 Mr. Buchanan and Ms. Pope's service, and I will
13 tell you: It was from November 2007 until May 26,
14 2009 that they served as personal representatives.

15 Have you heard of or were you aware of
16 something known as the Peeples' DNA protocol?

17 A Yes.

18 Q Did you understand that it had been begun
19 by the original -- counsel for the original
20 personal representatives and continued by
21 Mr. Buchanan and Ms. Pope?

22 A I don't know the details of it.

23 Q Okay. Did you understand that it had
24 been stopped on August 10, 2008 by the attorney
25 general?

1 A I understood that it was stopped.

2 Q Did you understand that when he did so,
3 he declared that five -- I'm sorry -- six claimed
4 children would be determined to be James Brown's
5 heirs?

6 A Yeah. I'm sorry. I don't really
7 remember the details.

8 Q Okay. You don't remember that it was
9 fewer than -- half or fewer than the potential
10 heirs?

11 A Yes. I knew it was not the whole group.

12 Q Okay. And did you know that at least
13 three of those were not presumed heirs even under
14 South Carolina law?

15 A I don't remember.

16 Q Okay. All right. Now, tell me just a
17 little bit about the Ray Charles case.

18 A It was a similar situation with a great
19 songwriter and recording artist. Ray Charles
20 bequeathed his -- I guess the residuary of his
21 estate to a foundation, a charitable foundation,
22 like Mr. Brown did here, and then the statutory
23 heirs under the termination provisions sent
24 termination notices to the publishing companies,
25 and the foundation brought a suit to declare those

1 termination notices ineffective.

2 District court held that the foundation
3 did not have standing to challenge the termination,
4 and the Ninth Circuit reversed and held that it did
5 have standing because of its interest in the
6 royalty stream.

7 Q And that case was begun in about 2012?

8 A That sounds right.

9 Q And approximately when was it concluded?

10 A I think the Ninth Circuit decision was in
11 2015.

12 Q Okay. Do you know what's happened since
13 2015?

14 A No. I did check the district court
15 docket on PACER, I don't know, a month or two ago,
16 and I could not see anything that happened since
17 the remand.

18 Q Do you know who represented the heirs in
19 that matter?

20 A No.

21 Q I'm gonna hand you a document -- well,
22 before that, let me ask you this: I would like, if
23 we could, to mark your file as an exhibit, and then
24 if Mr. Williams and I can agree to a CD of the file
25 or something that would be smaller --

1 A That's fine.

2 Q -- may I do that?

3 A Sure.

4 Q We'll mark that, then, as Plaintiff's
5 Exhibit 1, your entire file.

6 - - -

7 (File marked Plaintiff's Exhibit
8 Number 1, for identification.)

9 - - -

10 MS. POPE: I'd like to hand you
11 Plaintiff's Exhibit 2.

12 - - -

13 (Value of Tomirae Federal Copyright Act
14 Termination Rights at Death of James Brown
15 marked Plaintiff's Exhibit Number 2, for
16 identification.)

17 - - -

18 BY MS. POPE:

19 Q I'm gonna give you a moment to look at
20 it, because I think we'll agree, you haven't seen
21 it before today; is that correct?

22 A That's correct.

23 Q If you'll take a moment to glance at it.
24 And I'll represent that it is my work.

25 A Okay.

1 Q When you're ready to chat about it, let
2 me know.

3 A Okay. I'm ready.

4 Q I have attempted in this document to
5 recreate the position of James Brown's estate and
6 trust as it was on November 20th, 2007.

7 If the -- and I have concluded that the
8 value of Tomi Rae's federal Copyright Act
9 termination rights at the death of James Brown was
10 negligible based on the facts that were available
11 between the period 2007 and May 26, 2009.

12 If these facts existed and there was fair
13 proof of them on the part of the estate and trust,
14 should they have taken advantage of those facts to
15 protect the copyrights?

16 A I think certainly, in this type of
17 situation, the trust should challenge -- what's
18 Tomi Rae's last name?

19 Q Hynie-Brown.

20 A I would certainly think the trust would
21 challenge her claim.

22 I don't know -- I don't claim to have any
23 expertise on how you decide if someone was a spouse
24 under state law. I know that the -- or it's my
25 understanding the Copyright Act doesn't speak to

1 that, but I certainly do think it would be
2 appropriate to challenge the claim.

3 Q And before one would settle with or try
4 to split Tomi Rae off from the other heirs to
5 protect the charity, would the estate and trust not
6 need to evaluate the strength of her claim as a
7 spouse?

8 A Say that again.

9 Q Okay. If the -- if the charity is
10 looking to protect itself before it makes a deal
11 with Tomi Rae, should it not evaluate the strength
12 of her ability to be demonstrated to be the spouse?

13 A Yes. Absolutely.

14 Q Okay. Now, even if Tomi Ray had been
15 determined absolutely to be the spouse on the date
16 of James Brown's death, would there still have been
17 impediments to her taking the royalties from the "I
18 Feel Good" Charity?

19 A Well, at the most basic level, she still
20 would have to get at least one of the other heirs
21 to join with her.

22 Q Okay.

23 A And then, as I've said, I think the Milne
24 and Steinbeck cases create a mechanism for someone
25 in the position of the trust to do a deal with the

1 music publishers to cut her off.

2 Q And isn't it fair to say that when
3 James Brown died, if his first famous work was in
4 1956, there were about six years for the estate and
5 trust to be planning to protect the "I Feel Good"
6 Charity?

7 A Yes, if the copyright was secured in
8 1956.

9 Q And, of course, anyone -- when the
10 majority of heirs seeks to make an election, a
11 majority is in fact needed; is that correct?

12 A Majority interest, right.

13 Q Or the spouse plus one.

14 A Right.

15 Q And only half of the heirs are needed to
16 stop an election; is that correct?

17 A If they have 50 percent, correct.

18 Q And there's certain technical and complex
19 election requirements, are there not?

20 A It's very complex.

21 Q And there must be at least a two-year
22 period when the election is made before the
23 termination can be effective; is that correct?

24 A That's right. The notice of termination
25 has to be served at least two years before the

1 effective date of termination.

2 Q And in the case of Tomi Rae, there might
3 have been, to challenge any attempt at termination,
4 a dozen or more children, the charity, and the
5 charity itself; would that be -- would that fairly
6 state the situation back in 2007?

7 A Yes.

8 Q Okay. And does everybody now kind of
9 understand that termination elections apply only to
10 American copyrights?

11 A Yes.

12 Q And James Brown, of course, had worldwide
13 copyrights?

14 A That's right.

15 Q And they do not apply to derivative
16 works?

17 A There's a derivative work exception for
18 derivative works made before the termination.

19 Q Okay.

20 A So if you make a derivative work on the
21 basis of an existing grant and then a termination
22 comes in, you can continue to exploit that
23 derivative work.

24 Q So if there's a derivative work of
25 James Brown and American copyright is terminated,

1 the foundation, his devisee, would continue to
2 enjoy the royalties from the derivative work unless
3 and until it was terminated?

4 A That's correct.

5 Q Okay. Now, is it fair to say -- I don't
6 want to spring too much on you -- but both
7 samplings and joint ownerships create further
8 complexity, do they not?

9 A Yes. That's true.

10 Q And is it fair to say that the
11 sampling -- a sampling could actually be a small
12 part of a subsequent copyright?

13 A Yes.

14 Q And so that that copyright might have a
15 35-year life of its own?

16 A Yes.

17 Q And in that case, in a sampling of a
18 James Brown work, the James Brown rift, let's say,
19 might be a small part of that work?

20 A Correct.

21 Q So if James Brown had, for example, 210
22 copyrights of which he had only a sampling part,
23 would the "I Feel Good" Charity likely be able to
24 have a major part in the termination rights of
25 those works?

1 A Yes.

2 Q And then -- but those works might be --
3 the termination rights issue could be delayed for
4 many years; is that fair to say?

5 A Yes.

6 Q Okay.

7 A Depending on when the work was created.

8 Q Thank you. I'm gonna ask you to take a
9 quick look at Plaintiff's --

10 MS. POPE: Just to be sure, the value of
11 the termination rights was Exhibit 3?

12 THE WITNESS: I think it was
13 Plaintiff's 2.

14 - - -

15 (Value of Levenson 5 Clients' Federal
16 Copyright Act Termination Rights at Death of
17 James Brown marked Plaintiff's Exhibit
18 Number 3 for identification.)

19 - - -

20 THE WITNESS: And before you move on,
21 too, another thing I would say that's
22 interesting, and another level of complexity
23 with music in particular, is that sound
24 recordings made before February of 1972 are
25 not covered by federal copyright. They would

1 be subject to common law-copyright. So they
2 are not subject to the termination rights..

3 BY MS. POPE:

4 Q Okay. Well, let's talk a minute about
5 sound recordings between '72 and '78.

6 If James Brown had a number of sound
7 recordings during that time, those sound recordings
8 are protected for 56 years, if he's properly
9 renewed them; is that correct?

10 A I think it's -- well, it would be the --
11 I think it would be the life of the author plus 70
12 years.

13 Q But -- but my question was -- I'm sorry.
14 I didn't say it correctly.

15 They would not be subject --

16 A Oh, to termination.

17 Q -- to termination --

18 A That's correct.

19 Q -- for more than 56 years.

20 And so it's fair to say that all the
21 works between -- of the sound recordings between
22 '72 and '78 could experience a 56-year life before
23 termination?

24 A That's correct.

25 Q And do you know whether '72 to '78 was a

1 period during which James Brown had an important
2 part in the musical genre?

3 A I can't say specifically, but I would
4 think that's true.

5 Q He actually did for decades, didn't he?

6 A Yes.

7 Q Now, just looking at Plaintiff's 3.
8 Again, this is my work, and it is my evaluation
9 that the termination rights of the five Levenson
10 clients who reached the deal with the attorney
11 general on August 10, 2008 had a value of less than
12 5 percent of the value of James Brown's copyrights
13 on that -- at that time, at James Brown's death.

14 And, again, my reasons that I have set
15 out, you have no specific knowledge about that?

16 A Correct.

17 Q But those reasons were certainly within
18 the purview of a probate lawyer, even if she wasn't
19 an entertainment lawyer; would that be fair to say?

20 A I would think that anybody who is a
21 trustee would want to consider these things.

22 Q Okay. And then again, even if all five
23 of the Levenson clients had been determined to be
24 heirs of James Brown, they would still face many of
25 the same impediments that Tomi Rae would face; is

1 that fair to say?

2 A In general terms?

3 Q Yes.

4 A Yes, as I've talked about.

5 Q And so they would have to meet the
6 election requirements.

7 A Right.

8 Q And have the two-year delay.

9 A Right.

10 Q Even if they were a majority.

11 A Correct.

12 Q And if they weren't a majority, of course
13 they would have to find somebody to work with.

14 A Correct.

15 Q Okay. Could I see your file for just a
16 moment, please? I'd like to just go through, if I
17 could, and see if I can summarize what's contained
18 in your file.

19 A Okay.

20 Q You've reviewed everything in your file;
21 is that correct?

22 A Pretty much.

23 Q Okay. And so you have the Initial
24 Designation of Experts and Disclosure of Opinions
25 of Adele Pope --

1 A Correct.

2 Q -- is that correct; in this case, what we
3 call Aiken 1337?

4 A Yes.

5 Q Did you read about the petition for
6 certiorari of Charles Carpenter?

7 A I read -- not the whole thing. I read
8 the petition itself. I didn't read all the
9 dependencies.

10 Q Find any defects in the petition or you
11 didn't read it for that?

12 A I didn't read it for that. I don't think
13 there were any defects in it.

14 Q Okay. Thank you. All right. And you
15 provided the defendants in this case a PDF copy of
16 most of what is now in this file?

17 A I think it's everything that's in the
18 file, plus a number of e-mails that I didn't print
19 out.

20 Q So if -- if Mr. Williams and I agree that
21 we would substitute the PDF that you provided for
22 Exhibit 1, we would have a fairly good copy of what
23 was in your file?

24 A Yes. There might be a few e-mails that
25 postdated the production of that disc that I've

1 printed out and stuck in there. I can't remember.

2 Q Okay. Now -- oh, in fact, the disc is in
3 here.

4 A Right -- well, no, no, no. That's one
5 you sent me.

6 Q Oh, I'm sorry.

7 A I think that was the oral argument.

8 Q Oh, that's the oral argument in Wilson
9 versus Dallas, and you listened to that?

10 A I did not listen to that. I'm sorry.

11 Q That's okay. Now, you did, however, read
12 Charles Carpenter's petition for certiorari and
13 the exhibits?

14 A I didn't read all the dependencies.

15 Q Okay. But you read --

16 A I read the petition itself.

17 Q And you read Mr. Smith and Ms. Pope's
18 article?

19 A Yes.

20 Q That was part of the petition.

21 A I --

22 Q You don't recall?

23 A I don't recall.

24 Q Okay. Good.

25 A But I had another copy of the article.

STATE OF SOUTH CAROLINA	*	IN THE COURT OF COMMON PLEAS
	*	
COUNTY OF AIKEN	*	
	*	
ADELE J. POPE	*	CASE NO. 2013-CP-02-1337
	*	
Plaintiff,	*	
	*	
-vs-	*	
	*	
ESTATE OF JAMES BROWN	*	
and THE JAMES BROWN 2000	*	
IRREVOCABLE TRUST,	*	
	*	
Defendants.	*	
	*	

THE DEPOSITION OF
WALTER F. WILLIAMS
January 26, 2017

JILL C. SCHEIB, CERTIFIED COURT REPORTER
447 Mauldeth Road
Chattanooga, Tennessee 37415
(423) 544-7886
jillscheib@epbfi.com

1 WALTER F. WILLIAMS,
2 called at the instance of the Plaintiff,
3 having been first duly sworn, was examined and testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MS. POPE:

7 Q. Judge Williams, we've spoken prior to this
8 deposition, and you are an attorney, is that correct?

9 A. Yes.

10 Q. And you've advised me that you do not need any
11 explanation about the deposition process.

12 A. No.

13 Q. Okay. And we were going to speak briefly
14 about your health issues; if you will just describe what
15 they are.

16 A. On December the 25th, 2014 I suffered a
17 stroke, and so I retired from the firm, and I just do
18 nothing except I do once a quarter handle the demolition
19 court for the City of Chattanooga. The mayor has told me
20 that he wanted me part-time to handle -- be a hearing
21 officer for the city in demolition cases. And I have
22 agreed to do that, and have applied to the supreme court
23 to have my license reinstated. I don't think I can do
24 anything full-time, but I can certainly do part-time
25 work. But other than that, I just volunteer my services

Jill C. Scheib, LCR

1 to the community.

2 Q. Okay. Now, we also discussed that your speech
3 is somewhat slow, but do you feel that you've been at all
4 mentally impaired by your stroke?

5 A. Don't think I've been impaired mentally. I
6 just speak slowly.

7 Q. Okay.

8 A. But other than that, I've not been impaired.
9 I walk slowly, but I can walk.

10 Q. Good. And you walked here.

11 A. Yes.

12 Q. Good. Thank you. Now, Judge, if you'll tell
13 me just a little bit about your history, both your
14 professional history and your history of involvement in
15 the community.

16 A. Well, I finished high school here in 1970,
17 went to Morehouse College in Atlanta. Finished there in
18 '74 and went to Howard University School of Law and
19 finished in '77. I practiced for the Internal Revenue
20 Service for three years, until 1980, when I returned to
21 Chattanooga to start a law practice with Judge John
22 McClarty. He's on the court of appeals now. But at that
23 time he and I started a partnership, and remained
24 together till '91 when I was elected to the City Court
25 bench in 1991. And I remained there until 2003 when I

1 because he knew that James Brown would be the issue --

2 Q. Uh-huh.

3 A. -- so he didn't invite Brown. So Brown
4 decided to show up, and he had a full-length mink coat on
5 with his gun. Judge Bradley took the guns from him, let
6 James stay about five or ten minutes, and then ushered
7 him home.

8 Q. Good. Okay.

9 A. I met him three or four times, but mostly
10 social.

11 Q. Uh-huh. Other than that one conversation --

12 A. Yeah.

13 Q. -- here in Chattanooga?

14 A. Yeah.

15 Q. Did you know he had a reputation for an
16 interest in education?

17 A. Yeah, I knew that.

18 Q. Right.

19 A. He told me that.

20 Q. Uh-huh. Good.

21 A. And he liked to philosophy a lot. But he
22 didn't have any formal education, but he believed in
23 people receiving an education, although he did not have
24 one.

25 Q. Uh-huh. Okay. So then when Mr. Brown died on

Jill C. Scheib, LCR

1 Q. Oh, good. Good. All right. Now, I want to
2 show you what we've looked at before today, and we'll
3 mark that as Plaintiff's Exhibit 1.

4 (Whereupon, Plaintiff's Exhibit Number 1 was marked.)

5 Q. And this is an article from March 1, 2007.
6 And if you'll just publish the title of the article in
7 the Chattanooga.

8 A. Yes.

9 Q. Right. Is that big enough to read, Judge?

10 A. Walter Williams to Help Distribute James Brown
11 Fortune.

12 Q. All right. And then it says: Named to
13 Panel --

14 A. To Oversee Soul Singer's Educational Fund.

15 Q. Okay. And do you recall -- you've read this
16 article before today.

17 A. Yes.

18 Q. Okay. And I'm interested in a few things.
19 One is the very first sentence. It says: Former
20 Chattanooga City Judge Walter Williams has been named to
21 a board to decide how to distribute over \$100 million
22 from the estate of soul singer James Brown. Do you know
23 how The Chattanooga came up with that figure or that
24 statement?

25 A. I mentioned it to John Wilson, who is the

Jill C. Scheib, LCR

1 signing documents, but it wasn't -- I didn't speak to her
2 that often, I would say four or five times, about the
3 status of the case, that's about it.

4 Q. Okay. And when you say status of the case,
5 are you referring to the lawsuits challenging the will
6 and trust?

7 A. Yeah. I know that it had gone to the Georgia
8 Supreme Court and it had gone to the South Carolina
9 Supreme Court, and I was just curious as to what was
10 going on. But I haven't spoken to Mrs. Pope in some
11 time. That's the reason I thought the matter was
12 resolved. But apparently not.

13 Q. Yes, sir. Can you tell the -- well, strike
14 that. Judge, can you tell the jury how many estates you
15 have valued in your life?

16 A. Oh, thousands of them.

17 Q. Okay.

18 A. I used to have a pretty good practice of
19 estate administration here in Chattanooga. I suspect
20 that 85 percent of all of the estates of
21 African-Americans in Chattanooga I handled.

22 Q. Okay.

23 A. So I have extensive experience in valuing
24 estates.

25 Q. Okay. Can you tell the jury how often those

Jill C. Scheib, LCR

1	STATE OF SOUTH CAROLINA	COURT OF COMMON PLEAS
2	COUNTY OF AIKEN	C/A. No. 2013-CP-02-1337
3	Adele J. Pope,	)
		)
4	Plaintiff,	)
		)
5	vs.	)
		)
6	Estate of James Brown and	)
	The James Brown 2000	)
7	Irrevocable Trust,	)
		)
8	Defendant.	)
		)

9

10 DEPOSITION OF

11 KENNETH B. WINGATE, ESQ.

12 *****

13 Monday, March 6, 2017

14 2:08 p.m. - 3:51 p.m.

15

16 The deposition of KENNETH B. WINGATE,

17 ESQ., was taken on behalf of the Plaintiff

18 at the law offices of Gertz & Moore, LLP,

19 1416 Laurel Street, Columbia, South

20 Carolina, on the 6th day of March, 2017

21 before Cassandra E. Vance, Court Reporter

22 and Notary Public in and for the State of

23 South Carolina, pursuant to Notice of

24 Deposition.

25

1 MS. POPE: Oh, I'm sorry. Okay.

2 MR. HOWSER: That's why.

3 MS. POPE: Okay. That's fine. All
4 right. Thank you.

5 KENNETH B. WINGATE, ESQ., having been duly sworn,
6 deposes and testifies as follows:

7 DIRECT EXAMINATION

8 BY MS. POPE:

9 Q. All right. Now, Ken, I'm Adele Pope and I'm
10 the Pro Se Plaintiff in Aiken County Case
11 2013-CP-02-1337. If you don't mind, I'll refer
12 to that case in today's deposition as Aiken 1337.

13 A. Sure.

14 Q. Do you need me to explain the deposition
15 procedure to you?

16 A. No.

17 Q. Okay. Would you like to read and sign your
18 deposition?

19 A. Yes.

20 Q. Okay. Thank you. And, Ken, in order to
21 save us time, I have marked my first five
22 exhibits and I'm going to identify them for us.
23 And if I've said anything incorrectly, if you'll
24 correct me, and then I'll give you an opportunity
25 to talk to your lawyer about them, if you wish.

1 (Plaintiff's Exhibit No. 1, as previously
2 marked, was presented for identification.)

3 The first is the Order of Acting Circuit
4 Judge Jean Toal dated March 1, 2017, related to
5 this deposition; is that correct?

6 A. Are you asking me if that's what that is?

7 Q. Yes.

8 A. Jean Toal, March 1; it looks like 2017, yes.

9 Q. Okay. And you're familiar with the Order?

10 A. Yes, I am.

11 (Plaintiff's Exhibit No. 2, as previously
12 marked, was presented for identification.)

13 Q. Okay. And now Plaintiff's 2 you will not be
14 familiar with because it is a list of questions
15 that I intend to ask you today and -- and -- but
16 I want -- if you'd like to have an opportunity to
17 discuss them with your lawyer so we could move
18 faster along in the deposition, I'll be glad for
19 us to after we identify those documents.

20 (Plaintiff's Exhibit No. 3, as previously
21 marked, was presented for identification.)

22 Then Plaintiff's 3 is the Summons of what is
23 now Aiken -- I'm sorry -- what is now Richland
24 County Case 2010-CP-40-4900, that I will refer to
25 today as the Wingate Suit, but some people refer

1 to as Richland 4900. Is that -- is Plaintiff's 3
2 the caption to the Summons of that case?

3 A. I don't know. It doesn't have that civil
4 action number on it.

5 Q. Okay. Can you tell me if you know why it's
6 not that civil action number?

7 A. No, I have no idea.

8 Q. Did you file --

9 A. This says 2010-GC-4000073 and I don't know
10 what that is.

11 Q. Okay. Was the Wingate Suit filed in Probate
12 Court?

13 A. I don't recall.

14 Q. Okay. Can you look at Plaintiff's 3 and see
15 if the Plaintiff and the Defendants as named
16 therein are the original Plaintiffs and
17 Defendants in the Wingate Suit?

18 A. I don't recall.

19 Q. You don't recall who the Plaintiffs and
20 Defendants in the Wingate Suit were?

21 A. You would have to show me, Adele, the
22 Summons including its entirety in the 4900 case
23 to compare to this Document 3 that you've shown
24 me. It appears to relate to some of the same
25 parties, but without the 4900 caption, I do not

1 A. To my knowledge, yes.

2 Q. Is Larry Brown your client?

3 A. To my knowledge, yes.

4 Q. Is Terry Brown your client?

5 A. To my knowledge, yes.

6 Q. Is Alan Wilson, in his capacity as Attorney
7 General of the State of South Carolina, your
8 client?

9 A. Yes.

10 Q. Is Tommie Rae Brown, individually and on
11 behalf of her minor child, your client?

12 A. Yes.

13 Q. Is Daryl J. Brown your client?

14 A. I'm going to give the same answer, again,
15 Adele, to the best of my knowledge, yes, yes,
16 yes, yes, yes.

17 Q. Is Janice Vanisha Brown your client?

18 A. Yes, to the best of my knowledge.

19 Q. Do you know whether she's a minor or an
20 adult?

21 A. I do not know.

22 Q. Is Lindsey Delores Brown your client?

23 A. To my knowledge, yes.

24 Q. Is Deanna J. Brown Thomas your client?

25 A. To the best of my knowledge, yes.

1 Q. Is Jason Brown-Lewis your client?

2 A. To the best of my knowledge, yes.

3 Q. Is Yamma N. Brown, individually and on
4 behalf of her minor children, Sydney Lumar and
5 Carrington Lumar, your client?

6 A. To the best of my knowledge, yes.

7 Q. Is Tonya Brown your client?

8 A. To the best of my knowledge, yes.

9 Q. And Venisha Brown?

10 A. Same answer.

11 Q. Is Larry Brown your client?

12 A. Same answer.

13 Q. Is Terry Brown your client?

14 A. Same answer.

15 Q. Has there been any change in your clients
16 since the commencement of this Wingate Suit on
17 May 19th, 2010?

18 A. To my knowledge, no.

19 Q. Was there a change of Attorneys General?

20 A. Yes. Henry McMaster was the Attorney
21 General. Alan Wilson is now the Attorney
22 General.

23 Q. Do you believe that Henry McMaster
24 authorized you to bring the Wingate Suit?

25 A. Yes, I know that he did.

1 Q. Okay. Would those have been with Mary
2 Francis and Sonny or Sonny or Sonny and Alan or
3 do you recall?

4 A. I can't recall those details.

5 Q. Okay. Do you recall whether you had the
6 complaint drafted when you had the meeting, which
7 you've just described with the Attorney General,
8 your first meeting?

9 A. I do not recall.

10 Q. Okay. Do you recall showing him the
11 complaint?

12 A. I do not recall that.

13 Q. Okay. Now, there was a second meeting. Was
14 the second meeting closer to the time of the
15 filing of the complaint?

16 A. They were in close proximity to one another,
17 so I don't recall the specific date, time, place.
18 There were conversations and meetings going on.

19 Q. Okay. Did you have any conversation with
20 Henry McMaster other than the two meetings you've
21 described?

22 A. Not that I recall. Most of my communication
23 at that point in time was with the Deputy
24 Attorney General, Sonny Jones, and with Mary
25 Francis Jowers.

1 **Q. Okay.**

2 A. Most of the communication.

3 **Q. And did Sonny and Mary Francis approve the**
4 **complaint?**

5 A. I don't know what you mean by "approve."
6 They were involved in the drafting of the
7 complaint.

8 **Q. Sonny and Mary Francis were?**

9 A. Yes.

10 **Q. Was Alan Medlin involved in the drafting of**
11 **the complaint?**

12 A. As I recall, he was.

13 **Q. Okay. Do you recall who was concerned about**
14 **the one-year statute of limitations?**

15 A. No, I do not.

16 **Q. Okay. Do you recall any issues related to**
17 **the statute of limitations?**

18 A. I do.

19 **Q. Okay. Tell me what you recall, please.**

20 A. Just that --

21 MR. NEWSOME: I'm going to object real
22 quick to the extent that you're seeking any
23 information that is protected by the
24 attorney/client privilege.

25 There's been a common interest

1 MR. HOWSER: Wait a minute. You
2 misstated.

3 MS. POPE: I'm sorry. Thank you.

4 MR. HOWSER: You used --

5 MS. POPE: I'll restate it. Thank you.

6 MR. HOWSER: You used his name twice.

7 MS. POPE: I -- thank you.

8 BY MS. POPE:

9 Q. Did you at first draft a contract for Henry
10 McMaster to sign as Attorney General and he did
11 not sign it?

12 A. No, I did not draft such a document.

13 Q. Did you at first propose that Henry
14 McMaster, as Attorney General, would be a
15 signatory on the contract with your firm?

16 A. I did not propose that.

17 Q. Do you know if anyone else did?

18 A. No, I do not know if anyone else did.

19 Q. Okay. Do you know whether or not that
20 proposal was rejected?

21 A. No, I do not know.

22 Q. Okay. All right. Do you have a joint -- an
23 attorney/client relationship or a joint defense
24 privilege with David Bell, Esquire?

25 A. Those would be details that others in the

1 signature of Alan's.

2 **Q. He actually verified Attorney General**
3 **McMaster's interrogatory answers, didn't he?**

4 A. I don't know. I didn't handle that, I told
5 you.

6 **Q. So you -- you've seen his signature. You**
7 **don't know the circumstances; is that correct?**

8 A. Correct.

9 **Q. Okay. All right. Let me ask you about your**
10 **client, the James Brown Legacy Trust. Does it**
11 **exist?**

12 A. I'm not handling that part of the
13 litigation. I'm not going to parse with you the
14 kind of question you're angling toward. I have
15 no idea.

16 **Q. Mr. Wingate, I'm here to get your answers,**
17 **not to parse with you. Do you know whether the**
18 **Wingate -- whether the James Brown Legacy Trust**
19 **exists at this time?**

20 A. I'm not handling that part of the
21 litigation.

22 **Q. You're not responding to my answer (sic).**

23 MR. HOWSER: The answer is: He doesn't
24 know. Isn't that what you --

25 MS. POPE: Mr. Howser, this is ...

1 MR. HOWSER: Okay. Go ahead.

2 BY MS. POPE:

3 Q. Does the James -- to your knowledge, does
4 the James Brown Legacy Trust exist at this time?

5 A. I do not know.

6 Q. Okay. Do you know who the -- who the
7 principals of the James Brown Legacy Trust are?

8 A. Do not know.

9 Q. Do you know who the principals of the James
10 Brown Legacy Trust were when you brought the
11 Wingate Suit?

12 A. I do not know.

13 Q. Okay. Do you know whether Bob Buchanan and
14 Adele Pope ever owed any duty to the
15 Wingate -- to the James Brown Legacy Trust?

16 A. Again, those are things that I have not been
17 directly involved in, so my answer is: I do not
18 know.

19 Q. Did you have any change in the
20 attorney/client relationship with Daryl Brown
21 after Daryl Brown fired Louis Levenson?

22 A. I do not know.

23 Q. Did you allow three lawyers to sign the
24 Wingate litigation agreement on behalf of
25 approximately a dozen clients whom you had never

1 met?

2 A. I don't know what you're talking about.

3 Q. Do you know who signed the agreement to
4 engage your law firm to bring the Wingate
5 lawsuit?

6 A. Which agreement are you talking about?

7 Q. Your Wingate litigation fee agreement to
8 bring the Wingate Suit, which you filed on
9 May 19th of 2010. Do you know who filed the
10 contract with your law firm?

11 A. No, I do not know. Put a document in front
12 of me and we can talk about it.

13 Q. Today, you don't remember who signed that
14 agreement?

15 A. Put it in front of us and we'll talk about
16 it.

17 Q. Answer my question, please. Do you --

18 A. I said --

19 Q. -- recall today who signed that agreement?

20 A. I do not.

21 Q. Do you recall that more than a dozen of your
22 clients didn't sign the agreement?

23 A. I don't handle. I didn't handle. I haven't
24 handled. I don't know.

25 Q. We'll get to it in a minute. Do you know

1 A. Those who have appeared at the hearings that
2 you have seen.

3 Q. No, no, I --

4 A. Rett Kendall and Mark Gende.

5 Q. So, in your opinion, the -- the conduct of
6 the Wingate Suit has been the responsibility of
7 Rett Kendall and Mark Gende?

8 A. Yes.

9 Q. You do not accept responsibility for the
10 conduct of the Wingate Suit?

11 A. I don't know what you mean by accepting
12 responsibility. I'm telling you, Rett Kendall
13 and Mark Gende are the attorneys in our firm who
14 take care of the day-to-day handling of all
15 aspects of this case.

16 Q. I'm not interested in the day-to-day. I'm
17 interested in who authorized it, who has
18 continued it, who thinks they're representing the
19 Attorney General, who -- who keeps making motions
20 for Summary Judgment. I want to know who is
21 responsible for this suit. I think you know what
22 that means as a lawyer.

23 A. And I have answered the question.

24 MR. NEWSOME: Object to the form of the
25 question.

1 **limitations had passed as to many of the**
2 **allegations in the complaint?**

3 A. I think we're here today to talk about the
4 authorization to proceed with the lawsuit. I'm
5 not going to go into what did we think about and
6 how did we analyze all of the issues.

7 **Q. Do you refuse to answer my question?**

8 A. Repeat it.

9 **Q. Were you aware that the statute of**
10 **limitations had passed as to many of the**
11 **allegations you made in your complaint?**

12 A. I do not --

13 MR. NEWSOME: Object to the form.

14 A. I do not intend to answer that question.
15 That does not relate to the authorization to
16 proceed with this lawsuit.

17 **Q. You refuse to answer that question?**

18 A. Yes, I do.

19 **Q. Okay. I'll expect you to file a motion.**

20 **(Plaintiff's Exhibit No. 5, as previously**
21 **marked, was presented for identification.)**

22 **Hand you Wingate 5 and ask you if you've**
23 **seen that before.**

24 A. No, I've never seen this before.

25 **Q. Were you aware prior to the commencement of**

1 Q. Do you recall that one of the allegations of
2 the complaint was that Bob Buchanan and Adele
3 Pope should have accepted a
4 hundred-million-dollar offer made for James
5 Brown's assets in 2007?

6 A. Put the complaint in front of me and we'll
7 be glad to look at it paragraph by paragraph.

8 Q. Do you refuse to answer?

9 A. I'm saying I don't recall those details.
10 That's a lengthy document --

11 Q. Do you think --

12 A. -- from six years ago.

13 Q. It's a lengthy document in a pending
14 lawsuit, isn't it, Mr. Wingate?

15 A. I've already answered your question.

16 Q. Have you made any effort to determine
17 whether the allegation that Bob Buchanan and
18 Adele Pope should have accepted a
19 hundred-million-dollar offer was correct or
20 appropriate?

21 MR. HOWSER: I object and instruct him
22 not to answer; that goes beyond the Order of
23 Justice -- of Judge Toal.

24 MR. NEWSOME: Same objection.

25 BY MS. POPE:

1 MR. HOWSER: Object --

2 MR. NEWSOME: -- to the form.

3 MR. HOWSER: So do I.

4 A. Again, put the complaint in front of me and
5 if it's within the scope of this deposition,
6 we'll talk about it.

7 **Q. Do you refuse to answer without the**
8 **complaint?**

9 A. Yes. I'm not going to let you just put
10 words in my mouth. If you've got a document,
11 let's -- put it in front of me and we'll talk
12 about it.

13 **Q. Were you aware at the time that this**
14 **complaint was being prepared that Alan Medlin was**
15 **proposing a devaluation of James Brown's assets?**

16 MR. NEWSOME: Object to the form.

17 A. I don't know what you're talking about.

18 **Q. Okay. All right. Let's look at Wingate 6.**
19 **Do you recognize that form?**

20 A. I recognize this as to the form being one
21 portion of a federal estate tax return, a Form
22 706.

23 **Q. In what estate?**

24 A. What this document says -- and I did not
25 prepare this document -- it says "Estate of James

1 Brown."

2 **Q. All right. Okay. But you don't know any**
3 **more than that?**

4 A. I -- correct. I do not know more than that.

5 **Q. All right.**

6 A. I did not generate this document.

7 (Plaintiff's Exhibit No. 7 was marked for
8 identification purposes.)

9 **Q. Let's look at Wingate 7. Do you know**
10 **anything about Wingate 7?**

11 A. Do not.

12 **Q. Okay. Do you know what it is?**

13 A. No, I do not.

14 **Q. Okay. Do you know anything about the Hynie**
15 **notes, sometimes called the "Hynie diary"?**

16 A. No, I do not.

17 **Q. Do you know who Alan Wingate -- I'm sorry.**
18 **Do you know who Alan Medlin represented when this**
19 **lawsuit was filed?**

20 A. My understanding is that he represented
21 Tommie Rae Hynie.

22 **Q. Do you know who he represents today?**

23 A. I do not.

24 **Q. Do you know what the position of the Estate**
25 **speaking through Bob Buchanan and Adele Pope was**

1 MR. HOWSER: And object to the
2 statement.

3 MR. NEWSOME: -- also beyond the scope
4 of this deposition.

5 BY MS. POPE:

6 **Q. But you're not aware?**

7 A. I don't know.

8 **Q. Okay. Do you know anything about the**
9 **marital status of Tommie Rae Hynie and James**
10 **Brown?**

11 A. I do not.

12 **Q. Do you think that was an important inquiry**
13 **before you took her on as a client, along with**
14 **those who have said she's not the wife?**

15 MR. HOWSER: I object to the question.

16 MR. NEWSOME: Same objection.

17 A. As it relates to the authorization to
18 proceed with this suit, I was contacted by the
19 Plaintiffs group, which included her counsel,
20 asking us to undertake the lawsuit against Adele
21 Pope and Bob Buchanan.

22 **Q. Okay. And you -- you made no -- well, you**
23 **made no inquiry into the conflict issues related**
24 **to that?**

25 A. I am not going to answer what inquiries I

1 made into those things.

2 **Q. Okay. Well, didn't you, in fact, tell the**
3 **Court at some point before 2013 that if you could**
4 **not represent the Attorney General, you could not**
5 **represent anyone?**

6 A. I don't know --

7 MR. NEWSOME: Object to the form.

8 A. -- what you're referring to.

9 **Q. Did you -- did you make -- not make such a**
10 **representation to the Court?**

11 A. Not that I'm aware of.

12 **Q. Do you know whether --**

13 A. I don't know what --

14 **Q. -- your firm did?**

15 A. -- you're referring to. I do not know.

16 **Q. You don't know what representations your**
17 **firm made to the Court about its potential**
18 **conflicts?**

19 A. If you've got a document, put it in front of
20 me and I'll be glad to answer questions or try
21 to.

22 **Q. Okay. Well, I want to know what you know.**
23 **Today, I want to know what you know.**

24 A. I've already answered the question.

25 (Plaintiff's Exhibit No. 8 was marked for

1 identification purposes.)

2 **Q. All right. Let's look at -- let me get you**
3 **another one, Wingate 8.**

4 A. That's No. 8, if that's what you're --

5 **Q. Yes, uh-huh (affirmative response). Yeah, I**
6 **was just looking for copies. Thank you.**

7 A. (Reading.) Do you have a better copy?

8 **Q. I'm sorry, I don't. If I can help you with**
9 **the words, I'll be glad to.**

10 A. I've scanned over it. I don't know what the
11 question is.

12 THE WITNESS: Have you got a copy of
13 it, Bill?

14 MR. NEWSOME: I do not.

15 MS. POPE: Just one second. I'm sorry.
16 (Tendering.)

17 MR. HOWSER: Thank you.

18 BY MS. POPE:

19 **Q. Do you know anything about the subject of**
20 **Exhibit 8 which --**

21 A. I do not.

22 **Q. All right. I'm just going to make a little**
23 **bit of a record here. This is an email from**
24 **Sonny Jones to Bob Buchanan dated December 6,**
25 **2007, regarding a hundred-million-dollar plus**

1 **five percent of the gross profits offer to**
2 **purchase James Brown's assets. Do you know**
3 **anything about that?**

4 A. This is two or three years prior to my
5 having any involvement. No, I know nothing about
6 this.

7 **Q. Right. Do you know anything about the**
8 **October 18th letter that is referred to in --**

9 A. I do not.

10 **Q. -- in Mrs. Pope's handwriting? You do not.**

11 **Do you think that might have been important**
12 **to determine whether this case that you brought**
13 **would be barred by the statute of limitations?**

14 MR. HOWSER: Object to the form.

15 MR. NEWSOME: Same objection.

16 A. And I'm not going to answer questions about
17 what was considered or what was reviewed. This
18 is a deposition about the authorization to
19 proceed with the litigation.

20 (Pleading's Exhibit No. 9 was marked for
21 identification purposes.)

22 **Q. Let's look at Wingate No. 9.**

23 A. Okay.

24 **Q. Wingate No. 9 being a letter from Henry**
25 **McMaster to Adele Pope and Bob Buchanan dated**

1 BY MS. POPE:

2 Q. Okay. And Wingate 10 is a portion of a
3 transcript of record in the Wingate Suit,
4 August 30th, 2010. If you'll just glance at that
5 a minute.

6 A. I think you just said to me that this is a
7 portion of a transcript?

8 Q. It is.

9 A. Okay. I've glanced at it. I haven't read
10 it.

11 Q. Okay. Well, take the time you need, please.

12 A. (Reading.) Still reading. Just give me
13 another moment.

14 Q. Sure.

15 A. (Reading.) Okay. I've read it.

16 Q. Okay. Does this refresh your recollection
17 about your participation in the Wingate Suit?

18 A. No, it does not, really. I do remember that
19 I appeared at several hearings at different times
20 with either Rett Kendall, my partner, or Mark
21 Gende, and that there would be occasions, as
22 appears in this partial transcript that you've
23 given me, where I'm indicating to the Court that
24 we represent, among others in the court that day,
25 Sonny Jones, an attorney with the South Carolina

1 that says 7 in the ...

2 A. (Reading.) Okay. I've looked at the
3 partial transcript you've given me.

4 **Q. Is it fair to say that you were responsible**
5 **for arguing to the Court that Judge Early should**
6 **not be responsible for this case, that it should**
7 **remain in Richland County?**

8 A. The portion of the transcript that you've
9 given me from the August 30, 2010 hearing does
10 describe or discuss the question of venue.

11 **Q. Okay. And you were responsible for the**
12 **argument that you were making to the Court that**
13 **day, were you not?**

14 A. I was the person addressing the Court.
15 There are questions or statements by the Court,
16 which means Judge Manning, and there are
17 questions, arguments, what have you, made by me
18 according to this partial transcript. And there
19 were a lot of other people at the hearing that
20 day, too.

21 **Q. Who do you recall?**

22 A. Well, I've just -- reading the partial
23 transcript that you've given me, Adele, it says
24 that I'm introducing to the Court a group of my
25 clients, which included Sonny Jones of the South

1 Carolina Attorney General's Office -- which is
2 why he was sitting behind the -- not at counsel
3 table, but in the back of the courtroom -- along
4 with some of the others that are referenced here.

5 **Q. Does anything in there refresh your**
6 **recollection about your responsibility for the**
7 **case?**

8 A. We can play this game all day long, Adele.
9 You keep trying to put the word "responsibility"
10 in my mouth. I was one of the attorneys of
11 record representing the Plaintiffs who sued you.

12 (Plaintiff's Exhibit No. 12 was marked for
13 identification purposes.)

14 **Q. All right. Let's look at --**

15 A. With the direct and specific authorization
16 of the South Carolina Attorney General, who was
17 our client and remains our client.

18 **Q. Let's look at Wingate 13, is it?**

19 A. 12.

20 **Q. 12. Thank you. Let's look at Wingate 12.**
21 **Is that your -- the Wingate Litigation Retention**
22 **Agreement?**

23 A. I will say that I think that this is it.
24 You'll notice, at least according to the copy I'm
25 looking at, that it's signed on behalf of our

1 Estate of James Brown by -- that looks like
2 Russell Bauknight's signature as PR, and the
3 James Brown 2000 Irrevocable Trust. Again, it
4 looks like it's signed by Russell Bauknight, as
5 Trustee, and the James Brown Legacy Trust, again,
6 looks like it's signed by Russell Bauknight, as
7 its Trustee.

8 **Q. Did any of approximately a dozen of your**
9 **clients sign the Wingate agreement?**

10 A. The agreement is the package that it appears
11 you've put together here. It's got various parts
12 and components.

13 There's the initial three pages. There's
14 the attachment, which is called Exhibit A.
15 There's the letter of Attorney General Henry
16 McMaster. And then there are separate
17 confirmations, approvals, and acknowledgments all
18 attached.

19 **Q. Well, what is -- what is the Wingate**
20 **contract, Mr. Wingate?**

21 A. This packet.

22 **Q. Okay. So the entire packet is the Wingate**
23 **contract?**

24 A. The Agreement for Legal Services is the
25 first three pages and it incorporates, I believe

1 handling and has handled things such as this
2 agreement.

3 **Q. I understand.**

4 A. And, no, I am -- I do not know all the
5 details of what all is in this packet that you're
6 calling Exhibit 12.

7 **Q. Well, I want you to take all the time you**
8 **need because this is what we're here about,**
9 **Mr. Wingate. I want to know everything you knew**
10 **and know. So all the time it takes you to**
11 **refresh your memory, please do --**

12 A. And I've just answered the question.

13 **Q. Well, I'm not through. So I want -- I want**
14 **you to take all the time to refresh your memory**
15 **about anything you can refresh your about,**
16 **because I have some questions about the contract.**

17 A. I've already answered you that I'm not the
18 one who negotiated, so there's not a memory to be
19 refreshed. I don't understand why you have a
20 hard time understanding that answer.

21 **Q. Okay. So you never understood the contract?**

22 A. It's not what I said. I said I did not
23 negotiate the contract.

24 **Q. Well, Mr. Wingate, I didn't actually get a**
25 **"yes" or "no" answer from you about that. You're**

1 **often bound by a contract that you don't**
2 **negotiate, aren't -- aren't you?**

3 MR. HOWSER: Object to the form.

4 MR. NEWSOME: Same objection.

5 A. The scope of this deposition is: Was this
6 law firm authorized to sue you? And I'm telling
7 you that I'm not the attorney within the firm who
8 dealt with these matters. I have no firsthand
9 knowledge to be refreshed.

10 **Q. Do you know whether this is the Wingate**
11 **firm's contract with the Plaintiffs in the**
12 **Wingate lawsuit? Do you know that, "yes" or**
13 **"no"? And then any explanation you want to give.**

14 A. I have already told you, I'm not the one who
15 negotiated all those details. I do not know.

16 **Q. You do not know whether this is the**
17 **contract?**

18 A. It's what I just said.

19 **Q. Okay. Do you know from looking at this or**
20 **from any other source which of the Wingate Suit**
21 **clients filed -- executed the contract with the**
22 **Wingate firm?**

23 A. I didn't handle those. No, I do not know.

24 **Q. You do not know. Do you know whether the**
25 **Attorney General of South Carolina understood**

1 for identification purposes.)

2 BY MS. POPE:

3 **Q. Plaintiff's 13.**

4 A. (Reading.) Okay.

5 **Q. If you'll just take a moment to see if you**
6 **can familiarize yourself with Wingate 13.**

7 A. I'm not familiar with this document.

8 **Q. Okay. Well, if you can familiarize yourself**
9 **with the facts surrounding the document.**

10 A. Are you saying you want me to read the
11 document?

12 **Q. Yeah, please.**

13 A. It's nine pages long.

14 MR. HOWSER: Take your time.

15 A. (Reading.) I glanced over it.

16 **Q. Do you know when Alan Medlin and Sonny Jones**
17 **and others began telling the Appellate Courts**
18 **that James Brown's music empire was worth only**
19 **\$4.7 million when he died?**

20 A. I have no --

21 MR. NEWSOME: Object to the form of the
22 question.

23 A. I have no knowledge of that.

24 **Q. Okay. Do you think it would have been**
25 **important to know when you were suing Bob**

1 A. That has nothing to do with the
2 authorization to proceed with the lawsuit.

3 Q. I understand that, but that's not my
4 question, Mr. Wingate. Do you recall anything
5 about Bob Buchanan's and Adele Pope's seeking an
6 early answer from the Appellate Court about the
7 legality of the Wingate lawsuit?

8 A. I don't know what you're talking about.

9 (Plaintiff's Exhibit No. 15 was marked for
10 identification purposes.)

11 THE WITNESS: What was that? Is that
12 just some loose, extra copy of something?

13 BY MS. POPE:

14 Q. Before you look at the document, let me ask
15 you this. Do you remember ever the opportunity
16 for the Attorney General to be dismissed as a
17 party to the Wingate Suit?

18 A. I'm sorry, ask the question again.

19 Q. Yeah. Do you remember Adele Pope ever
20 giving the Attorney General an opportunity to be
21 dismissed as a party to the Wingate Suit?

22 A. I don't know what you're referring to.

23 Q. Okay. Now, take a look at Wingate --

24 A. 15?

25 Q. -- 15, please, and tell me if you know

1 **Q. Thank you.**

2 A. I have no knowledge of this document.

3 **Q. Thank you. That helps. Okay.**

4 (Plaintiff's Exhibit No. 16 was marked for
5 **identification purposes.)**

6 A. (Perusing.)

7 **Q. And I'm sorry, I did not mark Wingate 16**
8 **along with Wingate 13, but I'm going to ask you**
9 **to just glance at Wingate 16 and Wingate 13**
10 **together --**

11 A. Yes.

12 **Q. -- and see if you have any knowledge,**
13 **memory, recollection of anything related to the**
14 **Motion to Supplement the Record filed in May of**
15 **2011.**

16 A. No, I do not. And, again, would note that
17 these are -- Exhibit 16 is a selection of pages,
18 it appears, out of some document; page one of 15,
19 page four of 15 --

20 **Q. Right.**

21 A. -- page nine of 15, et cetera. But there's
22 nothing of the few pages that are included in
23 this exhibit that I recognize at all.

24 **Q. Okay. Are you -- are you just generally**
25 **unfamiliar with the claim by all of the Wingate**

1 **Suit Plaintiffs to the Supreme Court in 2011 that**
2 **James Brown's assets were worth less than**
3 **\$7 million and his music empire worth less than**
4 **\$5 million?**

5 A. I'm not familiar with those things.

6 **Q. Okay. And if you were suing someone for not**
7 **accepting a hundred-million-dollar offer, would**
8 **you have wanted to be familiar with those things?**

9 MR. HOWSER: Object to the form of the
10 question.

11 MR. NEWSOME: Same objection. Also
12 beyond the scope of the deposition.

13 A. I was going to say, this is -- we're here
14 today to talk about the authorization to sue you
15 and all the nuances of what was done later and
16 who did what and who said what, et cetera, no, I
17 do not know.

18 **Q. I don't know whether I got an answer for**
19 **that.**

20 MS. POPE: Could you reread it?

21 THE COURT REPORTER: Which part?

22 MS. POPE: The question.

23 THE COURT REPORTER: "And if you were
24 suing someone for not accepting a
25 hundred-million-dollar offer, would you have

1 wanted to be familiar with those things?"

2 MR. NEWSOME: Same objection.

3 MR. HOWSER: Same objection.

4 A. And my answer is: This is about the
5 authorization to proceed in the suit.

6 **Q. So you refuse to answer?**

7 A. I was authorized to proceed in filing a suit
8 against you and I'm not going to discuss the
9 nuances of different facts and who handled what
10 and who knew what when and how you can interpret
11 those things. That's not within the scope of
12 this; that's priveleged information.

13 **Q. So you have refused to answer, so I will**
14 **expect you to file a motion.**

15 (Plaintiff's Exhibit No. 17 was marked for
16 identification purposes.)

17 **Q. Are you familiar with what has generally**
18 **been called "dirty tricks" in which David Bell**
19 **has engaged over the course of the James Brown**
20 **litigation?**

21 A. I've never heard that phrase "dirty tricks."

22 **Q. Are you familiar with anything inappropriate**
23 **alleged by anyone that David Bell has done during**
24 **the course of the James Brown litigation?**

25 A. I have no idea what you're talking about.

1 Q. Do you know who David Bell is?

2 A. He's an attorney.

3 Q. Okay. Is he one of the signatories to the
4 Wingate contract?

5 A. I don't know.

6 Q. Well, let's look and see.

7 A. Show it to me.

8 Q. You have it.

9 A. (Tendering.) You have it.

10 Q. We're looking at Plaintiff's 12.

11 A. (Reading.) And the question is?

12 Q. Is David Bell a signatory to the Wingate
13 contract, Plaintiff Wingate 12?

14 A. In Exhibit 12, the third page from the end
15 is a document signed by David Bell that is tiled
16 "Confirmation Approval and Acknowledgment."

17 Q. Did you consider that to be part of the
18 contract?

19 A. I've already answered the question
20 previously, that Rett Kendall and my firm was the
21 person dealing with these matters, these
22 attorneys, and this document. I do not know.

23 Q. You do not know whether David Bell's
24 signature was part of the contract?

25 A. I've already told you that the third from

1 the last page of Exhibit 12 is a document signed
2 by David Bell -- well, it's a copy of one; I
3 assume he signed it -- that confirms, approves,
4 and acknowledges, and you have attached it to the
5 Agreement for Legal Services between my firm and
6 Russell Bauknight.

7 **Q. Well, Mr. Wingate, when it was released by**
8 **Mr. Bauknight pursuant to federal court order,**
9 **this is what he released, isn't it?**

10 A. Is that what you're representing to me?

11 **Q. Today is your day to answer questions.**

12 MR. HOWSER: That's right. And that
13 was a statement and I object to the
14 statement.

15 MS. POPE: Which was --

16 MR. NEWSOME: Same objection.

17 BY MS. POPE:

18 **Q. Do you know what Mr. Bauknight presented to**
19 **the federal court when he was directed to release**
20 **the Wingate contract?**

21 A. No, I do not.

22 **Q. Okay. And -- okay. You don't know.**

23 A. I do not know.

24 **Q. Did you know that he was required by the**
25 **federal court to release the Wingate contract?**

1 and/or any of his clients in that posting?

2 A. No.

3 Q. Thank you. Do you agree that Henry McMaster
4 has waived any attorney/client privilege as to
5 who authorized the bringing and the conduct of
6 the Wingate Suit in his name as A.G. or the
7 authorization for Russell Bauknight to act on
8 behalf of the A.G.?

9 A. What I know is that Judge Toal signed an
10 Order saying that we should talk about the
11 authorization to serve. I have no idea of the
12 scope of comments that Henry or any representing
13 him may have made.

14 Q. Okay. And let me be clear. You do not know
15 who made the decision for Wingate not to sign the
16 Litigation Retention Agreement?

17 A. Repeat that question.

18 Q. Do you know who made the decision for Henry
19 McMaster not to sign the Wingate Litigation
20 Retention Agreement?

21 A. I don't understand the question and, no, I
22 do not know.

23 Q. Okay. Do you know who made the decision for
24 most of the Wingate Suit Plaintiffs not to sue
25 the -- sign the Wingate Litigation Agreement?

1 A. I do not know what you're talking about.

2 Q. Okay. Did you appear at a FOIA hearing
3 seeking to intervene in a FOIA suit?

4 A. I do not know.

5 Q. You don't know whether you attended a FOIA
6 hearing?

7 A. No, I don't know.

8 Q. Do you know anything about the efforts of
9 the Wingate Suit Plaintiffs to intervene in FOIA
10 lawsuits?

11 A. No, I was not handling those kinds of
12 things.

13 Q. I'm sorry, I don't mean to cut you off, but
14 I understand that you've said repeatedly that you
15 weren't handling those things, so we have that on
16 the record. I'm, again, trying to just make sure
17 that you're not the person to ask about certain
18 things, okay?

19 Do you know anything about the Wingate
20 Plaintiffs' attempts to intervene in Freedom of
21 Information Act lawsuits?

22 A. No.

23 Q. Okay. Did you ever attend, that you can
24 recall, a hearing related to the -- to the
25 attempts by Wingate Suit Plaintiffs to intervene

1 **General in a FOIA lawsuit?**

2 A. I'm neither denying it nor confirming it. I
3 do not have independent recollection of that.

4 **Q. Do you have --**

5 A. No, I do not.

6 **Q. Do you have any recollection of the Attorney**
7 **General urging you or authorizing you to try to**
8 **participate in FOIA lawsuits?**

9 A. I do not have specific recollection of that.
10 We had frequent and have had frequent interaction
11 with any number of people at the Attorney
12 General's Office and I've already named all those
13 people.

14 **Q. Specifically now I want to talk only about**
15 **the Attorneys General and about FOIA suits. Have**
16 **you had interaction with the Attorney General to**
17 **participate in FOIA lawsuits?**

18 A. I do not recall.

19 MS. POPE: I think that's all the
20 questions I have. Thank you, Ken.

21 THE WITNESS: You're quite welcome.

22 MR. NEWSOME: No questions for this
23 witness.

24 MR. HOWSER: We would just ask that
25 Defendant's Exhibit 1 be --

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF AIKEN

- - -

ADELE J. POPE,	:	
	:	Civil Action No.:
Plaintiff,	:	
	:	2013-CP-02-1337
vs.	:	
	:	
ESTATE OF JAMES BROWN and THE	:	
JAMES BROWN 2000 IRREVOCABLE	:	
TRUST,	:	
	:	
Defendants.	:	

DEPOSITION OF JAMES HARDIN, III

DATE TAKEN: March 23, 2017

TIME BEGAN: 10:03 a.m.

TIME ADJOURNED: 1:48 p.m.

LOCATION: Office of James C. Hardin, III
113 East Main, Suite 330
Rock Hill, South Carolina

REPORTED BY: Tami I. Watters, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
(803) 212-0012

I N D E X

	PAGE
Stipulation	4
EXAMINATION	
By Mr. Newsome	5, 137
By Ms. Pope	96, 140
Signature of Deponent	144
Certificate of Reporter	145

E X H I B I T S

DEFENSE	DESCRIPTION	MARKED
1	Expert Report	4
2	Notebook (Creditor's Claim)	4
3	Petition for Allowance of Claim	4
4	May 8, 2013 Order	4
5	February 19, 2015 Order	4
6	Summary of Opinions of Julian Walker	56
7	Form 706 of United States Estate (And Generation-Skipping Transfer) Tax Return with Attachment (MARKED AS CONFIDENTIAL)	79
8	Bob's and Adele's Correct \$84 Million Value for James Brown Assets	82

1 (It is hereby stipulated and agreed by
2 and between counsel for the respective parties
3 that this deposition is being taken in
4 accordance with the South Carolina Rules of
5 Civil Procedure, and that the deponent does
6 not waive reading and signing of this
7 deposition transcript.)

8 - - -

9 (Expert Report marked Defense Exhibit
10 Number 1, for identification.)

11 - - -

12 (Notebook marked Defense Exhibit
13 Number 2, for identification.)

14 - - -

15 (Petition for Allowance of Claim marked
16 Defense Exhibit Number 3 for identification.)

17 - - -

18 (May 8, 2013 Order marked Defense Exhibit
19 Number 4 for identification.)

20 - - -

21 (February 19, 2015 Order marked Defense
22 Exhibit Number 5 for identification.)

23 - - -

1 - - -
2 JAMES HARDIN, III, after having been
3 first duly sworn, was examined and testified
4 as follows:

5 - - -
6 EXAMINATION
7 - - -

8 BY MR. NEWSOME:

9 Q Good morning, Jim. How are you?

10 A Fine, Billy. How are you?

11 Q Do you mind if I call you Jim?

12 A No, no. That's fine.

13 Q Please call me Billy. And you're
14 familiar with the deposition process, is that --

15 A I am.

16 Q Okay. And do you need me to explain
17 anything to you?

18 A I don't believe so.

19 Q Good, because you could probably explain
20 it to me better.

21 But I -- you know, obviously if I ask you
22 a question and you don't understand it, because
23 sometimes I don't make sense, please ask me to
24 restate it; or if you nod your head instead of
25 saying yes or no, I'll try to remind you, but

1 please try to answer verbally. We all need
2 reminding of that sometimes.

3 A Certainly.

4 Q Let's see. I'm gonna go ahead and hand
5 you a copy of what we have pre-marked as Exhibit 1
6 and ask you if you recognize that.

7 A I do.

8 Q Okay. What is that document?

9 A This is a Rule 26(a)(2)(B) Report of
10 Expert Testimony of James C. Hardin, III, and it's
11 in connection with the legal action of Forlando
12 Brown, Plaintiff, versus Adele Pope, individually
13 and As Trustee of the Irrevocable Trust established
14 by James Brown in August 1, 2000, and Robert L.
15 Buchanan, Jr., individually and As Trustee of the
16 Irrevocable Trust established by James Brown in
17 August 1 of 2000.

18 The report is dated --

19 Q It's on page 21. There you go.

20 A -- November the 6th, 2008.

21 Q Thank you. Since November 6, 2008, have
22 you done any other work for Ms. Pope?

23 A No.

24 Q Okay. So you did no other work in the
25 Forlando case?

1 and I believe -- again, just summarizing that --
2 was at the time there was some confusion as to the
3 titling of certain assets and whether the funds
4 belonged to the estate or the trust or one of the
5 entities, and I don't -- that's not an issue in our
6 case either.

7 A Yes. That was my opinion. Yes.

8 Q Okay. Paragraph 12. This really gets to
9 the crux of what case 1337 is about.

10 Can you sort of tell me generally what
11 your opinion was at the time with regard to the
12 fees and commissions of Ms. Pope and Mr. Buchanan
13 as special administrators, personal
14 representatives, and trustees?

15 A All right. I should note that at the
16 time of my rendition of this opinion in 2008, it
17 was at a time that, as I recall, predated any
18 compensation to Adele and Bob Buchanan for anything
19 other than their service as special administrators
20 through a period of 2007, which I believe resulted
21 in payment to them pursuant to an order approving
22 it by Judge Early of about three hundred and maybe
23 eleven thousand dollars, as I recall, exclusive of
24 costs advanced.

25 Judge Early's order of early 2008, as I

1 her duty to act prudently in administering the
2 estate.

3 A Okay. I think if she did not engage an
4 appraiser, that that would not be in keeping with
5 her duty.

6 Q Okay.

7 MR. NEWSOME: This is Exhibit 8.

8 - - -

9 (Bob's and Adele's Correct \$84 Million
10 Value for James Brown Assets marked Defense
11 Exhibit Number 8 for identification.)

12 - - -

13 BY MR. NEWSOME:

14 Q I'll hand you this document. This is a
15 document that was prepared by Ms. Pope. Take a
16 second, if you would, and just look over it,
17 please.

18 MS. POPE: What number was this?

19 MR. NEWSOME: 8.

20 THE WITNESS: Okay. I've read it.

21 BY MR. NEWSOME:

22 Q Have you ever seen anything like this as
23 the basis for a business valuation?

24 A I have, including from business
25 appraisers. While, admittedly, it may not be

1 precisely in this format, if you've read one good
2 business appraiser's report, you know that the
3 contents of it, in many respects, two-thirds of it
4 are canned.

5 And I don't impugn any of that. Those
6 are appropriate valuation approaches they take, and
7 whether it's, you know, initial public offerings or
8 comparables or this, that, and the other.

9 But, no. In the essence of most of their
10 appraisals, they do look at factors such as some of
11 these, I think.

12 But I've never seen a business appraisal
13 exactly in this format, no.

14 Q Okay. And does this change your opinion
15 about Ms. Pope's duty of prudence with regard to
16 valuing the business of James Brown?

17 A I think it is a factor in changing it,
18 yes. The multiplicity of things that are cited
19 here, parties with many different interests, would
20 certainly seem to me to be relevant.

21 Example: Those that really jumped out at
22 me were the -- find the one about the inventory.
23 Tax Attorney William Hammond.

24 As I recall it, Hammond was the CPA for
25 Dallas, Bradley, and Cannon, or one or more of

1 have a piece of paper, so we can sort of work
2 against a timeline here.

3 A Sure. I have one over here.

4 Q James Brown died on December 25th, 2006;
5 is that correct?

6 A Yes, it is.

7 Q And Bob Buchanan and Adele Pope became
8 special administrators on March 7th --

9 A Uh-huh.

10 Q -- and that service lasted until
11 November 20th of 2007; is that correct?

12 A That is correct.

13 Q Okay. From then, November 20th, 2007,
14 until August 10, 2008, the attorney general of
15 South Carolina was challenging their appointment;
16 not their service, but their appointment.

17 Do you recall that?

18 A I do know that the attorney general did
19 challenge their appointment. I don't know the
20 parameters of the challenge, but --

21 Q Right.

22 A -- but yes.

23 Q And then on July 14th, 2008, there was an
24 order from the court of appeals that clarified the
25 ability of Bob Buchanan and Adele Pope to act fully

1 because Tomi Rae had reached a settlement with the
2 attorney general, would you think that would impair
3 their ability to do their duty as PR and trustee?

4 A Yes, I think it would.

5 Q Well, not solely if she said it, but if
6 the attorney general supported it --

7 A Yes.

8 Q -- would you --

9 A Yes, I would.

10 Q Right. And if by September of 2008 the
11 attorney general were representing his right to
12 control the James Brown assets, would that cause
13 serious problems for any fiduciary?

14 A Yes. And I would state, I believe, my
15 recollection of Wilson versus Dallas where the
16 court found fault not only with the attorney
17 general asserting such direct control over the
18 charitable components, but even over the
19 non-charitable components of the plan; in other
20 words, I think that was ... yeah.

21 Q Then, I've asked you in the break to
22 glance at Exhibit 2, tab C, which is the
23 supplemental affidavit of Robert L. Buchanan, Jr.
24 and Adele J. Pope in support of permissions and
25 payment of certain priority expenses of

1 administration, which was signed on July 13, 2009.

2 Have you had a chance just to glance at
3 that affidavit which is 56 pages long and has 18
4 exhibits?

5 A I have glanced at the affidavit. I have
6 not yet looked at the exhibits.

7 Q If Julian Walker made an opinion which is
8 contrary to a statement made by Bob Buchanan and
9 Adele Pope in that affidavit and the accompanying
10 schedules, would you have any reason to believe
11 Bob Buchanan and Adele Pope were not telling the
12 truth?

13 A No, I wouldn't.

14 Q Okay. And if you knew in addition that
15 Julian Walker had never looked at any James Brown
16 assets until late 2016, would you think he might
17 not have looked at everything he needed to look at?

18 MR. NEWSOME: Object to the form of the
19 question.

20 THE WITNESS: Let me ask, for
21 clarification: Does your question assume that
22 he had not looked at this subject affidavit
23 or --

24 BY MS. POPE:

25 Q Well -- well -- let me ask more

1 generally.

2 Would a person reviewing what
3 Bob Buchanan and Adele Pope did between 2007 and
4 2009 have a lot to look at?

5 A Yes.

6 Q Is it possible that such a person might
7 have missed some of the facts or nuances of the
8 situation?

9 A Yes.

10 Q Okay. Is it possible that Mr. Walker
11 could have missed some of the facts or nuances of
12 the situation?

13 A Yes.

14 Q And is it also true that, so far as you
15 know, where there are two fiduciaries, they must
16 act jointly?

17 A That's correct.

18 Q Okay. And would it color any of the
19 answers you've given this morning to know that
20 Judge Early has approved all of Bob Buchanan's
21 actions as both PR/trustee and special
22 administrator?

23 MR. NEWSOME: Objection to the form.

24 THE WITNESS: It would.

25

1 BY MS. POPE:

2 Q Would it affect your statements to know
3 in addition Judge Early left room open for Bob in
4 case there is some upset in a case that's generally
5 known as the Wingate case?

6 MR. NEWSOME: Object to the form of the
7 question.

8 THE WITNESS: I'm not familiar with the
9 Wingate case, but, yes, it would color my
10 opinion.

11 BY MS. POPE:

12 Q Let's look at footnote 30 in the
13 conclusion of the supreme court's opinion.

14 A All right.

15 Q This is Exhibit 4 as presented to you.

16 A Okay. I'm still trying to find it. Just
17 a second. I got it. What was the --

18 Q Footnote 30 in the page where the
19 conclusion is stated.

20 A Okay. So it's footnote 4. All right.
21 Did you say 4, Adele?

22 Q 30.

23 A 30. Excuse me. Okay.

24 Q Would you just publish that statement?

25 A Sure. "We note the AG and/or Bauknight

1 have allegedly entered into contingency-fee
2 agreements with outside counsel, Kenneth Wingate,
3 for Wingate to serve Appellants on behalf of the
4 State, Bauknight, and others while also
5 representing private plaintiffs in the suit. We
6 are aware that a suit has been filed in
7 Richland County seeking damages to Brown's estate
8 allegedly arising during Appellants' service as
9 fiduciaries. Despite FOIA requests, the AG has
10 refused to publicly release all of the documents
11 pertaining to this reported arrangement. However,
12 the AG has recently informed this Court, in
13 petitions filed after this Court's initial opinion,
14 that he is now withdrawing as a party in that
15 lawsuit and his office will maintain a monitoring
16 role.

17 Q Do you know anything about that lawsuit?

18 A All I know is that I was served with a
19 subpoena duces tecum by an associate in Ken
20 Wingate's firm, and it sought the production of
21 essentially the same documents that I have produced
22 here in this -- this case.

23 And so I did produce to that gentleman in
24 Mr. Wingate's firm the documents relevant --
25 essentially the same ones, if not exactly the same

1 ones here, but I have not read any pleadings. I
2 know nothing else about it.

3 Q Would you agree that in litigation
4 related to charities, the attorney general has a
5 special status even though he is not entitled to
6 control the charity?

7 A Yes.

8 Q Okay. And would you expect the supreme
9 court to pay seri us attentions to allegations made
10 by the attorney general?

11 A Yes.

12 Q Okay. And would you agree that -- that
13 fiduciaries advising and managing charitable trusts
14 want to get along with the attorney general
15 whenever appropriate?

16 A Yes.

17 Q Okay. And I'm gonna just ask you to look
18 at the supplemental affidavit we've referred to.
19 And on page 40, this is Roman Numeral XIII.

20 A I see it.

21 Q Are the statements in Roman Numeral XIII
22 by Bob Buchanan and Adele Pope about their efforts
23 to work with the attorney general whenever
24 possible -- are those consistent with your memory
25 from 2008 with what was going on?

1 A Okay. So it's just here at XIII?

2 Q Right.

3 A I am familiar with the fact, in the
4 depositions of yourself and Bob Buchanan, that one
5 or both of you stated that the attorney general was
6 not cooperating. And, as I recall it, it was like
7 Buddy Dallas got to him or colored his opinion
8 strongly against us, thus leading him to oppose our
9 appointment or continued service.

10 I'm not familiar with the Cannon appeal.
11 I can infer what that's about. I'm not familiar
12 with it.

13 So those statements would appear, based
14 on my reading, in paragraph 130 and 131, to be --
15 to be correct.

16 Q And did you recall that Mr. Buchanan and
17 Ms. Pope had even gone with John Rainey, an
18 important philanthropist, to Attorney General
19 McMaster to urge him not to allow Sonny Jones to,
20 in essence, interfere with the charity by aligning
21 himself with Mr. Cannon and Mr. Dallas?

22 MR. NEWSOME: Object to the form.

23 THE WITNESS: I do recall reading
24 Mr. Rainey's name in the deposition, and so
25 that does ring a bell.

1 BY MS. POPE:

2 Q Okay. Now, if the attorney general of
3 South Carolina had told the South Carolina Supreme
4 Court that Bob Buchanan and Adele Pope were seeking
5 a \$5 million commission on a \$5 million estate,
6 would you expect the supreme court to be disturbed?

7 A Yes.

8 Q And if the attorney general had told the
9 supreme court --

10 Well, let me ask you this: When the
11 attorney general assumed the right to take over the
12 James Brown assets, did the attorney general
13 himself then assume fiduciary responsibility with
14 respect to James Brown's estate and trust?

15 A I would think that he would.

16 Q And so to the extent the attorney general
17 supplanted the trustees and placed himself in the
18 decision-making role, whose fault was it if things
19 didn't get done?

20 A I would think it would be the attorney
21 general's.

22 Q Okay. And looking at the decision just
23 above the conclusion, we've agreed that the supreme
24 court found, have we not, that -- that the attorney
25 general had obtained virtual control over the

1 James Brown assets?

2 A Yes. We would have agreed.

3 Q Now, let's look at paragraph 175, page 54
4 of the Buchanan and Pope affidavit.

5 Do you agree -- well, let's just publish
6 paragraph 175, what Mr. Buchanan and Ms. Pope had
7 to say in July of 2009.

8 A "We believe that it is our duty to defend
9 James Brown's Succession Plan for the fiduciaries
10 of his Estate, the Grandchildren's Trust and the 'I
11 Feel Good' Trust. We do not believe, as has been
12 asserted in Court, that the 'I Feel Good' Trust is,
13 or will be, 'the Attorney General's money,' quote
14 unquote. We do not believe, as has been asserted
15 in Court, that the Attorney General has the right
16 to take a private estate, a private trust and a
17 private charitable foundation; change their terms
18 and succession plan; and place them under his
19 personal control."

20 Q And the supreme court four years later
21 agreed with Mr. Buchanan and Ms. Pope?

22 A Yes. Wilson v. Dallas, yes.

23 Q But by then they had been sullied by
24 allegations made by the attorney general?

25 A I don't know that I --

1 I mean, I've read the Wilson v. Dallas
2 decision as chastising the attorney general to such
3 an extent that they would doubt his credibility as
4 opposed to believing any allegations he would make.

5 But, again, that -- I mean, I've not read
6 the briefs or the oral arguments or anything.

7 Q That's true. It's fair to say that
8 you're learning a lot of new information today,
9 right?

10 A Right.

11 Q Okay. Good. Well, but in footnote 30
12 that we've looked at, there is a reference to
13 either the attorney general or Mr. Bauknight
14 entering -- allegedly entering into a contingency
15 fee agreement with Ken Wingate to sue Mr. Buchanan
16 and Ms. Pope?

17 A Yes.

18 Q And if I tell you that, in fact, the
19 attorney general did sue Mr. Buchanan and Ms. Pope
20 on May 19, 2010, could that -- the allegations made
21 in that suit, of which the court was aware, have
22 colored the opinion of the court?

23 A I suppose that would be true, yes, if the
24 court was aware of that or read the pleadings.
25 Yes.

1 Q Okay. And -- and if in those pleadings
2 the attorney general had made scurrilous
3 allegations against Mr. Buchanan and Ms. Pope which
4 he had not investigated, would you think it could
5 have colored the supreme court?

6 MR. NEWSOME: Object to the form of the
7 question.

8 THE WITNESS: I would think that it
9 would, even if they had been investigated.
10 Whether they had or had not, I would think it
11 would.

12 BY MS. POPE:

13 Q And if I told you in the later half of
14 2016, former Attorney General Henry McMaster said
15 he did not authorize that lawsuit to be brought by
16 Mr. Wingate in the name of the estate or the
17 attorney general, he did not authorize
18 Mr. Bauknight to bring that suit on behalf of the
19 attorney general of South Carolina, and he did not
20 know that the lawsuit was filed until after he left
21 office as attorney general, would that affect your
22 thinking?

23 MR. NEWSOME: Object to the form of the
24 question.

25 THE WITNESS: It would. One issue there

1 would be if that's just in casual conversation
2 by the former attorney general or if it was in
3 some hearing or formal setting.

4 BY MS. POPE:

5 Q If it were in a sworn deposition in this
6 case, would it affect your thinking?

7 A It would.

8 Q Okay. Would you be concerned that a case
9 had been brought in the name of the attorney
10 general by a private lawyer against trustees of a
11 charitable trust without the permission of the
12 attorney general?

13 A It would.

14 Q Okay. If you knew that one of the
15 settling parties had planted the Grammy story that
16 made it to the South Carolina Supreme Court
17 somehow, would that affect your coloring?

18 MR. NEWSOME: Object to the form.

19 THE WITNESS: It would.

20 BY MS. POPE:

21 Q If you knew that the story had been
22 planted by David Bell, Forlando's lawyer, or
23 Forlando himself, would it surprise you?

24 A No, it wouldn't.

25 Q Forlando and David Bell were closely

1 associated with the Cannon trustees, weren't they?

2 A They were.

3 Q And the Cannon trustees stole money --
4 well, not all of them, for sure, but Mr. Cannon
5 did?

6 A Mr. Cannon.

7 Q Right.

8 A Yes.

9 Q Right. And Mr. Bell was involved in some
10 fairly dirty tricks even during your period, wasn't
11 he?

12 A He was.

13 MR. NEWSOME: Object to the form.

14 BY MS. POPE:

15 Q And if the attorney general had then
16 aligned himself with David Bell in allegations to
17 the supreme court that James Brown's music empire
18 was worth only \$4.7 million at his death, would
19 that change some of your opinions?

20 MR. NEWSOME: Object to the form of the
21 question.

22 THE WITNESS: Yes.

23 BY MS. POPE:

24 Q And were not Mr. Bell and -- I'm sorry.

25 Were not Mr. Bell and Forlando alleging

1 in the federal suit that James Brown's assets were
2 worth, at a minimum, \$100 million?

3 A That's true. They did so allege.

4 Q So is it fair to say there's just a lot
5 of facts that you had no reason to know before
6 today?

7 A Right. I had no reason to know them.

8 Q Right. Right. All right. Now, I want
9 to just go through --

10 Let's look at number 6. Again, you
11 consider it a positive factor where personal
12 representatives and trustees are able to provide
13 the equivalent of legal services without a double
14 charge?

15 A Yes, I did. I did say that in my
16 affidavit.

17 Q Right. Okay. Let's look at F on the
18 last page.

19 Mr. Walker alleges that: Ms. Pope -- and
20 I assume he means Mr. Buchanan and Ms. Pope --
21 failed to hire a professional to advise them about
22 the copyright and termination rights.

23 Do you -- did you, as an estate planner,
24 know in 2008 anything much about termination
25 rights?

1 A No, I did not.

2 Q Do you today as an estate planner know
3 anything much about termination rights?

4 A No, I don't.

5 Q Okay. If I told you that in the context
6 of James Brown, the termination rights issue is
7 deeply integrated with the issue of an heirs
8 determination in the probate court, would you have
9 any reason to doubt that?

10 MR. NEWSOME: Object to the form of the
11 question.

12 THE WITNESS: No.

13 BY MS. POPE:

14 Q Okay. Do you know of any person in the
15 state of South Carolina who understands the
16 relationship between Federal Copyright Act
17 termination rights and the South Carolina probate
18 process?

19 A The only person -- any professional that
20 would know that would be someone in an intellectual
21 property firm, perhaps in Columbia. But I don't
22 know of such a person.

23 Q Okay. Have you read a draft article by
24 Adele Pope and Jeff Smith entitled: Private
25 Foundations, Copyright Heirs and Musical

1 Millionaires: Why the James Brown "I Feel Good"
2 Trust Doesn't?

3 A No, I've not read it.

4 Q Do you think if you are put to work on a
5 project such as James Brown, one way to acquire
6 expertise is to study?

7 A Yes.

8 Q Do you have any reason to know --

9 Well, let me ask you this: Has anyone
10 told you that just weeks before being told to stand
11 down, Mrs. Pope and Mr. Buchanan had hired Jeff
12 Smith to assist with matters related to copyrights
13 and termination rights?

14 A I was not aware of that.

15 Q And are you aware that Mr. Smith is a
16 graduate of the Georgetown Law School and formerly
17 worked in the patent office?

18 A No, I'm not.

19 Q And that Mr. Smith, in addition, has had
20 a lifelong interest in music?

21 MR. NEWSOME: Object to the form.

22 THE WITNESS: I did not know that.

23 BY MS. POPE:

24 Q Okay. All right. Mr. Walker has
25 asserted in paragraph E certain things about the

1 failure of Mr. Buchanan and Ms. Pope to evaluate
2 the terms of the settlement.

3 Do you recall that the settlement was
4 actually announced on August 10, 2007 and -- but
5 that its terms were not disclosed?

6 MR. NEWSOME: Object to the form.

7 BY MS. POPE:

8 Q For some time?

9 A I was not aware of that. If I was, I
10 don't recall it.

11 Q Okay. And were you aware --

12 Well, then, you would not have been aware
13 that Mr. Buchanan and Ms. Pope did not fail to
14 learn the terms. They were concerned about the
15 secrecy issues related to the settlement.

16 Do you know that?

17 A No, I don't know that.

18 Q If you did, would it have affected your
19 opinion about what Mr. Walker said?

20 A Yes, it would.

21 Q All right. And do you think, based on
22 your recollection, that Ms. Pope and Mr. Buchanan
23 failed to set aside a cash reserve related to the
24 house or do you simply just not know enough about
25 that?

1 MR. NEWSOME: Object to the form.

2 THE WITNESS: I don't know enough about
3 it.

4 BY MS. POPE:

5 Q Do you recall, in fact, that there were
6 no assets in the trust and that the estate was
7 lending funds to the trust for security and such?

8 MR. NEWSOME: Object to the form.

9 THE WITNESS: I do recall that now based
10 on your question, Adele, and the review of the
11 depositions.

12 BY MS. POPE:

13 Q And if Mr. Buchanan and Ms. Pope, looking
14 at C, had failed to file any income tax returns,
15 should they have been immediately corrected rather
16 than perhaps in 2012?

17 A Sure. That is, the returns that should
18 have been?

19 Q Right. Right. If Mr. Walker alleges
20 that Mr. Buchanan and Ms. Pope failed to file tax
21 returns -- if that were true, should there have
22 been an immediate contact made by the attorney
23 general or his new fiduciary to see what the -- why
24 the accountant had not done that?

25 MR. NEWSOME: Object to the form.

1 THE WITNESS: Yes. I think so.

2 BY MS. POPE:

3 Q Okay. And if that new fiduciary failed
4 to even contact Mr. Sellars, the court-appointed
5 fiduciary, would that change your opinion?

6 MR. NEWSOME: Object to the form.

7 THE WITNESS: It would.

8 BY MS. POPE:

9 Q And if you knew, looking at paragraph B
10 where Mr. Walker asserts that Ms. Pope failed to
11 retain a valuation expert -- if you knew that,
12 prior to becoming fiduciaries, Mr. Buchanan and
13 Ms. Pope had asked the court to value the
14 intellectual property according to a formula set
15 out on Exhibit 8 on page 2 where it says: Bob and
16 Adele proposed --

17 November 2007: Bob & Adele propose to
18 value Royalties/Publicity Rights by formula,
19 12 1/2 - 14 times Royalties plus 1/2 annual Gross
20 Road Revenues.

21 If prior to becoming fiduciaries they had
22 proposed that to the court and neither the attorney
23 general nor anyone had objected to that valuation
24 criteria, would you think that they needed to have
25 a professional appraisal?

1 publico, had a desire as a citizen to try to save
2 the James Brown "I Feel Good" Trust?

3 A Are you saying before this order?

4 Q Yes.

5 A Did you --

6 Q Between the Wilson v. Dallas decision and
7 the order dated June 10, 2015.

8 A That you have an interest as a citizen?

9 Q As a citizen to work pro bono publico to
10 try to save the James Brown "I Feel Good" Trust.

11 A I would think that would be appropriate
12 action since it's a charitable trust.

13 Q Would you understand that if on May 29,
14 2009 -- I'm sorry.

15 Would you understand that if on May 29,
16 2013, Tomi Rae and Louis Levinson had announced
17 their decision to try to reinstate the settlement
18 which had just been voided by the supreme court?

19 A I would, yes.

20 Q As a citizen and an estate planning
21 lawyer, would you like to see the full value of
22 James Brown's charity used for needy and deserving
23 students in the states of Georgia and
24 South Carolina?

25 A I would.

1 Q Are there circumstances under which
2 citizens have a right to seek to enforce a
3 charitable trust?

4 A Yes, there are.

5 Q All right. And if Mrs. Pope sought to do
6 that until July 10, 2015 but the court felt that
7 she had no standing, would that be the appropriate
8 time to stop that?

9 A It would.

10 Q Okay. And -- did you know anything about
11 those circumstances before today?

12 A About this order, June 10?

13 Q Yes.

14 A I did not.

15 Q Did you know that on June 10th, 2013
16 Judge Early issued an order that said that
17 Bob Buchanan and Adele Pope, having been replaced,
18 could not participate in any way in the
19 James Brown's Aiken matters?

20 MR. NEWSOME: Object to the form.

21 THE WITNESS: And that was June 10, 2013?

22 BY MS. POPE:

23 Q Yes.

24 A Not the June 10 --

25 Q Yeah.

1 A I don't believe I knew any of that.

2 Q So, essentially -- oh, I'm sorry.

3 So, essentially, number 5, you just don't
4 have much information about?

5 A I don't.

6 Q But you do agree that citizens who
7 believe that a charitable trust is -- is going to
8 be dismembered a second time, at a minimum, have a
9 right to see if they could do something to save it?

10 A I do.

11 Q Yeah. Okay. Now, you had reviewed the
12 estate tax return of James Brown before you issued
13 your opinion, had you not?

14 A I can't remember, Adele. I could
15 review --

16 Q Well, it's -- I don't know for sure, but
17 it was dated November 24th -- I mean,
18 September 24th, 2008 and your opinion was in
19 November.

20 A It was. I just can't remember. But I
21 can seek to determine that.

22 Q That's all right. Do --

23 And my only question is: Do you recall
24 that the estate tax return was freely discussed and
25 that no questions were raised about value in the

1 hearings in the Forlando matter, or do you not
2 know?

3 A Well, I just know that they were freely
4 discussed in the depositions --

5 Q Right.

6 A -- of the Forlando matter.

7 Q Right.

8 A And I otherwise don't know about the
9 hearings.

10 Q Okay. That's fine. All right. The
11 Christie sale, Forlando -- Forlando testified that
12 he and family members got together to interfere
13 with the Christie sale.

14 Do you recall that?

15 MR. NEWSOME: Object to the form.

16 THE WITNESS: His deposition so stated.

17 BY MS. POPE:

18 Q Right. Even though they were not getting
19 along about most things, they got together to
20 interfere with the Christie sale?

21 A That was my understanding from his
22 deposition, yes.

23 Q Right. And Mr. Dallas also interfered
24 with the Christie sale.

25 Do you recall that?

1 A I do recall that.

2 Q And do you recall the Christie sale took
3 place on July 17, 2008?

4 A I do recall that, yes.

5 Q And the direction to --

6 Well, Mr. Buchanan and Ms. Pope, on
7 July 27th, 2008, filed a motion, did they not, to
8 charge Mr. Dallas and whoever might have caused
9 problems with the Christie sale with the cost of
10 the sale?

11 MR. NEWSOME: Object to the form.

12 THE WITNESS: I don't recall that
13 specifically, off the top of my head, but I
14 probably did see that in my study in 2008.

15 BY MS. POPE:

16 Q And then just two weeks later, the
17 attorney general assumed the right to control the
18 James Brown assets --

19 MR. NEWSOME: Object.

20 BY MS. POPE:

21 Q -- on August 10, 2008?

22 A That's right.

23 MR. NEWSOME: Object to the form.

24 BY MS. POPE:

25 Q Now, we talked for some time about who

1 should submit the settlement to the court.

2 You don't have any information that
3 Mr. Buchanan and Ms. Pope submitted that
4 settlement, do you?

5 A I don't.

6 Q Okay. It was in fact submitted by the
7 settling party sometime after August 10, 2007?

8 MR. NEWSOME: Object to the form of the
9 question.

10 THE WITNESS: That's my understanding,
11 yes.

12 BY MS. POPE:

13 Q Okay. Good. Now, do you believe that
14 the attorney general, before justifying a
15 settlement, had a duty to inquire into whether his
16 statements made about termination rights were
17 correct?

18 MR. NEWSOME: Object to the form.

19 THE WITNESS: Yes.

20 BY MS. POPE:

21 Q Again, if he assumes the right to take
22 over the assets, he does assume the same
23 responsibility of a fiduciary?

24 A I believe he does, yes.

25 Q Okay. Are you aware that the May 26,

1 2009 order of Judge Early specifically said that he
2 had not ruled on the removal for cause of
3 Mr. Buchanan and Ms. Pope?

4 A I think I'm aware of that if it came to
5 my attention today, but it was not entered at the
6 time when I was otherwise addressing these points.

7 Q Do you know anything about the
8 James Brown Legacy Trust?

9 A All I know from reading the Wilson versus
10 Dallas opinion is that that was an entity that was
11 a product of the attorney general's brokering of
12 the settlement that was undone.

13 Q Okay. And if the attorney general
14 represented that the Legacy Trust held termination
15 rights, should he be responsible for seeing that
16 they be held properly?

17 MR. NEWSOME: Object to the form.

18 THE WITNESS: Yes.

19 BY MS. POPE:

20 Q Would that be even more true if the
21 attorney general had the right to remove and
22 replace the trustee of the Legacy Trust at will?

23 A Yes.

24 Q Okay. And if the Legacy Trust was a part
25 charitable trust, which was a party to a lawsuit

1 and being managed by a trustee, what -- what action
2 would it be required to take to go away after the
3 Wilson versus Dallas decision?

4 MR. NEWSOME: Object to the form.

5 THE WITNESS: I would say the trustee
6 would need to terminate it and distribute the
7 assets in accordance with either the result of
8 the supreme court's order or perhaps, if they
9 remanded the matter, then in accordance with
10 the lower court order. And I don't recall
11 what happened at the end there.

12 BY MS. POPE:

13 Q And are there specific statutory
14 provisions for the termination of a charitable
15 trust --

16 A Yes.

17 Q -- that must be complied with?

18 A Yes.

19 Q Does the size of an estate --

20 Well, you have testified that the size of
21 an estate and trust are relevant factors in
22 determining the size of a commission.

23 A Yes.

24 Q Okay. If a trustee has represented both
25 to the IRS and to the court that a trust is only --

1 I'm sorry. Let me start over.

2 If a trustee has represented to both the
3 Internal Revenue Service and the supreme court that
4 a trust is only worth 6.5 million or less, should
5 that trustee be allowed to charge a commission
6 based on a larger size?

7 MR. NEWSOME: Object to the form.

8 THE WITNESS: No, I don't think so.

9 BY MS. POPE:

10 Q Okay. In general, under Forms 990, are
11 charities required to disclose annually all of
12 their assets and the fair market value of those
13 assets?

14 A Yes.

15 Q If a trustee fails to do that or secrets
16 assets, is that a breach of fiduciary duty?

17 A Yes.

18 Q You were asked if it was appropriate to
19 fully disallow a claim.

20 Did -- did the Wilson versus Dallas not
21 provide a mechanism for return of the issue to the
22 lower court for review?

23 A I believe that it did, yes.

24 Q And are you aware that Mr. Buchanan's
25 claim was resolved without a disallowance?

1 A I'm not aware of that.

2 Q Okay.

3 A Was not aware of that.

4 Q Right. And if one is served with a
5 notice of disallowance, one must file a lawsuit in
6 order to not lose the claim?

7 A Yes.

8 Q Okay. And -- oh. You have -- you were
9 asked if Ms. Pope were entitled to any compensation
10 for work after May 26, 2009.

11 Is Mrs. Pope entitled to expenses and
12 time for the -- for the extraordinary --

13 Or is it possible that Mrs. Pope would be
14 entitled to costs or compensation for extraordinary
15 efforts from May 26, 2009 until May 8th, 2013 in
16 the defense of the trust and the estate plan?

17 A I suppose that is possible.

18 Q Okay. You wouldn't rule that out?

19 A I wouldn't rule it out.

20 Q Okay. Okay. And there are certainly
21 cases where, at a minimum, fiduciaries are paid for
22 cost in defense of a trust or estate?

23 A Yes.

24 Q All right. And the same thing with
25 charitable --

1 professional investment banking firm?

2 A Certainly to the extent that the
3 investment banking firm had or consulted with or
4 secured specialists in the music industry, business
5 appraisers in that regard, since that's quite
6 common for a business appraiser to say, "Well,
7 look. I can't value these intangibles. I'm gonna
8 have to get another appraiser," you know, if those
9 pieces were in the midst of that, then I think it
10 would be more credible potentially.

11 Q And if the IRS division that reviewed
12 copyrights reviewed that valuation and accepted it,
13 would that affect your opinion as to the
14 credibility of that valuation?

15 MS. POPP: Object to the form.

16 THE WITNESS: It would.

17 BY MR. NEWSOME:

18 Q And if I tell you that the \$4.7 million
19 valuation Ms. Pope keeps referring to is really a
20 \$23-plus million valuation less \$18 million of debt
21 on the date of death approximately, does that make
22 a little more sense based on what we're talking
23 about?

24 A I see. So the 23 million, is that the
25 Philpott outcome?

1 facts that were critical to the valuation, would
2 that -- would that make the appraisal no good?

3 A It certainly would color it -- its
4 voracity, yes.

5 Q If, for example, Philpott Ball were told
6 that the TIAA bond were \$19 million at death and it
7 was only 16 or less, would that alone be a problem?

8 A It would.

9 Q If persons represented themselves to be
10 music industry experts and, in fact, were not
11 experts, would that affect the opinion?

12 A I believe it would.

13 Q And if that opinion were used to --
14 Well, and let me start off: A closing
15 letter is not an audit, is it?

16 A No, it's not.

17 Q So when people say there was an audit and
18 all they got was a closing letter, that's not --

19 A That's not an audit.

20 Q That's not an audit, is it?

21 A Right.

22 Q Right. And a closing letter says clearly
23 on its face, if there's been any fraud or even a
24 mistake, it's no good?

25 A That's correct.

1 Q Right. Right. And do you think if the
2 attorney general were standing by a person making
3 incorrect representations to the IRS, that the IRS
4 might be less likely to bother with it?

5 A That's correct. I would think so.

6 Q Because of the Bosch issue?

7 A That's right.

8 Q Yeah. Yeah. Okay. And if a fiduciary
9 claimed a \$3 million charitable deduction for
10 James Brown's charity with knowledge that 2 million
11 of that was allocated to private individuals, that
12 wouldn't be right, would it?

13 A It would not.

14 Q And if it slipped through an audit, that
15 wouldn't mean that it was right?

16 A No.

17 Q And if the attorney falsely accused
18 Bob Buchanan and Adele Pope of overstating the
19 value of James Brown's assets by \$79 million for
20 the improper purpose of securing a \$5 million
21 commission, that was an accusation that they had
22 committed a felony?

23 MR. NEWSOME: Object to the form of the
24 question.

25 THE WITNESS: It would certainly sound

1 that way, yes.

2 BY MS. POPE:

3 Q Right. And if he did that without even
4 looking at an appraisal that he said supported a
5 \$4.7 million claim, that would be reckless?

6 A I would think it would be.

7 Q Yes.

8 MR. NEWSOME: Thank you.

9 MS. WATTERS: Would you like a copy of
10 the transcript?

11 MR. NEWSOME: Please.

12 MS. POPE: I want an e-tran but no
13 exhibits.

14 THE WITNESS: I do want to read and sign.

15 - - -

16 (Witness excused.)

17 - - -

18 (Deposition concluded at 1:48 p.m.)

19 - - -

20

21

22

23

24

25

1 State of South Carolina) In the Court of Common
2) Pleas
3 County of Aiken) Case No: 2013-CP-02-1337
4 Adele J. Pope,)
5)
6 Plaintiff(s),) Deposition of
7)
8 vs.) SANDRA MATTHEWS
9)
10) February 9, 2017
The Estate of James Brown and)
The James Brown 2000)
Irrevocable Trust,)
Defendant(s).)

Deposition of SANDRA MATTHEWS, taken before
Frances C. Gray, Verbatim Court Reporter and
Notary Public in and for the State of South
Carolina, scheduled for 11:00 a.m. and commencing
at the hour of 11:21 a.m., Thursday, February 9,
2017, at the Office of the Attorney General,
Rembert Dennis Building, 1000 Assembly Street,
Columbia, South Carolina.

Reported by:
Frances C. Gray

1	CONTENTS	
2	(Deposition of Sandra Matthews)	
3		Page
3	Exhibit Index	3
4	Direct Examination by Ms. Pope	5
5	Cross-Examination by Mr. Newsome	23
6	Certificate of Reporter	27
7	Verification Sheet	28
8	Errata Sheet(s)	29

9 - - - - -

10 INDEX OF EXHIBITS

11	Exhibit No. 1	Portion of Affidavit	4
12	Exhibit No. 2	Various Witness-Provided Documents	.5

13 - - - - -

14
15
16
17
18
19
20
21
22
23
24
25

1 This deposition is being taken pursuant to
2 the South Carolina Rules of Civil Procedure.

3 - - - - -

4 The reading and signing of this deposition
5 is reserved by the deponent and counsel for the
6 respective parties.

7 - - - - -

8 Whereupon,

9 SANDRA MATTHEWS, being duly sworn and
10 cautioned to speak the truth, the whole truth,
11 and nothing but the truth, testified and
12 deposed as follows:

13 Court Reporter: State your full name for
14 the record, please.

15 Witness: Sandra M. Matthews.

16
17 (Whereupon, Portion of Affidavit
18 was marked Exhibit No. 1 for
19 identification.)

20
21 MR. SMITH: And, Sandra, you've got the
22 right under the Rules of Civil Procedure to
23 read, do an errata sheet, if necessary, and
24 sign your deposition. Would you like to
25 exercise that right?

1 THE WITNESS: Yes, I would.

2 MR. SMITH: Okay. Now, you brought some
3 documents with you --

4 THE WITNESS: Yes.

5 MR. SMITH: -- in response to the
6 subpoena, and is this the set right here?

7 THE WITNESS: Yes.

8 MR. SMITH: Do you want to hand those over
9 to Ms. Pope right there?

10 THE WITNESS: Oh, okay.

11 MR. SMITH: Sorry. I forgot about that.

12
13 (Whereupon, Various
14 Witness-Provided Documents was
15 marked Exhibit No. 2 for
16 identification.)
17

18 MS. POPE: Ms. Matthews, I've already
19 marked Plaintiff's Exhibit 1, so I'm going to
20 mark -- can go off the record just a minute.

21 (Off the record.)

22 DIRECT EXAMINATION

23 BY MS. POPE:

24 **Q. Ms. Matthews, would you tell me your position with**
25 **the Attorney General.**

1 A. I'm a securities examiner.

2 **Q. Can you explain what that is.**

3 A. I investigate complaints or conduct investigations
4 into whether or not there have been violations of
5 South Carolina Uniform Securities Act.

6 **Q. Do you investigate complaints other than the**
7 **Securities Act?**

8 A. No, ma'am.

9 **Q. How long have you been doing this?**

10 A. Eleven years.

11 **Q. So that was your same position in 2007?**

12 A. The title was different, but it was the same job
13 function.

14 **Q. And what is your general training?**

15 A. I've got 40-years' experience in banking,
16 primarily in data processing, internal auditing,
17 management.

18 **Q. So you were in the private sector until about 11-**
19 **years ago?**

20 A. Yes.

21 **Q. Now, tell me how you became involved in the James**
22 **Brown matters.**

23 A. Sonny Jones requested of my supervisor that I be
24 allowed to assist him with analyzing financial
25 records that came into his possession or that were

1 involved in the charitable trust.

2 **Q. And you brought with you certain documents that**
3 **have now been marked as Matthews Exhibit 2. Can**
4 **you explain what those documents are to me.**

5 A. The subpoena asked that I produce any documents
6 that were relative to -- as I read it -- your
7 involvement as administrator with the trust. So I
8 went through the documents that I had available
9 and pulled ones that, to me, were pertinent to
10 that request. The first one is a draft and a
11 scanned version of a letter that I wrote to you
12 asking when I would be able to pick up the bank
13 statements and the federal tax returns that
14 Mr. Jones had requested I picked up.

15 **Q. And, if you don't mind, would you get for me --**
16 **say for the record the date of each document --**

17 A. I'm sorry, sure. This is November 10, 2008.

18 MR. SMITH: Adele, if I may just put on
19 the record, too, that there're just a few
20 documents that we're withholding on the basis
21 of privilege and I will do privilege log on
22 them, as with the other depositions we've
23 taken.

24 MS. POPE: Thank you.

25 A. Okay. The second one is a letter from me to James

1 D. Bailey, Esquire, dated November 19, 2008, where
2 I am asking for his assistance in being able to
3 schedule a time for me to pick up the records
4 because I had been unable to schedule that through
5 you.

6 This is a letter dated November 14th from
7 Sonny Jones to Mr. Bailey, deals with a
8 confidentiality order and references the fact
9 that Judge Early had already granted access to
10 the documents, and particularly the monthly
11 expenses kept at your office. And I think the
12 attachment to that is excerpts from the
13 transcript on November 15th and November 20,
14 2007 in Bamberg. And I think this is what he
15 attached to evidence that the judge had agreed
16 that we could have those records.

17 The next document is an affidavit of yours
18 that I had in my possession, whereby you were
19 discussing your performance as the
20 administrator.

21 **Q. Could you give me the date of that affidavit,**
22 **please?**

23 A. Well, the notarized date is 7/16/2012, but -- no,
24 that's in the expiration. Sixth day of
25 January 2008. Then I received a copy of an email

1 to schedule where money in the trust and estate
2 accounts went.

3 **Q. Did you understand that you were looking into my**
4 **actions and the actions of Bob Buchanan or the**
5 **actions of others?**

6 A. No. The actions of nobody. I was merely
7 scheduling financial records. I wasn't looking
8 into anybody's actions.

9 **Q. And did you, in fact, do that?**

10 A. Yes, I did.

11 MR. SMITH: Excuse me. Object to the form
12 of the question.

13 **Q. And tell me about what you did.**

14 A. I would receive -- receive a copy of the bank
15 statements from Security Federal from your
16 assistant, and I would come back and I would go
17 through them and enter the data that was reflected
18 on those statements into a Excel spreadsheet.

19 **Q. And my assistant was Laura Mangum?**

20 A. I don't recall her name.

21 **Q. Do you remember that her name was Laura?**

22 A. No, ma'am. I don't remember her name at all. I
23 know she was from Newberry.

24 **Q. It was Laura.**

25 A. Okay.

1 Q. Did Sonny ask you to investigate any action taken
2 by David Cannon, Buddy Dallas or Al Bradley?

3 A. No.

4 Q. Only Adele Pope and Bob Buchanan?

5 A. No. He didn't ask me to investigate anybody's
6 actions. I merely scheduled bank records.

7 Q. What was the purpose of that?

8 A. To see where the money was being spent.

9 Q. I've asked you to look at Waters Exhibit 1 and to
10 see if it refreshes your recollection about the
11 circumstances covering the period of my service
12 and the service of Bob Buchanan as Special
13 Administrators and Personal Representatives. Have
14 you had an opportunity to review that supplemental
15 affidavit of Robert Buchanan and Adele Pope in
16 support of commissions and payment of certain
17 priority expenses of administration?

18 A. I scanned it.

19 Q. Do you need more time because I want to know at
20 today's deposition whether it refreshes your
21 recollection about any action of Bob Buchanan or
22 Adele Pope at any time between March 7, 2007 and
23 May 26, 2009?

24 A. The only knowledge I ever had of actions of yours
25 or Mr. Buchanan's was when I dealt with you,

1 personally, in your office or when I observed you
2 in court. I knew nothing else of actions on your
3 behalf.

4 **Q. Did you --**

5 A. I was not, in fact, involved in that aspect of the
6 case at all.

7 **Q. The case being the investigation of what Adele
8 Pope or Bob Buchanan were doing?**

9 A. No. The case being who was going to get what from
10 the Trust. That's the only thing I attended court
11 hearings regarding, who was going to get what.
12 Were the kids going to get something? The kids
13 had representatives, Dallas and Bradley and Cannon
14 had attorneys, there was all this to-do about
15 who's getting what and who's going to administer
16 it. That's all I knew was what I heard in the
17 court room.

18 **Q. Well, let's --**

19 A. So there's nothing else to refresh. I mean, I --
20 there's no memory to refresh other than what
21 transpired in those particular situations. I was
22 not involved in any behind-the-scenes activities
23 other than scheduling bank records.

24 **Q. Well, let's go -- let's see what those particular
25 activities were. Tell me what you remember about**

1 **those particular activities.**

2 MR. SMITH: Object to the form of the
3 question.

4 A. I don't understand the question.

5 **Q. Well, you said you only know what you learned in**
6 **hearings and what you learned by coming to my**
7 **office. What did you learn?**

8 A. Coming to your office, I dealt mostly with Laura
9 and getting copies of the statements. The next
10 document covers one aspect. If you recall, the
11 brokerage statements for the account that Cannon
12 opened, the large majority of those were sealed.
13 They had never been opened by anyone. We had an
14 agreement that I would be allowed to open those
15 and go through those to see what transpired with
16 that money, and that we would put labels on each
17 one to indicate that I was the one that opened
18 them. When I arrived at your office to perform
19 that activity, you had changed your mind and we
20 never did that. So I never opened any of those
21 statements.

22 **Q. Now, when was this?**

23 A. I couldn't tell you the date. Well, yes I can
24 because it's on the label. January 17, 2008.

25 **Q. So on January --**

1 A. So that would be an observation of your behavior
2 that I made in-person, and it was dealings between
3 you and me, individually, only with regard to
4 opening brokerage statements.

5 **Q. And did you report that concern that you are**
6 **unable to open brokerage statements to someone?**

7 A. I am sure I came back and told Sonny I didn't open
8 the brokerage statements because Ms. Pope has
9 changed her mind.

10 **Q. And did you know whose brokerage statements these**
11 **were?**

12 A. They were -- I think the name of the account was
13 Seventh Decade.

14 **Q. And did you know -- did you know who owned Seventh**
15 **Decade?**

16 A. David Cannon.

17 **Q. Do you recall when the criminal investigation of**
18 **David Cannon was begun?**

19 A. No. I wasn't involved in that.

20 **Q. And if I told you that it was on -- it was ordered**
21 **in November of 2007, would that have overlapped**
22 **with your request?**

23 MR. NEWSOME: Object to the form.

24 A. I don't know.

25 **Q. Well, let me -- I'm going to hand you what I've**

1 **marked as Matthews exhibit three.**

2 A. What is Matthews 1?

3 Q. **Good question.**

4 MS. POPE: Can I go off the record a
5 minute.

6 (Off the record.)

7
8 RESUMING EXAMINATION

9 BY MS. POPE:

10 Q. I'm sorry, Mrs. Matthews. Let me hand you
11 Matthews 1, please. I will represent to you that
12 that is a portion of the exhibits to the affidavit
13 which you've just had an opportunity to review,
14 and -- and it's a part of Exhibit 8, which are my
15 timesheets. And the first entry that I show that
16 may relate to you is December 17, 2007, in which
17 is noted "Initial conference with SC Department --
18 Dept Rev auditor." Do you recall that
19 December 17th was approximately the first time
20 that we met?

21 A. I would have no recollection.

22 Q. Did you have the charge of going through
23 Mr. Cannon's brokerage statements or the
24 statements that Bob Buchanan and Adele Pope were
25 handling?

1 A. I went through boxes of records in the back room
2 of your office that were from the James Brown
3 people and I went through boxes of records that
4 had come from Cannon that were in the back of your
5 office.

6 **Q. But you have a recollection that you weren't**
7 **allowed to open brokerage statements?**

8 A. Correct.

9 **Q. But everything else you -- was made available to**
10 **you?**

11 A. Right. Because everything else was already open.
12 Those were the only things that were -- some of
13 the brokerage statements were already open, and
14 those were made available to me.

15 **Q. So it was --**

16 A. So is was only the ones that had never been
17 opened, the sealed envelopes that we had agreed I
18 would be allowed to open, and then when I arrived
19 to open them, I got no explanation other than you
20 had changed your mind.

21 **Q. And you never understood that the SLED**
22 **investigation had been ordered --**

23 A. No.

24 **Q. -- and that it was running on a parallel time**
25 **course with what you were doing?**

1 A. I don't recall that that was explained to me at
2 the time that you changed your mind.

3 Q. **And nobody in the Office of the Attorney General**

4 --

5 A. No.

6 Q. **-- explained it to you?**

7 A. No. The criminal prosecution section of the
8 office is very separate and apart from the rest of
9 the office, so we rarely know what they're working
10 on.

11 Q. **Well, Mr. Jones was working on besides, wasn't he?**

12 A. Okay. I don't know.

13 MR. SMITH: Object to the form.

14 A. You'd have to ask him that.

15 Q. **Well, if the record shows that Mr. Jones was**
16 **involved in both the criminal and civil matters,**
17 **that might help explain things?**

18 MR. SMITH: Object to the form.

19 MR. NEWSOME: Same objection.

20 A. (No response.)

21 Q. **So, all right. So other than not being allowed to**
22 **open Seventh Decade files that had not previously**
23 **been opened, did you encounter any other problems**
24 **with Adele Pope, her staff, or Bob Buchanan and**
25 **his staff?**

1 A. Not with what I was charged to do, no, ma'am.

2 Q. All right. And did you have free and complete
3 access to the books and records of James Brown,
4 and the books and records of the Estate of James
5 Brown, except for the one exception you've told me
6 about?

7 A. I don't know what all the books and records might
8 have been. I had access to the bank statements.
9 I don't know if there were other books and records
10 that I did not have access to or not.

11 Q. Did you not at one point seek tax returns?

12 A. As I recall, yes.

13 Q. And did you get them?

14 A. As far as I recall.

15 Q. Did you, in fact, not get the estate tax return?

16 A. I don't know.

17 Q. Do you recall whether you analyzed the estate tax
18 return?

19 A. I don't recall.

20 Q. But you might have?

21 A. I might not have, I might have. I don't know. I
22 have no recollection.

23 Q. Now, so, did you even set up a procedure at the
24 Office of Adele Pope so that you could freely copy
25 whatever you wanted to copy?

1 A. Laura copied everything as I recall.

2 **Q. Right. But you --**

3 A. I don't recall that I did the copying. I think
4 she did the copying.

5 **Q. Right, but you were able to obtain copies of**
6 **anything you wanted?**

7 A. Well, the only thing I obtained copies of where
8 the bank statements. So I can't say whether I
9 would have been given access to anything else or
10 not because I didn't request anything other than
11 the tax returns and the bank records. So I think
12 your question was far broader than that, and I'd
13 like to be sure that we're just focused on those
14 two kinds of records.

15 **Q. Well, is it fair to say that the office gave you**
16 **everything you asked for, other than the sealed**
17 **bank statement --**

18 A. Up until the time that access to all the boxes was
19 restricted.

20 **Q. Tell me about that.**

21 A. I don't -- I just recall that for some period of
22 time we were able to look at what was in all the
23 boxes in the back room, and then at some point in
24 time that access was denied.

25 **Q. Was that during a period of Stay imposed by --**

1 A. I have no idea --

2 Q. Well, let me -- please let me --

3 A. Oh, I'm sorry.

4 Q. Please let me finish my question and then --

5 A. Okay.

6 Q. Do you have any reason to doubt that that was
7 during a Stay ordered by Judge Early, which lasted
8 for a period of months in the fall of 2008?

9 MR. SMITH: Object to the form of the
10 question.

11 MR. NEWSOME: Same objection.

12 A. I don't have any opinion either way. I don't
13 know. I recall that at some point in time we were
14 told we were no longer allowed to access those
15 records. I don't know the reason.

16 Q. Who is we?

17 A. The office. Our office.

18 Q. And you can't recall when that was or whether it
19 was only a temporary period because there --

20 A. We're talking ten years --

21 Q. -- was a Stay?

22 A. -- ago, no, ma'am. I don't recall that.

23 Q. Good.

24 A. My age, I'm doing good to recall last week.

25 Q. I know how you feel. You're a spring chicken

1 compared to me. Let me ask you this: What
2 period, if you recall or if anything has refreshed
3 your recollection, did you work on James Brown
4 matters?

5 A. 2008 and 2009, as I recall.

6 Q. And perhaps 2007, if my record -- the latter part
7 --

8 A. Right.

9 Q. -- of 2007?

10 A. Right. Yeah.

11 Q. Now, sitting here today, do you have any knowledge
12 about the propriety of the actions of Bob Buchanan
13 and Adele Pope at any point between 2007 and May
14 26, 2009?

15 A. I have no personal knowledge. The other records
16 that are brought are records that were created by
17 others that were in my possession that pertained
18 to the topic you wanted to discuss, but I have no
19 personal knowledge.

20 Q. And today, sitting here today, do you have any
21 specific recollection of complaints of anyone,
22 other than the complaint of Mr. Julian that we've
23 discussed and what is shown in the documents,
24 about the service of Adele Pope and Bob Buchanan
25 as Special Administrators or Personal