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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable Clifton Newman, Circuit Court Judge

Appellate Case No. 2020- 000967

Adele J. Pope, Appellant

v.

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

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APPELLANT'S RETURN AND MEMORANDUM OPPOSING RESPONDENTS' MOTION TO DISMISS APPEAL AS INTERLOCUTORY

This is an appeal of two post-judgment orders issued by the Honorable Clifton Newman on February 26 and June 18, 2020 (the "Nonpayment Orders"). Respondents seek to dismiss the appeal of the Nonpayment Orders as interlocutory. The appeal should not be dismissed.

The Nonpayment Orders state that this is an equity matter, but it is one of construction of Rule 67, SCRCP. The Nonpayment Orders, by misapplication of Rule 67, and based on factual findings inconsistent with the record, enjoin for an indeterminate period that may last ten years or more the payment of Appellant's unpaid 2007 special administrator (SA) fee of $47,972,

The $47,972, with interest, has been ordered paid to Appellant in three separate "Payment Orders" of the Honorable Doyet A. Early, III, issued in 2008, 2017 and 2019.

The Nonpayment Orders misapply Rule 67 SCACR, not applicable here, in a way which is both incorrect and unconstitutional. In doing so, they rewrite pleadings and orders, including the final SA Payment Order in this case, Aiken County Case 2013-CP-02-1337 ("Aiken 1337").

The Nonpayment Orders assert that Aiken 1337, a fee case concluded with a nonjury trial in 2019, is a "companion case" to a tort suit filed against Robert Buchanan, Jr. and Appellant more than a decade ago by Tommie Rae Hynie and others which had been continued for six of the seven years since 2013, when the Supreme Court directed that it be concluded "in the first instance." After ten years, Richland 4900 is being pursued by the law firm of Kenneth Wingate, Esq. (collectively "Wingate") for the benefit of Hynie and those associated with Hynie.[1]

The Solicitor General of South Carolina testified under oath in 2017 that in 40 years he had never seen a case like Richland 4900. [*See* ROA 2019-000362, pp. 2087-2151] Appellant is unable to find any similar case in the State of South Carolina ("S.C.").[2] Richland 4900 has no

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[1] The tort lawsuit, Richland County Case 2010-CP-40-4900 ("Richland 4900") was brought in 2010 by Wingate as sole counsel for all Plaintiffs, including the Attorney General of South Carolina ("AG"); Hynie; her son James; and a dozen Plaintiffs formerly represented by Louis Levenson, Esq. [See Exhibit A, R. 4900 Complaint] Levenson signed the 40% "Wingate Contract" for a number of persons who did not even know about Richland 4900 until years later. Since 2013 most former Levenson clients and Terry Brown have taken positions in other courts, including this Court and the Supreme Court of South Carolina ("Supreme Court"), which are directly contrary to the positions Wingate continues to take for them.

Although the Richland 4900 complaint has never been amended, nor an amendment sought, most Richland 4900 Plaintiffs have asserted for years that Hynie is not the spouse of James Brown. A recent Supreme Court ruling makes clear that Appellant and Robert Buchanan, Jr., as PR/Trustees under the Will and 2000 Trust of James Brown, never owed her a duty.

In addition, in January 2018 some Richland 4900 Plaintiffs sued Hynie and others over alleged "backroom deals" related to their Termination Interests in certain U.S. royalties from Brown's song copyrights under Sections 304 and 203 of the U.S. Copyright Act ("Copyright Act")

[2] Unique (and constitutionally and legally challenged) features of Richland 4900 include, but are not limited to:1.Wingate, a private law firm, serves as sole counsel to the State/AG and all Richland 4900 Plaintiffs. 2. Neither the AG nor any member of the AG's staff signed the Wingate

companion.

The Nonpayment Orders not only enjoin the payment of the $47,972 ordered in the January 2019 Order, but purport to enjoin potential future payments to Appellant which are now the subject of S.C. Court of Appeals Case 2019-000362 over which the circuit court currently has no jurisdiction.

With no support in the record, the Nonpayment Orders suggest that a 2015 email constitutes Appellant's consent to withhold funds she was awarded by summary judgment in 2017, and which she sought in a trial that took place in 2017 and 2018.

The consent theory is a fiction proposed by Respondents, and adopted in the Nonpayment Orders, which deprives Appellant of her rights as a judgment creditor and her Due Process and Equal Protection rights under the U.S. and S.C. Constitutions.

The alleged consent damages Appellant; does not benefit James Brown's estate or "I Feel Good" charity; but does benefit Hynie, for whom Respondents' fiduciary serves as both agent and trustee.

The Nonpayment Orders also overlook that, prior to his retirement, Judge Early failed to grant Respondents' request to pay the $47,972 into the court. Having failed to receive permission to deposit the $47,972, with interest at 8 ¾%, compounded annually, from Judge Early, Respondents took the bull by the horns and simply made the deposit with no permission. Then, failing to report their earlier unsuccessful deposit request, Respondents asked a

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Contract, which Wingate refused to disclose until ordered to do so in 2020;. The AG's office receives 10% of the 23% charitable Wingate contingency fee, even though the AG is not counsel of record on the Richland 4900 complaint. 4. A FOIA case is consolidated with Richland 4900. 5. Richland 4900 and the FOIA cases are unresolved 7 years after the Supreme Court's 2013 request that they be concluded in the first instance; 6. The Legacy Trust which represented in 2010 that it held the Termination Interests of all Richland 4900 Plaintiffs, now claims it never existed. 7. The AG was dropped as a Richland 4900 Plaintiff under the Rule 21, then granted

subsequent circuit court judge to approve the deposit.

As set out in the following memorandum, the Nonpayment Orders attempt to reverse a final order for which Respondents sought no reconsideration or appeal. They are final and summary. They affect, and deny, substantial rights of Appellant, including Appellant's rights as a first-priority claimant under the South Carolina Probate Code S.C. Code Ann. §62 -1 101 *et seq.* (SCPC), as well as Appellant's Due Process, and Equal Protection rights under the U.S. and S.C. Constitutions. They enjoin a payment to Appellant which is liquidated; undisputed; was granted in a final judgment; and has been accruing interest *until paid to Appellant* since March 8, 2008. They are immediately appealable.

For every reason set out herein, the motion to dismiss this appeal should be denied. The Nonpayment Orders should be addressed by this Court, and reversed.

MEMORANDUM OPPOSING DISMISSAL OF APPEAL OF NONPAYMENT ORDERS

I. Request for Judicial Notice as Taken by Judge Early in Payments Orders

In the 2009 hearings which became *Wilson v. Dallas*, Judge Early, at the request of counsel for Hynie, took judicial notice of all public filings in any James Brown case since Brown's death on December 25, 2006. In this case ("Aiken 1337"), which was segregated from other James Brown cases in June of 2013[3], Judge Early also took broad judicial notice of public

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summary judgment as to the Buchanan/Pope counterclaims.

[3] One of the administrative orders of June 13, 2013 preventing Buchanan and Appellant from participating in any James Brown Aiken case except their own claim cases stated, in part:

> On May 29, 2013 this Court held a status conference concerning *Wilson v. Dallas, -- S.E.2d – 2013 WL2005103 (2013)*...
> ... It is the Order of this Court that Ms. Pope does not have standing to proceed with the motions she has filed since the Supreme Court's opinion [*Wilson v. Dallas*] has issued. Accordingly this Court hereby directs the Clerk of Court to remove Ms. Pope's filings from these cases pursuant to the Supreme Court's Opinion removing her as a party to these proceedings.

James Brown actions, including judicial notice of actions in *Thomas v. Hynie*, U.S. Dist. Ct. Case No. 1:18-cv-02191-JMC, filed by some Richland 4900 Plaintiffs and others against Hynie, Bauknight and others.

Appellant respectfully requests that this Court, under Rule 201 SCRE, take the same broad judicial notice in considering Respondents' motion to dismiss and this return.

II. Novel Issues of First Impression Should be Considered After Full Briefing.

In 2010 Hynie, a dozen former Levenson clients and others sued Buchanan and Appellant in Richland 4900 for tens of millions of dollars. Buchanan and Pope moved to dismiss. Subject to that, they answered; denied all liability; and counterclaimed for abuse of process; civil conspiracy; intentional interference with contract; and fraud under Section 62-1-106 of the S.C. Probate Code.

In 2013, in its first (later substituted) decision in *Wilson v. Dallas,* the Supreme Court directed the AG to conclude Richland 4900 and two related FOIA cases "in the first instance."

In May 2013, two days after the final *Wilson v. Dallas* decision, Hynie's [4] attorney, Wingate, asked the circuit court to stay Richland 4900. Wingate told the Honorable L. Casey Manning, presiding over Richland 4900, that the Supreme Court, because it had dropped footnote 30 from the final decision, placed no importance on the prompt conclusion of Richland

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> This Court is aware that Ms. Pope has filed a separate fee petition for Personal Representative and Trustee commissions. [Aiken 1337] If Ms. Pope's fee petition is litigated, then pursuant to past practices, the Probate Court is hereby directed to assign the case to the Circuit Court, and the Clerk of Court is hereby directed to assign Mrs. Pope's fee petition a separate case number. Ms. Pope's filings related to her fee petition shall then be filed under that case number. Order, Jg. Early, 6/13/13.

[4] As a result of actions discussed below, Hynie is currently the primary Plaintiff in Richland 4900, seeking approximately 46% of the tens of millions of dollars sought from Appellant.

4900 or related FOIA cases.[5] A second stay of Richland 4900 was imposed in 2017. By 2020 Richland 4900 had been stayed for 6 of the 7 years since *Wilson v. Dallas.*

In 2017 Judge Early granted Appellant's summary judgment as to the $47,972 with interest.

In January 2019 Judge Early affirmed that the $47,972, with interest, should be paid to Appellant. He did not address, but by implication denied, both Respondents' motion to modify the language (but not amount due) in the 2017 Payment Order and Respondents' motion to pay the $47,972 into the court.

On February 29, 2019 Judge Early retired. Thereafter, when Appellant demanded payment, Respondents, without seeking an order, paid funds into the court. Respondents then asked Judge Newman to bless the deposit which Judge Early had not authorized them to make. Respondents justified their action with the claim that Rule 67 applies; that Appellant had consented to the injunction years before the final Payment Order; and that a case being pursued by their fiduciary for the benefit of Hynie and those aligned with her was a "companion case" to Appellant's $42,972 judgment.

The questions presented in this appeal are being formulated, but may include some or all of the following:

> 1. Should the Appellate Court have approved Respondents' payment of $47,972, with interest, into the court under Rule 67 where Respondents did not first obtain court approval; the amount due Appellant is undisputed; a previous circuit judge directed Respondents to pay the $47,972 *to Appellant* in a final order; Respondents have no further interest in the funds; and an earlier request to deposit the fund was not granted?
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> 2. Did the circuit court deny Appellant's rights as a creditor under the Probate Code, as well as her Due Process and Equal Protection rights, by withholding a payment of her $47,972 judgment until the conclusion of an unrelated 10-year-old tort suit being pursued for the benefit of Hynie and those aligned with her?

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[5] See Ltr. of SWB to the Hon. L. Casey Manning, May 10, 2013.

3. Did the circuit court err in issuing Nonpayment Orders which benefit Hynie; materially damage Appellant; and do not provide any benefit to Respondents?

4. Was Respondents' action brought in bad faith to damage Appellant and Buchanan for the private benefit of Hynie and Bauknight as her agent?

These are novel issues of first impression in this State, including constitutional issues. They are made more unique because Respondents' fiduciary continues to act for Hynie, and also claims to continue to act behalf of the State/AG in Richland 4900. [See complaint]

There is no Rule 67 case in South Carolina to support the damage to Appellant by the Nonpayment Orders, or to justify the unconstitutional interpretation of Rule 67 by the lower court. Like all rules issued by our Supreme Court, Rule 67 must be interpreted to comply with the U.S. and South Carolina Constitutions. The Nonpayment Orders, however, interpret Rule 67 in a manner which deprives Appellant of the level playing field to which all citizens and all first-priority creditors of the Estate of James Brown are entitled.

The injunction against payments to Appellant could continue for decade or more. This Court should have a full record to address this and other novel questions presented in this appeal. The motion to dismiss should be denied.

III. The Nonpayment Orders Seek to Overturn the Final January 2019 Payment Order.

The January 16, 2019 Order of the circuit court contains strong praise for Respondents' fiduciary Bauknight and Peter Afterman, who serves Hynie and Respondents. It sharply criticizes the actions of Buchanan and Appellant.[6] It even states of Buchanan's and Appellant's 5-year

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[6] The AG's 2008 Settlement proposed to give Hynie about $1 million a year and a quarter of Brown's "I Feel Good" charity in exchange for her Termination Interests, which were nonexistent, and those of James, now worth about $800,000.

The AG's 2008 Settlement attempted to exclude from the definition of "heirs" under the Copyright Act at least five then-known potential heirs.

defense against the AG's 2008 Settlement:

> The Supreme Court's opinion in *Wilson v.Dallas* is, the law of the case for this proceeding. Nevertheless this Court is not required to turn a blind eye to the fact that Mrs. Pope did not seek advice regarding the benefits of the [2008] settlement agreement vis-à-vis termination rights[7] before her appeal attacking the settlement. Moreover, every appellate decision is, of course, limited to the facts before the Court. The Supreme Court's decision in *Wilson v. Dallas* did not have the benefit of the testimony and evidence the Court received during this trial. The Court is likewise not required to turn a blind eye to the fact that the settlement agreement put an end to the litigation among the heirs [footnote]. This Court finds that Mrs. Pope's failure to seek guidance on this vitally important term of the settlement agreement constituted a breach of her duty of her care and prudence.

These aspects of the January 16, 2019 order are now on appeal in this Court in Case 2019-000362, and were not before the circuit court. What *was* before the circuit court was Judge Early's clear, unequivocal ruling in the same January 2016 Order:

> I. Mrs. Pope's Compensation as Special Administrator
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> On January 8, 2008 this Court issued its order approving the [SA] fee of Mrs. Pope, plus interest at the rate of 8 ¾% from March 8, 2008 until paid in full. A portion

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In 2018 Respondents' experts Roger Miller and Brad Sharp (relying on Miller) testified that termination rights apply only to U.S. copyrights, about half of Brown's annual $4 million royalty stream, and the value of the termination right of all heirs was $8.8 million, with the value of the copyrights being between $60 million and $80 million.

[7] This statement is inaccurate. Buchanan and Appellant hired Wm. Jeffrey Smith, a Georgetown Law Center graduate; former patent examiner; former deejay while at Clemson; and scholar with a lifelong interest in music of all genres. Smith was hired in June 20008 to help Brown's Estate/2000 Trust develop a strategy to address termination rights issues which could come into play as early as 2012. In 2011 Smith and Appellant co-authored a draft of *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...* The article discusses how the AG's designation of Hynie as Brown's spouse and incorrect heirs determination as to Brown's children, combined with Bauknight's devaluation of the music empire by tens of millions of dollars, would leave Brown's "I Feel Good" charity with almost nothing. It discusses strategies available to charities to avoid the negative impact of termination rights on their royalty streams.

> of her [SA fee] was paid to Mrs. Pope during her tenure as Personal Representative, leaving a balance due to her of $47,972. The unpaid portion of her [SA] Fee, including interest, is part of her Petition in this case. By order entered August 16, 2017, this Court granted its summary judgment in favor of Mrs. Pope in connection with her claim for [SA] fees in the amount of $47,972, plus interest at the rate of 8 ¾% from March 8, 2008 paid in full. I find that Mrs. Pope is entitled to her [SA] fee, including interest until paid in full, but the [SA] fee award is not relevant to her claim for fees as [PR] of the Estate or Trustee of the Trust. [Order, 1/16/19, pp. 12, 13] [Emphasis supp.]

The Nonpayment Orders are final. They clearly seek to overturn the final judgment in the January 2019 Payment Order, even though Respondents did not seek reconsideration of the January 2019 Order, or appeal it. In addition, the Nonpayment Orders seek to overturn pleadings in Aiken 1337 which never sought offset or counterclaim.[8] They do so in a way which deprives Appellant of substantial property rights, including constitutional rights. For this reason, the Nonpayment Orders are immediately appealable

IV. The Nonpayment Orders Involve Construction of Rule 67, Not Equity Issues

The Nonpayment Orders, at the request of Respondents, find that this is an equitable matter. Then the orders bootstrap the "equity" principle into an injunction for the benefit of Hynie and those aligned with Hynie in the unrelated Richland 4900. They do so even though Buchanan and Appellant never owed any duty to Hynie. *See* Richland 4900 Answer and Counterclaim. [Amended ROA 2018-002229, pp. 362 – 394, esp. 365-368] By this "equitable" reasoning, the Nonpayment Orders, in addition to enjoining the $47,972 payment, threaten to enjoin future payments to Appellants in Aiken 1337, over which the lower court has no current jurisdiction, until Wingate, for Hynie and those aligned with her, concludes Richland 4900.[9]

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[8] See Respondents' 2-page Answer in Aiken 1337, dated January 15, 2014, currently located in Vol.II, pp.738-739, ROA 2019-000362.

[9] Both before and during the Aiken 1337 trial Appellant offered to settle her entire Aiken 1337 claim for six years of service and costs for $2.1 million. This would have resolved both her entire fee claim and costs Appellant personally advanced for the *Wilson v. Dallas* appeal.

Whether the circuit court should have applied Rule 67 to approve Respondents' precipitous payment into the court without seeking prior approval *after an earlier request to pay into the court had not been granted,* is a matter of statutory interpretation. The circuit court's conversion of a Rule 67 motion into an expansive equitable injunction denies Appellant's Due Process rights by any standard of review. For this reason alone, the Nonpayment Orders are appealable, and the motion to dismiss should be denied.

V. Richland 4900 is Not a Companion Case to this Case or to Any Other Case.

a. The Solicitor General's 2017 Sworn Statement About Richland 4900

Seven years after Hynie, and other Legacy Trust [10] owners sued Buchanan and Appellant for tens of millions of dollars, Solicitor General Robert Cook was deposed. He testified under oath that in forty years he had never seen a case like Richland 4900.

Richland 4900 is not a "companion" to any case. It is clearly not a companion to the narrowly-defined, now-concluded Aiken 1337 fee claim case of Appellant.

Appellant is unaware of any reported case in S.C. similar to Richland 4900. As the complaint shows, in Richland 4900 Wingate, a private law firm, purports to speak as the sole attorney for the State/AG, while also speaking for Hynie and others.[11] The Wingate Contract

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Respondents did not respond to the $2.1 million offer, then falsely accused Appellant at trial of seeking $19 million from Brown's estate for her fee.

[10] The "Settlement Entity" created by the AG's 2008 Settlement was named the "James Brown Legacy Trust", but it was not created by James Brown, and was created to dismember James Brown's estate plan. The AG's 2008 Settlement put the AG and Hynie in 75% control of the Legacy Trust.

[11] See ROA 2019-000362, Currently Vol. VI, pp. 2728 -2746 for the copy of the Wingate Contract as released by Bauknight by order in U.S. Dist. Ct.. Case No. 3:08-cv-00014-WOB (the "Forlando Suit") in 2013 and identified by Wingate in his March 2017 deposition directed by the Hon. Jean Toal, Acting Circuit Judge.

says that 10% of Wingate's charitable legal fee will go to the AG, even though the AG did not sign the Wingate Contract and is not an attorney of record on the Complaint. In addition, Levenson and David Bell, Esq., signed the Wingate Contract for all individual Richland 4900 Plaintiffs other than Hynie and James, but both Bell and Levenson have since been terminated by the clients for whom they signed the 40% contract.[12]

A FOIA case, at the request of the AG, was moved from another county and consolidated with Richland 4900 nine years ago, even though the AG now asserts he was never a party to Richland 4900.

New issues arise in Richland 4900 each day, including the Supreme Court's final August 2020 ruling that Hynie was not Brown's spouse. The Solicitor General's observation that there has never been a case like Richland 4900 is correct.

The circuit court's clearly erroneous finding that Richland 4900 and Aiken 1337 are companion cases deprives Appellant of the level playing field required of the Due Process clause, and is immediately appealable.

b. The Governor's 2016 Sworn Statement About Richland 4900

Richland 4900 has been unique since the day it was filed by Wingate as sole counsel for the State/AG and others. It became more unique when Wingate claimed the public Wingate

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In 2020 Judge Newman directed Wingate to produce the Wingate Contract in Richland 4900, but the page previously signed by Bell is now signed by Terry. [Case 4900-Plaintiff-2020-000019].

[12] The difference between the 2013 and 2020 versions of the Wingate Contract remains unresolved because of the automatic stay, and the successful efforts of Wingate, Hynie and Bauknight to prevent lifting of the stay since 2017. The secrecy and nondisclosure of public documents by Hynie and Bauknight is now a subject in the 2018 federal suit filed by some of Wingate's Richland 4900 clients against Hynie and Bauknight in 2018.

Contract was the "epitome" of a private document.

In the fall of 2013 it was confirmed that neither AG McMaster, nor a single individual Richland 4900 Plaintiff other than Bauknight had signed the Wingate Contract.

When finally deposed in 2016, Governor McMaster testified emphatically under oath that he did not authorize Wingate to bring Richland 4900 in the name of the State/AG; did not authorize Bauknight to act "on behalf of" the State/AG in Richland 4900; and did not even know he was a named Plaintiff in Richland 4900 until after leaving office as AG in January 2011.

c. The Parties to Richland 4900 are Not Similar to the Parties to Aiken 1337.

Richland 4900 was commenced during the period in which Sr. Asst. AG "Sonny" Jones ("AG Jones") asserts that he shared a "common interest" with Hynie. The AG's 2008 Settlement sets out the terms of the common interest AG Jones and Hynie shared for five years:

> …d) the parties will create a settlement entity…that will receive any and all assets and or proceeds payable to any of the parties…The parties will divide any and all such assets and or proceeds in the following proportions… (1) 50% charitable (2) 25% Tommie Rae….which includes any share attributable to..James; (3) 25% to all parties …represented by…Levenson. [13]
> . . .
> k) The parties agree to use their best efforts to extinguish any other outstanding interests or claims … and to the extent such interest or claim requires payment , for such payment to be made from the settlement entity, which of necessity would be allocated among the parties to the settlement entity pro-rata in aliquot shares. AG's 2008 Settlement, Current 2019-000362, p. 2623 – 2624.

On May 18, 2010 Alan Medlin, Esq. for Hynie; Bell for Terry Brown; and Levenson signed the 40% Wingate Contract. Bauknight signed as trustee of the Legacy Trust. [14]

The following day, May 19, the AG, Hynie and numerous individuals, as shown on the

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[13] The ownership percentages in the Legacy Trust/Settlement Entity were modified slightly in January 2009 when Terry Brown joined the AG's 2008 settlement.

[14] Bauknight also signed the Wingate Contract as Respondents' PR/Trustee, positions voided by the Supreme Court in *Wilson v. Dallas.*

complaint, sued Buchanan and Pope for tens of millions of dollars.

Shortly after *Wilson v. Dallas* and the May 29, 2013 announced plan of Hynie and the Levenson clients to disregard *Wilson v. Dallas* and reinstate the AG's 2008 Settlement, Buchanan and Appellant were excluded from participation in Aiken James Brown cases other than their own claim cases.

On March 1, 2017 the Honorable Jean Toal, Acting Circuit Judge directed that Wingate and a Wingate partner, Everett Kendall, Esq., be deposed by Appellant. The order stated in part:

> *Plaintiff will be permitted to question each of these attorneys on their authorization to file and continue the lawsuit of the Attorney General and others against Robert Buchanan and Adele Pope, filed May 19, 2010, and continuing today. Order, Jg. Toal,, 3/1/17 [R., p.]

Wingate and Kendall refused to answer many questions, but both testified they were unaware of any change in the Richland 4900 Plaintiffs since Richland 4900 was filed.

Deposed in 2017, Bauknight gave the following testimony about the Richland 4900 parties:

> **Q. Well, it says "Russell L. Bauknight as Trustee of the James Brown 2000" - -**
>
> A. Ah, okay. Well, I can explain this caption to you, I believe. "Russell Bauknight," that's me, "Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust" – which existed at the time was filed -- "and as Personal Representative of the Estate of James Brown."
>
> So, at the time this was filed, there was a settlement agreement amongst the parties. There was a James Brown Legacy Trust created under the settlement agreement amongst the parties. At that time, I was going to represent the Irrev. Trust, the James Brown Legacy Trust and the Estate of James Brown. The Legacy Trust has beneficiaries, the charity which Henry McMaster was watching over and in addition it had beneficiaries: Tommie Rae Brown, her minor child, Daryl Brown, Janise, Lindsey, Deanna, all the people listed there and the reason that Henry McMaster is listed there is that though Judge Early had approved the settlement agreement, we knew you were going to appeal it and everyone in this case that was a party to the settlement agreement was in fear that you would come back into power, Mrs. Pope, and they knew the first thing you would do is drop the lawsuit against yourself and if you did that, if we didn't have Henry McMaster there protecting the charity, there'd be no one to prevent you from coming back. So

that's the reason he was listed here as part of that charity. And it ultimately was reversed when the Supreme Court sent that back down to Jack Early or Judge Early to take more testimony, the Legacy Trust ceased to exist and you've been told that, but you seem to keep saying it's still out there. But it's ceased to exist. It's never been funded. There is nothing here today. If you read the agreement, the fee agreement, which you do have a copy of [15], it clearly says that if the Supreme Court or if a court ultimately rules that the settlement agreement is not valid, these people become plaintiffs themselves. And Henry McMaster has looked at what's going on in the estate and trust for the benefit of the charity – not Henry McMaster, but the Attorney General has looked at that. They're very satisfied. They've clearly said they're very satisfied with what I'm doing with it. . ... Depos. Bauk., Aiken 1337, 1/17, p 158. [Emphasis supp.]

It is abundantly clear that the parties to Richland 4900 are not, and never have been, the same as the three parties to Aiken 1337.

d. The Issues in Richland 4900 and Aiken 1337 are Not Similar.

As the Richland 4900 complaint[16] shows, it does not seek damages for the benefit of James Brown's estate or the 2000 Trust. It seeks them for Hynie and others who, at the time of the filing, had dismembered James Brown's estate plan.

As Buchanan's and Appellant's responses show, most of the alleged wrongful actions had been meticulously reviewed and approved by Judge Early in more than forty unappealed orders issued between 2007 and 2009. The primary theme of Richland 4900 is that Buchanan and Appellant breached their duty to Hynie and other Will/Trust contestants by:

- Acting in bad faith, as evidenced by such actions as
  i. filing a lengthy motion opposing the [2008] settlement. . .[p.7]

- Engaging in conflicts of interest, such as
  …iii. Continuing to conduct a vicious attack on the proposed [2008]settlement, upon information and belief, for the purpose of padding their own fees, which they claim to be $5 million. [p.8]

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[15] At the time of his deposition in Aiken 1337 in January 2017, Bauknight and other Richland 4900 Plaintiffs were still resisting release of the Wingate Contract. It was delivered in 2020.

[16] Wingate has never moved to amend the Richland 4900 complaint, and it has never been amended.

In addition the Richland 4900 complaint contains two other themes which Hynie, through counsel and Peter Afterman, was developing. The first was the claim that Buchanan and Pope were greedy and ill-informed about termination rights because they did not understand that making Hynie James Brown's spouse was good for James Brown's charity. The second was a plan devised by Hynie's counsel in 2009 to devalue Brown's music empire to $24 million or less to discredit "Bobadele.[17]"

The Richland 4900 complaint faults Buchanan and Appellant for:

- Failing to understand the basic operation of the federal copyright law and its impact on the estate and its valuation, including but not limited to tax valuation. [p.8]

- Artificially inflating the reported value of the estate. . . for the purpose of justifying their claim for approximately $5 Million in fees. [u, p. 9][18]

Buchanan's and Appellant's grounds for dismissal of Richland 4900 included:

- Their actions had been approved by orders of Judge Early [Mot. Dismiss, pp. 5.6]
- The actions exceed the AG's statutory and constitutional authority to act [p.6]
- Private counsel's [Wingate's] representation of the AG exceeds constitutional and

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[17] The devaluation was carried out by Afterman in his September 2010 $4.7 million valuation, which was withheld from the Supreme Court in *Wilson v. Dallas* for eight months, until May 2011. That year the AG, Hynie and others began using the $4.7 million claimed value to falsely accuse Buchanan and Appellant of a federal felony.

[18] At the Aiken 1337 trial Bauknight testified that he had brought in as much each year as Buchanan and Appellant, which would have been about $40 million. He had never properly accounted, so his expenditures could not be verified. Bauknight's federal court admission that he had spent tens of millions of dollars in litigation costs from funds Brown devised for needy students became part of the Aiken 1337 record. Bauknight testified, however, that he had no idea of the then-value of the James Brown assets, and could not even speculate. Bauknight testified that he knew only that he had $8 million in the bank,

In 2019 Hynie's attorney admitted to the Supreme Court that not a penny had been spent for James Brown scholarships since Brown's death in 2006. Hynie still claimed to the Supreme Court that it was beneficial to Brown's charity to make her Brown's spouse.
In 2019 Afterman, who had valued the entire music empire at $4.7 million, told the Supreme Court that Termination Interest – which apply to only about half of the royalty stream, and then only slowly – were worth tens of millions of dollars.

statutory authority. [p.8]

- Plaintiffs failed to join Forlando, and the minors had no GAL [p.8]
- The claims were barred by the statute of limitations
- Hynie and others lacked standing [p. 9]
- Buchanan and Appellant owed no duty to the Legacy Trust or its beneficiaries [p. 10]

Their later answer and counterclaims were built on these themes, with twelve defenses, and counterclaims for abuse of process; civil conspiracy; intentional interference with contract; and fraud under § 62-1-106 of the South Carolina Probate Code. Their consistent position for ten years is that they never owed a duty to Hynie and Legacy Trust owner-beneficiaries, and that their duty to the Levenson and Bell clients ended under Brown's *In Terrorem* clauses when they contested the estate plan or joined the AG's 2008 Settlement to dismember it.

The differences between the issues in the two cases was heightened after *Wilson v. Dallas* when the AG agreed with Bauknight that there was no charitable component to Richland 4900. This made Hynie's share of the Richland 4900 damage claim about 46%. It also made clear that Richland 4900 has no similarity to Aiken 1337, which was about fair payment to Appellant for protecting Brown's "I Feel Good" charity.

The complex tort claims, counterclaims and constitutional issues in Richland 4900 are not now, and never have been, similar to the straightforward fee and costs issues in Aiken 1337.

VI. Aiken 1337 was Concluded in 2019 While Richland 4900 Remains in Discovery

While Hynie and other Richland 4900 Plaintiffs pursued their relentless litigation against each other after 2013, Hynie and Wingate were equally relentless in their effort to stall Richland 4900 until Hynie had been determined to be the spouse of James Brown. They were successful in obtaining six years of stays in Richland 4900. They were also able to disrupt FOIA compliance for nine years. While they did so, Aiken 1337 was filed, managed and tried, with Appellant serving *pro se*, as Buchanan had done, until just before trial.

Appellant deposed Governor Henry McMaster; Attorney General Alan Wilson; former Chief Deputy AG John McIntosh; Solicitor General Robert Cook; and other AG staff responsible for James Brown matters and the David Cannon criminal matters since 200 in Aiken 1337.[19]

Appellant also deposed persons she designated as "adverse experts," SA/ST David Sojourner, Esq., and his partner Rita Caughman, Esq., a former expert for Respondents.

Respondents deposed Appellant's experts and witnesses, including Wallace Lightsey, Esq. (IP); Smith (termination rights); RB Alexander (publicity rights valuation); James Hardin III, Esq. (Trusts/Estates/Taxes); Steven Johnson, Esq. (Trust/Estates/Fiduciary Income); Thomas Pope, Esq. (FOIA); Judge (Retired) Walter Williams (Advisory Board); Ray Gonzales (Entertainment, Head of Warner Music Legal); Wm Sellars, CPA (Appointed by Jg. Early for Estate/2000 Trust); Mary Jo Cole, CPA (Assisted with IRS qualification of "I Feel Good" Charity); Stephen Lambert (Trustee, Graham Foundation); and others.

Appellant, *pro se,* deposed six of Hynie's nine Richland 4900 experts. They were designated in 2016 by Respondents as Aiken 1337 experts. As described below, Hynie's experts support the Richland 4900 position of Buchanan and Appellant, especially as to termination rights issues and the claimed Afterman $4.7 million valuation of Brown's music empire.

1.IP expert Jonas Herbsman, Esq. (NY) knew nothing about termination rights litigation and was told Hynie was Brown's spouse. Herbsman had read *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...,* which was co-authored by Appellant in 2011, and did not identify anything he found wrong with it. He did not know about the Harlan Howard IRS copyright valuation case.

2. Termination Rights expert Roger Miller (NY) confirmed that Brown's copyright Catalogue was "solid" gold and that "frothy" investors were willing to pay about 15 – 20 times revenues ($60 - $80 million) for the catalogue, both when Brown died and in 2017.

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[19] Sr. Asst. AG Havird "Sonny" Jones; Asst. AG Mary France Jowers;,AG Auditor Sandra Matthews; and Sr. Asst. AG Creighton Waters.

3. Ellison Thomas, CPA - Refused *sua sponte* to release documents or discuss the millions of dollars of Cannon/Dallas wrongdoing discovered by Buchanan and Appellant. Thomas did not know of anything Appellant and Buchanan did wrong.

4. Nathan Crystal, Esq. – Refused to release his 2013 *ex parte* ethics opinion filed with Judge Early in 2013 about Bauknight's potential conflicts. Had no opinion about anything done by Buchanan and Appellant between 2007 and 2013. Did not appear at trial.

5. Julian Walker, Esq. – Hired in late 2016, and charged $600 an hour. Did not know of anything Buchanan and Appellant had done wrong, and did not appear at trial.

6. Mark Hobbs, CPA - Hired by Wingate in 2010, but did nothing until 2017. Did not know Bauknight and spouse/CPA had never picked up James Brown Estate/2000 Trust tax files from Court-appointed CPA Wm. Sellars, allowing them to be destroyed as abandoned after more than 6 years, and had not filed amended income tax returns after the 2008 settlement shifted large amounts of income from "I Feel Good" charity to family. Did not know Bauknight, in addition, had shifted $1 million a year and nearly 1/3 (31%) out of the "I Feel Good" Charity and over to private, taxable trust for Forlando and Richland4900 Plaintiffs under the "fractional share" clause of Brown's 2000 Trust., which was not corrected by *Wilson v. Dallas.*

By 2018 the Aiken 1337 trial was concluded, and by 2019 the final orders issued. The fact that the Aiken 1337 was tried and concluded nearly two years ago makes it even clearer that Respondents' claim that it is a "companion case" to Richland 4900 is without merit.

VII. Efforts to Consolidate Richland 4900 and Aiken 1337 were Denied by Judge Early.

Twice in 2016 Hynie and other Wingate clients attempted to consolidate discovery in Richland 4900 with discovery in Aiken 1337. The first was to consolidate general discovery, and the second to consolidate discovery related to the experts Hynie, through Wingate, and Respondents, had both designated in later 2016.

Appellant opposed both attempts to consolidate discovery because the cases are not similar; Richland 4900 has fifteen Plaintiffs who are not parties to Aiken 1337; and the tort issues in Richland 4900 are unrelated to the fee claim in Aiken 1337. In addition, at the time Appellant was efficiently managing Aiken 1337 *pro se*, while numerous Wingate attorneys were

helping Hynie and other Richland 4900 Plaintiffs disrupt and delay both FOIA compliance and discovery in Richland.

Both motions by Hynie and Richland 4900 Plaintiffs to consolidate Richland 4900 discovery and Aiken 1337 were denied by Judge Early.

The finding in the Nonpayment Orders that Richland 4900 and Aiken 1337 are "companion cases," and the use of that finding to enjoin payments to Appellant for what may be a decade or more has no support in the record below, and deprives Appellant of substantial rights, including her right to Due Process.

VIII. Hynie and Wingate are Likely to Delay Richland 4900 for Another Decade.

In 2007 Hynie had no rights in James Brown's estate and no Termination Interests in future U.S. royalties related to Brown's 900 copyrights. Her handwritten admissions – under an *ex parte* gag order from 2008 until 2015 – confirm that Hynie knew she was not Brown's spouse. In 2006 Hynie discussed the fact that she and Brown were not married, and that she was a mere guest at Brown's Beech Island home estate, with Brown and trustee Albert Dallas.[20]

James, not a presumed child of James Brown, needed only to take a $300 DNA test to show that, even though born during Hynie's first marriage, and before Hynie's ceremony with Brown, he should be entitled to Termination Interests in Brown's U.S. royalties. His Termination

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[20] In 2010 Hynie and others, through Wingate, designated Dallas as one of their trial witnesses in Richland 4900. In 2012 Appellant noticed the deposition of Dallas after learning of the 3-way conversation of Hynie, Brown and Dallas in 2006 in which all confirmed that they were not married. Hynie, thorough Wingate, secured an oral order from the circuit court stopping the deposition of Dallas on the day it was scheduled to be taken in Georgia. Dallas, however, gave a sworn statement confirming the details of the conversation in which all three confirmed that Brown and Hynie were not married.

In 2015 and later Hynie began claiming the sworn statement of Dallas provided evidence to support the 2015 order of the circuit court relieving Hynie and others from default as to Buchanan's and Pope's counterclaims against them. It did not.

Interest would be worth about $800, 000 by 2017, and, by proper election, he and other children could have started enjoying Termination Interests as early as 2012. This was not enough for Hynie.

Within weeks of Brown's death Hynie began what is now nearly 14 years of relentless litigation to acquire the assets of James Brown's charity and gain control of his music empire. For 10 of these 14 years Richland 4900 had been at the center of Hynie's strategy. See Complaint, R4900, Exhibit A.

It was critical for Hynie to silence and discredit anyone who understood the false Copyright Act termination rights claims she had made since 2008. It was Hynie's advisors who came up with the idea of devaluing Brown's music empire to $24 million or less to discredit "Bobadele." Peter Afterman, now Hynie's agent, produced the $4.7 million claimed "professional appraisal" of Brown's music empire to carry out Hynie's devaluation scheme.[21]

Bauknight testified at the Aiken 1337 trial in 2017 that he spoke to Afterman But in 2013 Afterman, according to Bauknight, failed to tell him that he was helping Hynie file public termination notices in the U.S. Copyright Office to siphon off half of the U.S. royalties from more than 90 songs that Brown devised to his "I Feel Good" charity for the education of needy students between 2015 and 2023.

More than 13 years of scorched-earth litigation has served Hynie well. By 2016 she had gotten about $1 million from Termination Interests she did not have, and her lawyers the same

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[21] Before being disqualified as an expert in another James Brown case, Afterman testified that he was hired to "make money" for the estate. Afterman's website claimed he was hired by the State of South Carolina to manage James Brown's assets. In 2010 Afterman valued Brown's worldwide music empire at $4.7 million. At the same time Afterman valued Brown's sampling revenues -- a small part of the music empire – at more than $10 million.

amount. In 2016 the circuit court awarded James a $700,000 litigation war chest – including $5,000 per deposition --- paid for by Brown's charity. Brown's charity has paid millions of dollars to Afterman, and advanced Hynie's litigation costs, and those of James, in Richland 4900. Hynie and James now live in London, U.K., and claim to be beyond the jurisdiction of U.S. Courts.

In 2015, amid speculation, Medlin told Judge Early that the Legacy Trust *did* exist, and that Bauknight should be "knighted" for the work he had done for Legacy Trust owner-beneficiaries. From Hynie's standpoint, Medlin was correct.

With Respondents advancing Wingate's Richland 4900 costs, and the AG filing briefs in 2019 and 2020 which fully support Hynie and Bauknight's actions, it is likely that Hynie will continue her relentless, no-settlement, litigation at the expense of Brown's charity for another decade or more. As of today even Hynie's 2016 Richland 4900 deposition, in which she refused to answer questions about her marriages, has not been completed.

With a dozen Legacy Trust lawyers; her own dozen, including Wingate; and assistance of two AGs and five lawyers on the AG's staff, Hynie has developed a successful, long-term strategy to milk James Brown's charity while others pay her costs. A look at just a few actions each year helps demonstrate why Hynie is likely to continue Richland 4900 for years:

2007

- Hynie nominates Pope as SA and approves PR/Trustee appointment of Buchanan and Pope.

- Hynie and James file 5 baseless lawsuits to get more than half of Brown's assets, and Levenson files two baseless Will/Trust contests.

- Hynie praises Buchanan and Pope for securing court approval of PR/Trustee fee agreement when they had the right as PR/Trustee to reach contract without court

approval[22]

2008

• Hynie secures *ex parte* gag orders related to her handwritten admissions of bigamy.

• Hynie and AG Jones begin 5-year "common interest" relationship. AG stops DNA testing; declares Hynie spouse; gives Hynie quarter of the music empire; exempts James from DNA testing. AG excludes five or more known potential heirs from AG's 2008 Settlement.

• Hynie threatens Buchanan/Pope with lawsuit if they don't withdraw opposition to AG's 2008 Settlement and resign. Hynie, AG.and others sue. Suit becomes *Wilson v. Dallas,* decided May 8, 2013.

2009

• Hynie/ James reject offer for 9% of estate and recognition of James as child..

•Stay lifted after Buchanan/Pope appeal AG's 2008 Settlement, and Hynie gets access to twelve Bauknight/Legacy Trust attorneys. Orchestrates *Wilson v. Dallas* with them.

• Bauknight/Hynie (Medlin) begin vitriolic claims against Buchanan/Pope at stay hearing,[23] the same month Medlin proposes devaluation to discredit Buchanan and Pope.

• Buchanan/Pope deliver $99 million of assets to Bauknight. Accounting shows $7.83 million earned in 18 months. TIAA debt down to $11.3 million, $9.3 million with escrow. See Thomas Chart w/ Pope annotations, R 2019-0000362 pp.

• Hynie proposes Peter Afterman and devaluation of music empire to discredit "Bobadele."

2010

• Hynie (Medlin) threatens suit if Buchanan/Pope do not drop appeal. Helps prepare, Richland 4900 complaint with known false claims.

• Hynie/AG do not respond to settlement offer, and file Richland 4900.

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[22] See Transcript, Hearing, 12/21/07. At that hearing Hynie announced that she had filed challenges to Brown's estate plan two days earlier.

[23] At the August 2009 hearing to lift stay, Bauknight's counsel (Wilkins) complained that Buchanan and Appellant had spent $317,000 in 18 months, much of which was 2007 SA fees bearing high interest rate, a first priority claims of administration. By the time of the Aiken 1337 trial Respondents, still trying to make Hynie James Brown's spouse, had spent tens of millions of dollars in litigation costs, averaging several million each year.

• Afterman $4.7 million "appraisal" of music empire arrives in September and Hynie/Bauknight agree with others to withhold it from *Wilson* court for 8 months.

2011

• AG/ Hynie reveal $4.7 million claimed value in May 2011 "at a time of our choosing," and AG begins using Afterman $4.7 million, without review, to accuse Buchanan and Appellant of a federal felony.

• Hynie (Medlin) coaches Bauknight's counsel for *Wilson* oral argument. Bauknight asserts Hynie's Elective share claim is a "slamdunk;" repeats Hynie's incorrect termination rights claims; says it is good for Brown's charity to give ¼ to Hynie; asserts estate/2000 Trust have no assets to speak of, and termination rights are all case is about.

2012

• AG/Estate/2000 Trust reject offers to get out of Richland 4900 at no cost, along with minor beneficiaries of 2000 Trust.

• Hynie/James, others (not given offers), reject settlement offers, and move to strike.

• Hynie, supported by AG/Bauknight, files vitriolic claims against Appellant to keep 2008 *ex parte* gag orders admitting her bigamy in place.[24]

• Hynie/AG/Wingate seek sources, notes of reporter who writes about "Hynie diary."

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[24] Hynie was supported by Respondents and the AG in the following claims:

> And while Pope can use her word processor to change the caption, there is nothing she can do to change the facts establishing Tommie Rae's marriage to James Brown…
>
> Tommie Rae and James were married….
>
> Before entering the settlement agreement that Pope is appealing …the South Carolina Attorney General's Office, representing the charitable beneficiaries, conducted a thorough due diligence investigation of the facts and law surrounding the marriage issue…The due diligence undertaken by the Attorney General included analyzing all of the factual information included above…It also included, as Pope admits in her brief, reviewing a copy of the diaries at issue before the protective orders were put in place…
> Aff. Opposing Pyt. Into Court, 2/19/18, p. 3.

2013

• Hynie (Medlin) and Levenson announce plan to disregard *Wilson v. Dallas* and reinstate AG's 2008 Settlement at May 29, 2013 status hearing.

• Bauknight supports AG's 2008 Settlement; calls Appellant untruthful, and claims Appellant (and presumably Buchanan) "raped" James Brown's estate. Bauknight denies that Forlando received Terry's share of the Legacy Trust in January 2011, the month Forlando planted the false Grammy© claim about Buchanan and Pope noted in 2013 by the Supreme Court. [Records of AG confirm Terry's transfer to Forlando.]

• Afterman helps Hynie/James file public termination notices to take U.S. royalties from more than 90 "I Feel Good" Trust copyrights between 2015 and 2026. Bauknight does not object in 2-year period before Hynie's first distribution as "spouse" in 2015.

2014

• Respondents (Sojourner) allow Hynie to obtain summary judgment as spouse without proffering her handwritten admissions of bigamy.

• Appellant learns that Forlando planted false Grammy© claim noted by Supreme Court in *Wilson v. Dallas*. Bauknight hires Wingate to protect Forlando.

• Appellant continues to urge AG to prevent announced plan to reinstate AG's 2008 Settlement.

2015

• Circuit Court declares Hynie to be spouse of Brown, and fails to report to Supreme Court announced May 2013 plan of Hynie/Levenson to reinstate AG's 2008 Settlement.[25]

• Appellant's efforts to persuade AG to save "I Feel Good" Charity end on June 10.

• Hynie (Medlin) tells Judge Early that Bauknight should be "knighted" for service to Legacy Trust owner-beneficiaries.

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[25] The May 2015 Status Report to the Supreme Court stated in part:

> The Order requesting this status report inquired whether any proposed settlement agreement has been submitted for court approval. The answer is an unequivocal no. No lawyer, party or anyone else has discussed, mentioned, suggested or inquired of me anything about settlement. Neither am I aware of any rumor or "courthouse talk" of any proposed settlement.

2016

• Bauknight, under oath, reverses 2012 position, and claims Legacy Trust does not exist.[26]

• SA/ST Sojourner testifies he charged $1.4 million to defend Hynie claims, but has no duty to protect the copyrights from her termination rights claims. Reveals that James, who refused a $300 paid-for DNA test in 2008, was awarded $700,000 in GAL/legal fees.

• Hynie admits in Richland 4900 deposition that she received "about $1 million" in royalty sales, but refuses to answer any questions about her marriage. Seeks protective order, which is granted in part, but requires her re-deposition at her expense. Hynie delays efforts to conclude deposition at her expense until today. (August 2020).

2017

• Bauknight testifies in January he has spent $1 million on Aiken 1337 before depositions of 6 of Respondents' 9 experts (with Hynie); the AG and four additional staff members. Bauknight refused 2012 offers for Estate/2000 Trust/ "I Feel Good" charity to get out of Richland 4900 at no cost, but refuses to consider settlement which will not release Hynie.

• Respondents (Bauknight) reject offer to settle Aiken 1337 for $2.1 million for Pope's 6 years of service and 4-year costs advanced for *Wilson v. Dallas* appeal.

• Respondents (Bauknight/Sojourner) drop challenges to Hynie's spousal claim.

• Wingate asserts Governor authorized Richland 4900, but Governor and contract refute.

• Appellant appeals circuit court's relieving Hynie, James from Richland 4900 default, and Respondents continue to fund Richland 4900 costs for Hynie, others.

• Levenson files claim for share of "common fund," and Levenson, Provence testify that Buchanan/Appellant should not have opposed AG's 2008 Settlement or studied termination rights issues. Bauknight claims he and Afterman benefitted estate and

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[26] In 2012 Bauknight stated in an affidavit:

> 4. . .For nearly three years I have also served as the Trustee for the James Brown Legacy Trust…
>
> 5. As its Trustee, I manage, control and oversee the Legacy Trust. .. represented under oath that he had managed the Legacy Trust in Richland County. Affidavit, filed 3/3/20 in R4900

Buchanan and Pope damaged estate, inviting rebuttal by Governor and others..

2018

• Some Richland 4900 Plaintiffs sue Hynie, Bauknight and Sojourner over "backroom deals" and concealed agreements related to Termination Interest Hynie, James put in Legacy Trust in 2009.

• Bauknight admits spending tens of millions of dollars from Brown's charity for litigation. Admission becomes part of record at Aiken 1337 trial.

• Hynie's experts support $100 million value, but Bauknight claims Afterman $4.7 million value correct.

• Circuit court discards litigation records showing expenditure of tens of millions of dollars, as admitted in federal court, and rescinds order to produce, after Bauknight files them *ex parte* and Appellant's counsel object.

2019

• Aiken 1337 court supports Hynie's May 29, 2013 announced plan to reinstate AG's 2008 Settlement in January 16, 2019 Order, but directs payment of SA fees to Pope.

• Hynie (Medlin) tells Supreme Court Respondents want Hynie to be spouse because it is good for "I Feel Good" charity. Continues false copyright claims in Court.

• Aiken 1337 court disregards termination rights testimony of Smith, Pope and Lightsey

• Afterman recants his $4.7 million claim with claim in Supreme Court affidavit that termination rights, which will only slowly apply to half or less of royalty stream, and do not apply to publicity rights or other assets, are worth tens of millions of dollars, while Hynie's Miller says termination rights of all heirs are worth only $8.8 million.

2020

• Hynie and Bauknight accused by other Richland 4900 Plaintiffs and others of concealing records related to termination rights. Issue is some of the documents Hynie and Bauknight have concealed in Richland 4900 and FOIA disruption since 2016.

• The Supreme Court's ruling that Hynie is not Brown's spouse becomes final in August.

Since 2013 Respondents have paid Afterman more than $1 million as he worked to help Hynie siphon off U.S. royalties James Brown provided for needy students. Because

Respondents' litigation records, when ordered to be produced, were filed *ex parte*, and discarded by the circuit court, which did not preserve a copy for the Aiken 1337 appeal, how much of the tens of millions of dollars in litigation costs Respondents have advanced to Hynie and James is not currently know. The stay prevents it from being discovered in Richland 4900 at this time.

What *is* known is that for nearly fourteen years Hynie has been able to spin nothing into a fortune for herself and James. With continuing support of Respondents and the AG, Hynie has no motivation to stop. Within the week she has refused to release documents withheld since 2016.

The circuit court's ruling, which enjoins Respondents from paying Appellant's $47,972, with interest, clearly violates Appellant's creditor's rights and Due Process rights. Due process is violated when a party is denied fundamental fairness. *City of Spartanburg v. Parris*, 251 S.C. 187, 191, 161 S.E.2d 228, 230 (1968). Due process is flexible and calls for such procedural protections as the particular situation demands. *Sloan v. S.C. Bd. Of Physical Therapy Exam'rs*, 370 S.C. 452, 636 S.E.2d 598 (2006). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *S.C. Dep't. of Soc. Servs. v. Beeks*, 325 S.C. 243, 246, 481 S.E.2d 703, 705 (1997).

No law or equitable principle allows the circuit court to speculate that Appellant may owe Hynie, or anyone else, funds in Richland 4900, and then withhold her judgment in Aiken 1337 on that speculation. For this reason alone, the motion to dismiss this appeal should be denied.

VIII. Stays, False Felony Claims, Hidden Documents, and Sanctions Threats

Shortly after James Brown died, Hynie, Levenson and Bell began accusing everyone who did not agree with them of being a criminal and a liar. Within a year, Hynie was claiming that her handwritten admissions of bigamy were stolen by Brown's original fiduciaries – not

discarded and found on Brown's property, as was the case.

Bell, representing Forlando Brown and others, accused Levenson of forging his 30% fee contract with Forlando and other family members.[27] By January 2008 both Bell and Forlando were making the false claim in federal court that Forlando was not a party to any State Court proceeding seeking the removal of a James Brown Trustee. This was in Forlando's suit to enjoin the 2000 Trust until felon David Cannon, who had stolen $17 million from Brown, and other resigned trustees, could be reinstated as trustees. Forlando was, however, a Plaintiff in Aiken County Case 2007-CP-02-122 ("Aiken 122"), filed a year earlier, which sought to *remove* Cannon as PR and Trustee, and resulted in the resignation of Brown's original trustees.

By January 2009 Hynie had threatened a suit if Buchanan and Appellant did not resign and allow her to have a quarter of Brown's assets, and both Levenson and Bell had threatened grievances. Forlando and Bell, working with felon David Cannon, began a decade of false affidavits and other troublesome litigation tactics.

When Hynie's lawyer, with Levenson and Bell, signed the Wingate Contract, they brought these tactics to Richland 4900, especially the false felony claims; sanctions threats and

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[27] The Court is asked to take judicial notice of the hundreds of filings in S.C. Dist. Court Case 3:08-cv-00014-WOB in which Forlando Brown sought for four years to enjoin Brown's 2000 Trust until David Cannon, who had stolen $17 million was reinstated. Both Bell and Forlando filed numerous false sworn statements.

In 2011 Forlando planted the false Grammy© claim noted by the Supreme Court two years later with an Atlanta law firm with which Cannon and Dallas had contacts dating back to the TIAA debt in 1999. Bell signed the Wingate Contract for Forlando's father, Terry, in 2010, but when the contract was produced in 2020 a substituted page, purportedly with Terry's signature appeared. In 2013 Bauknight testified that Terry Brown did not assign his interest in the Legacy Trust to Forlando, but documents show that he did, and that the assignment was distributed to the settling parties on January 18, 2011, the month Forlando planted the Grammy© story. After *Wilson v. Dallas* Bauknight hired Wingate to prevent Forlando Brown from paying the costs of his 4-year effort to reinstate felon David Cannon from his trust share, which had been exponentially increased by the Peter Afterman/Bauknight $4.7 million valuation.

claims; concealed documents; and even missing documents.

In 2010 Judge Early ruled that all of the contracts of counsel to the settling parties which had been filed with Judge Early in 2009, were nonconfidential and should be released by the Clerk of Court. The Clerk did not have them. Respondents did not produce them. They have not been found.

Since Richland 4900 was filed, Hynie and other Wingate clients have sought sanctions against Appellant more than a dozen times in multiple courts, including in January 2011 when Buchanan and Pope filed a brief (in response to a brief served on them by Cannon) that supported recovery of $1.2 million costs Judge Early had directed Cannon to pay in connection with his forced resignation. [By then, Hynie and others had named felon Cannon as their witness in Richland 4900]

By 2017 Hynie, Bauknight and other Richland 4900 Plaintiffs had evaded discovery in Richland 4900 for seven years, and disrupted FOIA compliance for six years. They had also secured orders to seal public records, without review, which showed the competent work of Buchanan and Appellant between 2007 and 2009 in multiple James Brown cases from which Buchanan and Appellant had been excluded since 2013. "Expert" opinions of Crystal and Afterman were sealed or filed *ex parte*, and those opinions and challenges to Afterman's claimed expertise to value James Brown's assets either never appeared, or disappeared, from the public record.

In 2017 Hynie and others, through Wingate, secured an unconstitutional order in Richland 4900 that a January 2017 affidavit filed by Appellant, and all future affidavits of Appellant, were to be sealed. The order was issued without review of the affidavit directed to be sealed. The order to seal applied only to Appellant, and not to any Richland 4900 Plaintiff. That

year evidence of Afterman's actions, including his attempted disqualification and withdrawal as an expert, was sealed without review, and the documents were not produced in discovery.

The Hynie/Levenson/Bell litigation tactics were not generally present in Aiken 1337 until after April 2016, when Hynie and other Richland 4900 Plaintiffs began efforts to consolidate discovery in Richland 4900 and Aiken 1337, and to delay Aiken 1337.

The public record in both Hynie's spousal proceeding and the 2018 federal case against Hynie, Bauknight and others makes clear that all of these tactics are still being used by Hynie, and will likely be employed by Hynie and other Wingate clients to delay Richland 4900 for another decade or more.

Six years of stays out of seven, including delaying Buchanan's possible re-entry in a 2012 motion, does not support Respondents' assertion that the Richland 4900 Plaintiffs are confident of recovery against Appellant. It make the reverse appear true. Further, as the Richland 4900 complaint,shows, any recovery would not be for Respondents, but for Hynie and other beneficiary-successors of the Legacy Trust to whom Appellant and Buchanan never owed any duty.

Respondents sought and secured the Nonpayment Orders for an improper purpose, to benefit Hynie and their fiduciary as her fiduciary and agent. The facts that interest continues to accrue at a higher-than-market rate under the second Nonpayment Order; about $13,000 of interest has accrued on the $47,972 since the final Payment Order; and two attorneys have attended two hearings and are working on this appeal to prevent the payment of $47,972, with interest, lead to the inescapable conclusion that Respondents' action is not for the benefit of Respondents, but the personal benefit of Hynie and Respondents' fiduciary Bauknight as Hynie's trustee and agent in Richland 4900.

IX. Appellant Never Consented to Nonpayment of Her SA Fee or Other Funds

Respondents' eleventh-hour claim that a 2015 email of Appellant is a consent to withhold a summary judgment payment she was granted two years later is wholly without merit. The alleged consent was not a consent. The alleged consenting email was never presented to Judge Early in the first attempt to pay into the court, which was not granted..

Respondents' claim, while created out of thin air, is more troublesome where Respondents' fiduciary is also the fiduciary and agent for Hynie and James, while claiming to speak for the State/AG, in Richland 4900.

The Nonpayment Orders' adoption of the "consent" fiction, which helped Hynie; damaged Appellant materially; and does not help Brown's charity, is a violation of Appellant's material rights, including constitutional rights.

The inescapable conclusion is that the "consent" claim was made in bad faith by Respondents to secure a benefit for Hynie and Respondents' fiduciary, individually. Its adoption by the circuit court, which was not informed of the earlier request for deposit which was not granted and other material facts in the 10-year-old record in the case to which the new circuit judge had recently been assigned, prompted the circuit court to find a consent which had no support in record or the law, and which affects, and denies, Appellant's fundamental rights. The tactics used by Respondents to secure the Nonpayment Orders are consistent with the scorched-earth, say- anything litigation tactics employed by Hynie, Levenson and Bell, through Wingate, in Richland 4900 for a decade.

X. The Appealed Orders Violate Respondents' Duty to Creditors and Equal Rights

At the Aiken 1337 trial both Appellant and Respondents' probate expert Tiffany Provence testified about the fiduciary duty of loyalty and a fiduciary's duty of impartiality

among creditors (or beneficiaries) of the same class.[28] Both are at play in Richland 4900. Neither should be at play in the Nonpayment Orders. Respondents have a duty to be loyal to the estate plan of James Brown, the same estate plan to which Buchanan and Appellant were loyal from November 2007 until May 2013. Yet their actions in securing the Nonpayment Orders are not loyal to Brown's estate plan.

The Nonpayment Orders support Respondents in their violation of both the statutory duty of impartiality and in violating Appellant's constitutional right to Equal Protection.

On May 8, 2013 the Supreme Court remanded *Wilson v. Dallas* for a review of all costs and fiduciary fees. Bauknight never had a review, and has never properly accounted. Buchanan got a brief, appropriate review in October 2013 in which Judge Early "double approved" all payments made to him and praised Buchanan's service, all of which was joint with Pope.

By contrast, immediately after the May 29, 2013 announcement of Hynie and Levenson of their plan to disregard *Wilson v. Dallas* and reinstate the AG's 2008 Settlemetn, Appellant got a "Disallowance" [Exhibit], forcing her to file Aiken 1337 or not be paid for her six years of work. The Disallowance was served by one of the two lawyers with Bauknight at the May 29 hearing, William Newsome, Esq. At the Aiken 1337 trial Bauknight identified Newsome as his probate claims expert.

On October 8, 2013 Judge Early conducted a *Wilson v. Dallas* review for Buchanan from which Appellant was barred by the June 10, 2013 administrative orders requested by Hynie, Levenson and Bauknight.

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[28] Respondent Estate is subject to the provisions of Section 62-3-805 (b), which state:

> (b) Except…[not applicable] .. no preference shall be given to the payment of any claim over any other claim of the same class, . . .

Judge Early ; "double approved" all of Bauknight's service, all of which was joint with Appellant. He found there was no basis for disgorgement of funds Buchnan had been paid in 2008 and 2012. Judge Early left open the possibility of Buchanan's re-entry into Richland 4900 as to parties other than the Estate/2000 Trust.

Respondents did not object to the SA fee, costs and partial PR/Trustee commission Buchanan had been paid in 2008, or to the additional funds paid to Buchanan in 2012. They did not object to Judge Early's ruling that Buchanan might re-enter Richland 4900 as to his claims against all Plaintiffs except Respondents.

Judge Early directed Newsome to prepare an order memorializing his ruling, to be approved by Buchanan. So far as Appellant has been able to determine, no order was issued before Judge Early's retirement more than five years later.

Buchanan's and Appellant's positions with respect to the SA fee payments are exactly the same. The circuit court "double approved" Buchanan's being paid his entire SA fee in 2008, twelve years ago..

The Nonpayment Orders placed Appellant into an impermissible class of one -- persons who challenged the AG's dismembering of James Brown's estate plan. They do so by allowing Respondents to pay funds undisputedly belonging to Appellant into the Court, where they will be held indefinitely.

No person shall be denied equal protection of the law. U.S. CONST. AMEND. XIV, § 1; S.C. CONST. ART. I, § 3; *Sunset Cay, L.L.C. v. City of Folly Beach*, 357 S.C. 414, 428, 593 S.E.2d 462, 469 (2004).

The Nonpayment Orders continue to deprive Appellant of both her Due Process and

Equal Protection rights. They also violate the Probate Code's direction for equal protection of creditors of equal priority and well as the its requirement for efficient administration.[29]

The Nonpayment Orders are immediately appealable because they are final, summary, and violate these fundamental rights. The motion to dismiss should be denied.

XI. The Nonpayment Orders are Final and Immediately Appealable Under §14-3-330

As demonstrated above, Respondents' motion to dismiss the appeal misstates material facts by asserting that the $47,972 is subject to setoff (p.1), It is not. No counterclaim or setoff was ever sought or granted in Aiken 1337. The motion then characterizes Richland 4900 as a "breach of duty" case (p.1), but fails to note that it is about claimed duty to Hynie and other Will/Trust contestants, owner-beneficiaries of the Legacy Trust they now claim does not exist. Judge Early's 2013 ruling regarding Buchanan, never made an order, makes it clear that Richland 4900 is unrelated when he approves Buchanan's SA fee and PR/Trustee commission, then acknowledges his possible right to re-enter Richland 4900 as against Hynie (now a 45% claimant), Forlando (9%), but not yet added as a party, and certain of the former Levenson clients.

On page 2 Respondents suggest that the relief granted in the Nonpayment Orders is a mere interim measure and intended "to prevent waste." The opposite is correct. For the benefit of Hynie and other Will/Trust contestants for whom Respondents' fiduciary serves as fiduciary and agent in Richland 4900, the Nonpayment Orders add to the tens of millions of dollars

---

[29] *See* §62-1-102, §62-3-807(a) states in part:

> …no later than fourteen months after decedent's death, the personal representative must proceed to pay the claims against the estate in the order of priority prescribed, …

Respondents have wasted to put into effect the AG's 2008 Settlement which the Supreme Court rejected seven years ago. To damage Appellant, and aid Hynie and James, Respondents have paid the funds into the court despite the fact that they continue to accrue interest at 8 ¾%, compounded annually. For that purpose Respondents have already turned $47,972 into $100,000, to be paid from James Brown's charity.

Although the circuit court discarded litigation records, the record in Case No. 2019---000362 that Respondents' actions *not* to settle a $47,972 SA fee and a PR/Trustee commission and costs of a 4-year appeal for $2.1 million were extraordinary. Two experts from California, one at $700 an hour, appeared, neither of whom was hired until 2016. A termination rights expert came from New York at $600 an hour, but was told Hynie was James Brown's spouse and knew nothing about litigation to determine heirs under the Copyright Act, or any litigation. Days were spent trying to justify Peter Afterman's $4.7 million "professional valuation" of James Brown's worldwide music empire.

The Nonpayment Orders were brought to continue waste on behalf of Hynie, James and Bauknight as their agent, not to prevent. They demonstrate, and continue, the damage to James Brown's charity that Hynie, Forlando, and Levenson have been able to inflict since 2008, while blaming Buchanan and Appellant and leaving James Brown's charity with the litigation bill.

When the facts are set straight, the numerous cases cited by Respondents make clear that the Nonpayment Orders are immediately appealable under S.C. Code Ann. § 14-3-330, *Ex Parte Wilson* 367 S.C. 7, 12, 625 S.E.2d 205, 208 (2005) and *Charlotte -Mecklenburg Hosp. Auth. V. S.C. Dept. of Health & Envtl.Control,* 387 S.C. 254, 267, 692 S.E.2d 894, 895 (2010) and other authorities.

The Nonpayment Orders are not the beginning of a collection process. There is no collection process. They are final orders secured in a summary proceeding which leave nothing else to be done except appeal or accept an injunction and deprivation of property, creditor's rights, Due Process and Equal Protection rights for what may be a decade or more. They were issued in a special proceeding, and they are final and immediately appealable on multiple grounds.

XI. Exhibits in Support of Return and Opposition to Motion to Dismiss Appeal

In addition to the orders filed by Respondent, and the documents referenced herein, Appellant submits the following Exhibits in support of her opposition to the motion to dismiss:

Exhibit A: Complaint, Richland 4900, with emphasis added

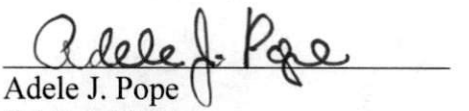
Exhibit B: Affidavit of Adele J. Pope with Exhibits.

Conclusion

For each reason stated herein, the motion to dismiss the appeal of the Nonpayment Orders as Interlocutory should be denied. The orders were obtained in bad faith for the benefit of Tommie Rae Hynie and others to whom Appellant never owed a duty, and for whom Respondents' fiduciary serves as trustee and agent. They are summary and final. They violate Appellant's material rights as a first-priority creditor of Respondents and also her fundamental rights to Due Process and Equal Protection. The lower court's application of Rule 67 in the Nonpayment Orders has no support in fact or law. This appeal should continue expeditiously.

[Signature on following page]

Respectfully submitted,



Adele J. Pope
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(803) 413-0753
adele@popelawfirm.com

Appellant, *pro se*

August 31, 2020

Exhibit A

201 CCP4004900

FILED
10 MAY 19 PM 1:08
AMY [illegible] JUDGE
PROBATE JUDGE
RICHLAND COUNTY, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE PROBATE COURT

Civil Action No. 2006C4000077

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

Plaintiffs

v.

Adele J. Pope and Robert L. Buchanan, Jr.,

Defendants

SUMMONS

FILED
2010 JUL 26 AM 11:47
JEANETTE W. McBRIDE
C.C.P. & G.S.

TO: THE DEFENDANTS, ADELE J. POPE AND ROBERT L. BUCHANAN, JR.:

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

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

/Kenneth B Wingate

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ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 19, 2010

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE PROBATE COURT

Civil Action No.

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

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

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants

COMPLAINT
(Jury Trial Demanded)

COME NOW THE PLAINTIFFS who, for their claim for relief against the Defendants, allege and will show as follows:

PARTIES

1. Russell L. Bauknight is the court-appointed Trustee of the James Brown 2000 Irrevocable Trust and the Trustee of the James Brown Legacy Trust. Bauknight is also the court-appointed Successor Personal Representative of the Estate of James Brown, the celebrated entertainer, who died on December 25, 2006, a resident of Aiken County, South Carolina. Bauknight serves in each of these capacities pursuant to a Settlement Agreement approved by Order of the Aiken County Circuit Court dated May 26, 2009.

2. Bauknight brings this action as Trustee of the James Brown 2000 Irrevocable Trust (hereinafter "the Trust") and as Trustee of the James Brown Legacy Trust, and as Personal Representative of the Estate of James Brown (hereinafter "the Estate"), and on behalf of the beneficiaries of the Estate and the Trusts. Bauknight is hereinafter referred to as "Trustee Plaintiff."

3. The following are parties to this action by virtue of their being beneficiaries of the Estate of James Brown and/or the James Brown 2000 Irrevocable Trust and/or the James Brown Legacy Trust. These Plaintiffs will hereinafter be referred to as the "Beneficiary Plaintiffs" and include:

a. Henry Dargan McMaster in his capacity as the Attorney General for the State of South Carolina;

b. Tommie Rae Brown, individually and on behalf of her minor child, James Brown II;

c. Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown;

d. Lindsey Delores Brown;

e. Venisha Brown;

f. Deanna J. Brown Thomas;

g. Jason Brown-Lewis;

h. Yamma N. Brown, individually and on behalf of her minor children, Sydney Lumar and Carrington Lumar;

i. Larry Brown;

j. Tonya Brown; and

k. Terry Brown

4. Defendants were formerly Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust.

JURISDICTION AND VENUE

5. The Estate of James Brown is being probated in Aiken County, South Carolina.

6. The principal place of the administration of the Trust is Richland County, South Carolina. The Trustee maintains his usual place of business in Richland County, South Carolina. The records pertaining to the Trust are kept in Richland County, South Carolina.

7. Defendant Adele J. Pope is, upon information and belief, a resident of Newberry County. At all times pertinent to the matters alleged herein, Pope was a licensed attorney with her law office located in Richland County, South Carolina. During the time she served as a co-trustee of the James Brown 2000 Irrevocable Trust, she maintained her office and kept all documents relating to the Trust and the Estate in Richland County.

8. Defendant Robert L. Buchanan, Jr. is, upon information and belief, a citizen and resident of Aiken County, South Carolina. At all times pertinent to the matters alleged herein, he

was a licensed attorney. During the time he served as a co-trustee and co-personal representative of the Estate, Buchanan transacted substantial business in Richland County and derived substantial income from the administration of the Estate and the Trust in Richland County and participated in the maintaining of the Trust and Estate documents in Richland County.

9 The Probate Court has exclusive jurisdiction over the matters raised herein pursuant to **S.C. Code Ann.** §§ 62-1-302 and -7-201.

10. Venue in this matter is proper in Richland County, South Carolina pursuant to **S.C. Code Ann.** §§ 62-7-108 and -204.

FACTUAL ALLEGATIONS

11. A document purporting to be Mr. Brown's Last Will and Testament ("Will"), dated August 1, 2000, was filed with the Aiken County Probate Court on January 18, 2007. The Will nominated three individuals as Personal Representatives, namely, Albert H. Dallas, David G. Cannon, and Alfred A. Bradley, and they were appointed by the Probate Court by Order dated January 18, 2007. These same individuals were also appointed Trustees under a document purporting to create the James Brown 2000 Irrevocable Trust ("Trust").

12. Thereafter, a number of actions were filed in the Aiken County Probate Court in connection with the Will and Trust, all of which were removed to the Aiken County Circuit Court.

13. On or about September 24, 2007, the South Carolina Attorney General intervened in the Circuit Court actions to represent the interests of the charitable beneficiaries of the Trust.

14. On August 10, 2007, the Aiken County Circuit Court accepted Cannon's resignation as, *inter alia*, Personal Representative and Trustee. On November 20, 2007, the Aiken County Circuit Court accepted the resignations of Dallas and Bradley as Personal

Representatives and Trustees and appointed the Defendants Robert L. Buchanan, Jr. and Adele J. Pope as substitute Personal Representatives and Trustees.

15. Following additional litigation in the Aiken County Circuit Court, the Beneficiary Plaintiffs entered a comprehensive settlement resolving all their disputes and ending the litigation between them, which agreement was, after an extensive hearing, approved by the Aiken County Circuit Court by an Order entered on May 26, 2009. That Order also removed the Defendants as the substituted Personal Representatives and Trustees.

FOR A FIRST CAUSE OF ACTION
(Breach of Fiduciary Duty)

16. All allegations set forth above are incorporated herein.

17. As Personal Representatives and Trustees of the Estate of James Brown and the James Brown 2000 Irrevocable Trust, the Defendants owed fiduciary duties to the Estate, Trust and the beneficiaries of each (collectively "The Affected Parties"), including a duty of care, of impartiality, and of loyalty as well as a duty to prudently administer the probate and trust estates.

18. Upon information and belief, during their appointment as substitute Personal Representative and Trustee, the Defendants repeatedly and chronically breached their fiduciary duty to the Affected Parties in multiple ways, including but not limited to the following particulars:

a. Failing to properly manage the estate and trust;

b. Failing to engage necessary advisors and appropriate assistance to manage the estate and trust, causing, upon information and belief, millions of dollars of lost opportunities for the estate and trust;

c. Failing to use due diligence in pursuing business opportunities for the estate and trust;

d. Failing to use due diligence in determining the value of the estate, thereby making the estate vulnerable to millions of dollars in unnecessary and incorrect tax liability;

e. Mishandling an auction of personal property at great cost to the estate and trust;

f. Failing to timely settle the debts of the estate;

g. Failing to keep accurate accounting records for the estate and trust;

h. Engaging in self-dealing by paying themselves hundreds of thousands of dollars in fees, which left the estate and trust with a solvency crisis;

i. Failing to sell the assets of the estate and trust at a prudent time, for example, by failing to accept an offer to buy the estate and trust for $100 million in November 2007, as demonstrated by their own testimony under oath, while, upon information and belief, the current value of the estate is now worth tens of millions of dollars less;

j. Taking improper adversarial positions to the settlement entered into by the beneficiaries of the Estate and Trust and approved by the Circuit Court;

k. Failing to account to the Attorney General as required by law;

l. Wasting time and estate and trust assets engaging in federal court litigation which was personal to the Defendants rather than necessary to the administration of the estate and trust;

m. Refusing to follow the Circuit Court's instructions in executing the settlement agreement and fighting the settlement agreement despite their lack of standing and the fact that the settlement was approved by the Circuit Court as being in the best interest of the Estate;

n. Acting in bad faith, as evidenced by such actions as

i. filing a lengthy motion opposing the settlement even before they were informed of the terms of the settlement ;

ii. providing to the Internal Revenue Service a road map of the settling parties' plan to deal with tax issues, for no apparent purpose other than to sabotage the settlement agreement;

iii. Taking inconsistent legal positions for their own personal interests, such as asserting their right to continue as fiduciaries pending their appeals despite having taken the contrary position when their predecessors appealed, insisting that the settling parties give notice to noninterested persons when Defendants refused to do so whenever they sought relief (such as the payment of their fees), and contesting the settling parties' contention that the estate was in an emergency situation when they themselves had asserted that position shortly before;

iv. Despite being judicially estopped by the South Carolina Court of Appeals, asserting they have a right to prosecute the Trust's and Estate's claims against Dallas, Cannon, and Bradley.

o. Being unequipped and/or unwilling to conduct the administration of the estate, as they admitted by seeking the appointment of a special administrator to handle the administration because the estate was in an "emergency" situation, as further demonstrated by such breaches as:

i. Failing to understand the fundamentals of the operation of the music business, which constitutes the essential value of the trust and estate, and

failing to obtain proper advice, under the pretext of not being able to afford such advice despite paying themselves hundreds of thousands of dollars in fees;

ii. Failing to understand the basic operation of federal copyright law and its impact on the estate and its valuation, including but not limited to tax valuation;

iii. Failing to timely conduct due diligence, as demonstrated by their own testimony under oath that "2009 was the year of due diligence."

p. Engaging in conflicts of interest, such as

i. Paying themselves hundreds of thousands of dollars in fees while leaving the estate and trust virtually insolvent;

ii. Serving as both Personal Representatives and Trustees while a significant issue in the administration of the trust and estate was whether the trust or the estate owned certain assets.

iii. Continuing to conduct a vicious attack on the proposed settlement, upon information and belief, for the purpose of padding their own fees, which they claim to be $5 million.

q. By misrepresenting or presenting inaccurate statements under oath to the Court;

r. By failing to file appropriate tax returns;

s. By allowing statutes of limitations to run, thereby preventing opportunities for the estate and trust to receive reimbursement for music rights misappropriated by others;

t. By failing to comply with the requirements of the South Carolina Uniform Prudent Investor Act, including but not limited to the failure to implement an investment policy for the trust; and

u. Artificially inflating the reported value of the estate, without any substantiation, and without any consistency, for the purpose of justifying their claim for approximately $5 Million in fees.

19. Despite the terms of the Order of May 26, 2009, removing the Defendants as Personal Representatives and Trustees, the Defendants have nevertheless continued to breach their fiduciary duties to the Affected Parties by continuing to take actions harmful to the estate and trust and the interests of the Affected Parties, including but not limited to contesting the settlement by filing multiple appeals and objecting to substitution, all to the detriment of the Affected Parties and in violation of their fiduciary duty to the Affected Parties.

20. As a result of Defendants' breach of their fiduciary duties to the Affected Parties, the Plaintiffs are entitled to judgment against the Defendants for actual and punitive damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

FOR A SECOND CAUSE OF ACTION
(Breach of Trust)

21. All allegations set forth above are incorporated herein.

22. The acts and omissions of the Defendants constitute a breach of trust pursuant to **S.C. Code Ann.** § 62-7-1001(a).

23. As a result of Defendants' breach of trust, Plaintiffs are entitled to an order

a. compelling Defendants to redress the breach of trust by paying money, restoring property, or by other means as may be required to remedy the breach;

b. ordering the Defendants to account for all property of the Estate and Trust;

c. denying compensation to the Defendants for all services provided by them for work on behalf of the Estate or Trust;

d. such other relief as may be necessary to remedy the breach.

24. As a result of Defendants' breach of trust, Plaintiffs are entitled to judgment against the Defendants for damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

FOR A THIRD CAUSE OF ACTION
(Negligence)

25. All allegations set forth above are incorporated herein.

26. Defendants provided services to the Estate and Trust apart from, and in addition to the requirements for the administration of the Estate and Trust. In doing so, Defendants were obligated to provide such services in a reasonable manner, consistent with the applicable standard of care.

27. The acts or omissions of the Defendants in providing these services were careless, negligent, grossly negligent, willful, wanton, reckless, and in conscious disregard of the rights of the Affected Parties.

28. As a result of the Defendants' acts or omissions, the Affected Parties have incurred actual damages in the form of:

(a) loss, waste, or spoliation of the assets of the Estate and Trust;

(b) diminution in the present value and income generation of the Estate and Trust;

(c) diminution in the future stream of profit and income from the corpus of the Estate and Trust.

29. As a result of Defendants' negligent and grossly negligent acts and omissions, the Plaintiffs are entitled to judgment against the Defendants for actual and punitive damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

WHEREFORE, The Plaintiffs pray for a judgment against the Defendants for, relief as set forth above, actual and punitive damages in such sums as may be proven at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

PLAINTIFFS DEMAND A JURY TRIAL.

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

/Kenneth B Wingate

Kenneth B. Wingate
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ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 19, 2010

Exhibit B

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable Clifton Newman, Circuit Court Judge

Appellate Case No. 2020- 000967

Adele J. Pope, Appellant

v.

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

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AFFIDAVIT OF ADELE J. POPE IN SUPPORT OF APPEAL AND PAYMENT OF 2007 $47,972 SPECIAL ADMINISTRATOR FEE, WITH INTEREST

PERSONALLY APPEARED BEFORE ME, Adele J. Pope, who being duly sworn, deposes and says:

Personal Knowledge, Use of Shortened Names, and Reliance on Public Documents

1. This affidavit is made of my own personal knowledge.

2. Since March 2007 I have personally reviewed hundreds of thousands of pages of historical and current records related to the estate, 2000 Trust and worldwide music empire of entertainer James Brown; have attended numerous hearings; and have reviewed numerous orders from multiple courts. In addition, I have taken, or been present when Respondents' counsel took, more than 35 depositions in this case ("Aiken 1337") and have attended at least five

depositions of Plaintiffs in Richland Count Case 2010-CP-40-4900 ("Richland 4900")

3. In this affidavit I generally refer to the many attorneys and fiduciaries involved in the James Brown cases, and others, by last name only, except for Robert Buchanan, Jr., Esq. ("Bob"), who served with me as both SA and PR/Trustee between 2007 and 2009 and in defense of James Brown's estate plan until May 2013 when the Supreme Court issued its final decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 .

4. To the best of my knowledge, every statement in the return and memorandum opposing dismissal dated today which I prepared, *pro se*, as well as every statement in this affidavit, is true and correct, and has support within the voluminous record.

5. I emphatically deny that I have ever agreed to any offset or injunction which would allow the court to enjoin the payment of my $47,972 SA fee, with interest, which had been due to me since March 2008.

6. I likewise deny that I have ever agreed to any offset or injunction as to the approximately $1.48 million I have been due, with interest, since May 26, 2009, under my contract with Respondents.

7. I emphatically deny, as claimed by Respondents in their filing related to their request to pay my $47,972 2007 SA fee, with interest, into the Court made on November 23, 2019, that I have ever sought a commission of $5 million from Respondents or, as claimed by Respondents, that I have "worked with dogged determination to value the Estate at the highest value possible" to obtain the claimed $5 million fee, which I never sought.

8. When Respondents made this false claim, they did so with actual knowledge that my fee claim was for a *maximum of* $2.8 million, and that it was for nearly 6 years of work; that I had offered to settle both my fee claim and all of the costs I had paid out of my own pocket for

the 4-year appeal in *Wilson v. Dallas* for only $2.1 million, both before and during the Aiken 1337 trial in 2017 and 2018; and that I would have happily settled for even less than my $2.1 million offer years earlier.

9. For the last twelve years I have observed the scorched-earth, no-settlement litigation tactics of Tommie Rae Hynie and everyone who becomes aligned with Hynie, including Respondents, combined with the ability of Hynie's legal team to employ both the resources of the Office of the Attorney General of South Carolina (SC) and a dozen attorneys paid for by James Brown's "I Feel Good" charity to advance her extraordinarily weak claims to any portion of the estate or asset of James Brown, or to termination rights from his 1100 copyrights[1].

10. For the reasons set out herein, and stated in the return, I believe that Respondents' 2019 motion for approval of its payment into the Court, made after the deposit and after a previous motion to pay into the court had not been granted, and Respondents' refusal to pay my 2007 SA fee of $47,972, even though interest continues to accrue at the rate of 8¾%, compounded annually, make clear that Respondents sought and obtained the Nonpayment Orders for the improper purpose of advancing the positions of Hynie and Bauknight as trustee and agent for Hynie and her son in Richland 4900.

Hynie and the Levenson Clients Approve Our SA Fee and Partial PR/Trustee Fee Conrtract

11. On December 21, 2007, at one of many hearings before Judge Early, Bob and I asked Judge Early to approve both our $317,000 SA fee and our contract with Respondents Estate/2000 Trust to continue to be paid as PR/Trustees on the same "time + costs" basis for ourselves and our staffs we were asking to be paid as SAs. On page 50 of the 106-page transcript of that day's hearing, I stated:

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[1] This figure includes copyrights secured after Brown's death by his Estate.

> …you know, I love my work, but I've gone eight and a half months without being paid. The same for Mr. Buchanan. And so we think it[']s appropriate to hear this at this time.

12. A proposed order was circulated for review by all parties, and was approved by Hynie , the Levenson clients, and the AG. The Georgia AG objected to the request, and made strong claims against us, especially against Bob.

13. At the hearing Hynie's counsel (Rosen) called certain actions of counsel for resigned former PR/Trustee Albert Dallas "frivolous," "outrageous" and "ridiculous," and another of Hynie's attorneys (Medlin) said "May I have some Maalox?" after the Georgia AG spoke. Hynie's counsel also announced that day that Hynie had filed suits to set aside Brown's estate plan.

14. Within a year of Brown's death Hynie had filed 5 lawsuits for herself and her minor son. Asserting that she was Brown's spouse, Hynie sought control of Brown's music empire and more than half of the assets Brown had devised to educate needy students in South Carolina and Georgia.

15. Despite their attacks on others before and during the December 21 hearing, Hynie's counsel praised Bob and me, asserting that we had "provided extraordinary services as compared to the usual estate administration…" Hynie (Medlin) praised us for seeking court approval of an SA fee and a contract we could have made with Respondents Estate/2000 Trust without court approval.

The First Payment Order and the AG's 2008 Settlement

16. The January 2008 Payment Order approved our $317,00 SA fee for the period from March to November 2007; stated (correctly) that our workload had doubled since we became PR/Trustee in November 2007; approved our continuing fee contract; and praised our service.

17. In February 2008 Hynie obtained two *ex parte* gag orders which stopped all discussion and dissemination of discarded handwritten admissions by Hynie which confirmed that she was married and had lived with her first husband before her ceremony with Brown, and that James Brown had refused to marry her after he discovered her marriage.

18. With no basis, Hynie claimed for the next 7 years that the discarded records had been stolen, and the *ex parte* gag orders remained in place until 2015.

19. By April 2008, Hynie had interfered with the Christie's sale of about 350 of Brown's 10,000 items of tangible personal property (TPP) owned by Brown, requiring us to withdraw a Rolex watch and several furs the furrier testified were not hers; her son, not presumed to be a child of James Brown, was refusing to take a paid-for $300 DNA test; and everyone was aware that Bob and I had we had valued the Estate/2000 Trust at about $90 million on an estate tax extension request.

20. Hynie was represented by Medlin, a professor, and two other tax lawyers, and had nominated me both as SA and PR/Trustee because I understood tax and fiduciary matters. Nobody on Hynie's team objected to the $90 million value, and none had objected in November 2007 to a formula we, as SAs, had proposed for valuing Brown's 900 copyrights and right of publicity (image and likeness) on the estate tax return. Nor did Hynie (Medlin) object to the estate tax return which I personally put in Medlin's hand in the fall of 2008.

21. Neither Hynie nor the Levenson Will/Trust contestants objected, until 2010, to our not accepting two letters of intent by TJBL, fronted by Dr. Terry Cox, to purchase the music empire for $90 - $100 million. [See Richland 4900 complaint]

22. Hynie's counsel (Medlin) and I worked together on the drafting of a comprehensive proposed order, issued by Judge Early on April 8, 2008, which, after a hearing, reviewed all of

Bob's and my service as both SAs and PR/Trustees up to that date, and found that both our appointment as PR/Trustees and all of that service was both ethical and appropriate.

The Five-Year "Common Interest" of Hynie, Levenson and AG Jones and Our Joint Claim

23. In August 2008 the AG began what Sr. Asst. AG Havird "Sonny" Jones later described under oath as a "common interest" relationship wiwth Hynie which lasted until May 8, 2013, and the relationship became part of the May 2009 order of Judge Early.

24. As a result, for 5 years the State/AG expended extraordinary resources to try to take 75% control of Brown's music empire with Hynie; make Hynie James Brown's spouse; then give Hynie about $1 million a year and a quarter of Brown's "I Feel Good" Charity in exchange for half of the termination rights Hynie never had.

25. Bauknight recommended the AG's 2008 Settlement to Judge Early, who approved it in May 2009.

26. From 2009 until 2013 Bauknight's appointment as PR/Trustee under Brown's estate plan was void, but he nevertheless placed music manager Peter Afterman and a dozen attorneys at the service of Hynie's legal team, all paid for by James Brown's charity.

27. By the summer of 2009 Hynie (Medlin) had come up with a proposal to devalue Brown's copyrights to $24 million or less to discredit "Bobadele," and to value Brown's right of publicity at zero, or near zero.

28. Hynie's attorneys also proposed Afterman, and he was hired, and paid, by Respondents. In short, Hynie now had her own 6-member legal team; a lawyer for James, on a contingency fee with her; five or more State/AG attorneys; and a dozen Nexsen Pruet (NP) attorneys working, at the expense of the State and Brown's charity to help her dismember Brown's estate plan and take control of his music empire. By 2013 she would have more.

29. On May 18, 2010 Bauknight signed the Wingate Contract, agreeing for Brown's Estate/2000 Trust, from funds devised to his charity, to advance Hynie's 23.75% of the costs of Richland 4900, as well as the State/AG's costs, and others. Hynie's share of the costs is now about 46%, since the AG has confirmed the Legacy Trust has no charitable interest.

30. David Bell, Esq., signed the 40% Wingate Contract for Terry Brown, and Levenson signed for the many remaining Richland 4900 individual Plaintiffs, including minors and the incarcerated Venisha Brown.

31. On May 19, 2010 Richland 4900 was filed, but not for the benefit of Respondents – it was brought for the benefit of the Beneficiary Plaintiffs of the Legacy Trust who were seeking to dismember James Brown's estate plan. *See* Richland 4900 complaint, Exhibit A to return.

The Nonpayment Orders Support Hynie's Devaluation Proposal; Afterman's $4.7 Million Claim; and the False Felony Claim Which Advances Hynie's Richland 4900 Claims and Defense

32. By September 2010, at Hynie's behest, Afterman had come up with a claimed $4.7 million valuation of Brown's music empire which -- without looking at it – the AG and Levenson[2] would join Hynie and Bauknight in characterizing as a "professional appraisal."

33. I have personally read the emails among counsel for the Legacy Trust and Hynie, and AG Jones, where they acknowledge the importance of the $4.7 million claimed value to the *Wilson v. Dallas* appeal; agree not to disclose it in their initial brief filed in late 2010; and agree to withhold the $4.7 million valuation until after the final briefs in *Wilson v. Dallas* are filed, eight months after the Afterman $4.7 million valuation arrived.

34. In May 2013, just after the final briefs in *Wilson v. Dallas* were filed, Hynie, the AG

[2] In his November 2017 deposition testimony during the Aiken 1337 trial, Levenson said he had seen the $4.7 million appraisal. A few weeks later, Levenson changed his sworn testimony in an affidavit to help prevent disclosure of the $4.7 million appraisal, saying he had not seen it.

and others revealed the claimed $4.7 value – but not the appraisal --- to the Supreme Court; claimed it proved that Buchanan and Appellant were greedy and incompetent because they were seeking a $5 million commission from Brown's $5 million estate; and claimed that the $4.7 million value helped prove that the AG's settlement saved taxes. None of the claims was correct.

35. Under Brown's "fractional share" formula of the 2000 Trust, when the IRS failed to challenge the Bauknight/Afterman $4.7 million, it shifted about $1 million of income and nearly 1/3 of Brown's charity (31%) out of the charity and over to a trust for Forlando and Richland 4900 Plaintiffs. Hynie and those aligned with her never told the court about this.

36. As of the Aiken 1337 trial Bauknight's spouse/CPA had not filed amended income tax returns to show the shift of $1 million a year out of the charity and over to the family, and,, because of the automatic stay in place since 2017 it is not known whether this loss of income and assets of the charity for as much as 20 years by the $4.7 million claimed valuation was intentional or reckless.

37. By May 2011 the AG's office, with no investigation, went along with the claimed $4.7 million valuation. The AG began to use the $4.7 million Afterman claimed value to accuse Bob and me of the federal felony of overstating Brown's assets by $79 million in sworn IRS filing to get a $5 million commission on a $5 million estate.[3]

38. The truth was that Bob had filed a protective claim for a maximum commission of $2.1 million for what would be nearly 6 years' work on a $100 million estate, and I had filed a similar claim for no more than $2.8 million for the same period and work, but with a much larger staff. Bob waived much of his claim in 2012, and I was always willing to settle for much less.

39. The claim by the State's highest legal officer that Bob and I had overstated the value

[3] The Attorney General and Solicitor General knew nothing about this false felony claim or the

of Brown's assets to secure a $5 million commission on Brown's claimed $5 million estate, although absurd, took roots.

40. In March 2013 the lawyer for James – later awarded a $700,000 litigation war chest – attempted to explain the allegedly secret $4.7 million Afterman value to the Supreme Court in his petition for rehearing in *Wilson v. Dallas.* James revealed that it was made up of Medlin's figures ($23.7 million for the copyrights and zero, or almost zero for the right of publicity) That was reduced by $19 million for the TIAA debt – an overstatement of $3+ million. The tangible personal property and claims against Cannon and others were valued at zero.

41. After Hynie and Levenson announced in open court on May 29, 2013 their plan to disregard *Wilson v. Dallas* and reinstate the AG's 2008 Settlement, they, and Bauknight, continued with the same vitriolic claims and threats, with the $4.7 million value claim and false felony claim being central to their strategy.

42. By 2015, having removed Bob and me from his hearings, Judge Early was repeating the incorrect claims he was hearing from Hynie and those doing her bidding. Judge Early repeated a number of them in his May 2015 status report to the Supreme Court when he was asked to report after declaring Hynie to be Brown's spouse.

43. In addition to not recalling the announced May 2013 plan of Hynie and Levenson to ignore *Wilson v. Dallas* and reinstate the AG's 2008 Settlement, Judge Early told the Supreme Court that he believed that my $47,972 SA claim was $2 million, and was for only three months.

44. Judge Early, in the status report, said he believed my PR/Trustee commission was for $5 million, which was clearly just repeating the false claim Hynie was making in cases from which Bob and I had been excluded for two years.

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operation of the Legacy Trust.

45. The status report also repeated incorrect claims made by Bauknight, including that Bauknight had reduced the TIAA debt from $14 million to zero in two years (from a $4.7 million music empire). He had actually reduced it, with the help of a $2 million escrow, only about $9.3 million.

46. With tens of millions to spend from Brown's charity, Respondents, through Bauknight, have kept the $4.7 million claim and false felony claim alive a decade after Hynie's attorney proposed what became the $79 million devaluation. In a Reply filed November 23, 2019 related to their payment into the court, Respondents, through Bauknight, stated:

> Plaintiff's [my] singular goal since becoming involved with the Estate has been to maximize – without consideration of the best interest of anyone but herself – the amount of compensation she can generate as PR/Trustee (pp.3, 4, Reply 11/23/19)
>
> and
>
> In order to satiate her greed Plaintiff worked with dogged determination to value the Estate at the highest dollar value possible – the greater the value, the more her five percent fee would general….Plaintiff sought $5 million in fees for service… p.4, Reply, 11/23/19

47. Like almost everything else, however, Respondents also claim the opposite. In the Richland 4900 complaint, after telling the Supreme Court that nobody was trying to buy the James Brown assets, Hynie and Respondents claim that Bob and I breached our fiduciary duty to Hynie and other Legacy Trust owners by not accepting a $100 million offer for the music empire in 2007. They even say that the Estate is worth tens of millions of dollars less in 2010 that it was in 2007.

48. There were actually three "offers," letters of intent, made by TJBL in 2007 and 2008. For two of them, Richland 4900 Plaintiff Terry Brown participated as part of TJBL.

49. The first "offer" was made to Dallas when he was still trustee, and the second two

were made in 2008, shortly after the 4 Will/Trust contests were filed in December 2007, a time when we could not guarantee good title until we got those baseless challenges under control.

50. In January 2009, however, we sought to work with TJBL on a "right of first offer," to present to the Court if it appeared fruitful. Hynie immediately sought an *ex parte* order to prevent our considering any sale, causing consideration of that sale to be delayed.

51. Hynie and the AG also disrupted the GreenLight 2-year publicity rights contract we negotiated with the assistance of Brown's former entertainment attorney in Chicago and our entertainment counsel Ray Gonzalez, Esq., now head of Warner Music Legal. Hynie and the AG prevented a contract projected to bring in $1 - $2 million a year, in addition to the $4+ million in royalties, during the appeal of the AG's 2008 Settlement.

52. After rejecting the GreenLight publicity rights deal, the Legacy Trust (Bauknight) hired Afterman. Afterman got no publicity rights deals during the period, then valued the publicity rights at zero, or near zero, in the claimed $4.7 million value.

53. By 2017 Respondents were routinely sealing documents which showed the reckless "appraisals" of Afterman, and his withdrawal as an expert in a James Brown case after his expertise was challenged.

54. I personally deposed, and heard the testimony of Hynie's Richland 4900 experts Miller and Woolley, also named by Respondents in Aiken 1337, who made clear that Bob's and my $99 million value as reported to the IRS was both conservative and correct for Brown's music empire. Woolley valued the TPP at as much as $20 million. Miller valued the copyrights at $60 - $80 million, and testified about "frothy" investors seeking to buy "solid gold" assets. Bauknight had told the Supreme Court nobody was trying to buy Brown's assets..

55. Cox, who was called as a witness by both Respondents and me in Aiken 1337,

testified by deposition that, relying on outside investors, he had valued the publicity rights at $45 - $50 million; copyrights at close to same amount; and other property at $10 million, suggesting that his outside investors were conservative in relation to Hynie's experts, other than Afterman. But Afterman's valuation claims changed as needed.

56. I have reviewed Afterman's 2019 claim to the Supreme Court that termination rights are worth tens of millions of dollars.

57. While I believe the $8.8 million current value assigned to termination rights of all heirs by Hynie's expert Miller, and not afterman, the Afterman claim confirms two things: Afterman's $4.7 million was not correct, and Afterman is willing to make two opposite valuations at the same time related to the same assets.

58. I believe that Respondents' continued support for the fabricated Afterman $79 million devaluation of Brown's music empire to $4.7 million, and the use of that $4.7 million both in Richland 4900 and in Supreme Court filings by Hynie, the AG and others since 2011 to falsely accuse Bob and me of a federal felony, confirms that Respondents' claim that Richland 4900 and Aiken 1337 are companion cases is both incorrect is being made to help Hynie and those aligned with her.

59. I personally attended two depositions of Governor McMaster in 2016, and took one of those depositions, and also took the depositions of AG Wilson, Solicitor General Robert Cook, former chief deputy AG John McIntosh, Sr. Asst. AG Sonny Jones, and Asst. AG Matthews, all of which are now in the public records in Aiken 1337, and believe that they show that two AGs trusted AG Jones, who knew nothing about termination rights, the value of Brown's assets, taxes, or the operation of Brown's music empire or charitable foundations generally; that AG Jones from 2008 until 2013 simply did what Hynie's lawyers told the AG

and a dozen Legacy Trust lawyers to do to advance her claim to a quarter of Brown's charity and control of the music empire.

60. In 2013 *Wilson v. Dallas* put Respondents in a position to end the involvement of Respondents in Richland 4900; promptly eliminate Hynie's spousal claims with her own handwritten admissions of bigamy; use the estoppel doctrine and other strategies to diminish the impact of termination rights on the "I Feel Good" charity by the Levenson and Bell clients; and carry out James Brown's estate plan. They did not do that.

61. Instead, Respondents spent tens of millions of dollars after *Wilson v. Dallas* to make Hynie the spouse of James Brown and isolate the circuit court from the actual facts about termination rights, taxes, and the $1 million and nearly 1/3 (31%) of Brown's charity Bauknight shifted out of the charity by the Afterman $4.7 million valuation.

62. As the undisputed record in Aiken 1337 shows, I met personally with AG Wilson, the Chief Deputy AG, and the Solicitor General in March 2013 to explain the damage caused by the Bauknight/Afterman $4.7 million claimed value and IRS filings claiming Hynie was Brown's spouse, and tried from shortly after the *Wilson v. Dallas* final decision until June 10, 2015 to persuade the AG and others not to allow Hynie and Levenson to reinstate the AG's 2008 Settlement, as announced on May 29, 2013.

63. On June 10, 2015, my efforts to persuade the AG and others to prevent Hynie's second dismembering of Brown's estate plan ended abruptly, and my sole goal for the last five years has been to prevent Hynie, Levenson and Respondents (Bauknight) from blaming the second dismembering of James Brown's "I Feel Good" Trust on Bob and me.

64. Respondents' securing of the Nonpayment Orders, and now seeking to dismiss this appeal, are small examples of the amount of James Brown's charity Respondents (Bauknight) are

willing to spend both to advance the Hynie/Levenson announced plan, and to blame the second dismembering on Bob and me.

Respondents Spend Millions, Refuse $2.1 Million Offer, and Bring Hynie's Experts From California for Lengthy Trial over Fee Claim

65. In 2012, when Bob was paid the remainder of his SA fee and partial PR/Trustee commission, waiving interest, I proposed to let both the AG and Respondents out of Richland 4900 and would have happily settled my entire fee claim for $1.48 million or less..

66. Bauknight, with the AG, Hynie and others in Richland 4900, did not simply reject my 2012 settlement offer. They filed it and moved to strike it.

67. In 2014 Respondent (Bauknight) successfully moved to prevent partial summary judgment as to my $47,972 and approximately $1.48 million, with interest, which I would have happily settled for less than $2.1 million.

68. In 2016, after not having named any witnesses except Bob, Bauknight and me for 3 years, and having resolved Bob's claim in a 15-minute hearing in 2013, Respondents named Hynie's 9 Richland 4900 experts, located in California, New York and South Carolina, in Aiken 1337, my claim case, but refused to discuss settlement.

69. That year, the year Hynie and other Wingate clients began trying to intervene in Aiken 1337. Respondents served discovery on me which they had not previously served.

70. By January 2017, when we had taken only a few Aiken 1337 depositions, Bauknight testified in a deposition that I took that he had already spent more than $1 million trying to defeat my claim, but Respondents refused to discuss settlement.

71. In 2017, after already spending the $1 million, Respondents' counsel and I went to Los Angeles to depose our entertainment counsel Ray Gonzalez, Esq.; to New York to depose

Hynie's experts Miller and Herbsman; to Charleston to depose Hynie's experts Thomas and Crystal; to Rock Hill to depose my expert James Hardin III, Esq.; to Atlanta to depose Dr. Terry Cox; and to Greenville to depose my expert Wallace Lightsey, Esq.. We also took numerous depositions of the AG, his staff, Hynie's experts, and others in Columbia. Most supported Bob's and my value; many knew nothing about the claimed $4.7 million value; and few (except Lightsey and my expert Wm. Jeffrey Smith) knew anything about heirs determinations and the termination rights provisions.

72. Before and during the Aiken 1337 trial, I offered to settle my entire fee and costs claim for $2.1 million. This included all costs I had advanced in the 4-year *Wilson v. Dallas* appeal and the costs I had incurred to hire an attorney, but Respondents refused to consider the offer.

73. At trial Respondents, after refusing to respond to the $2.1 million offer, accused me of perjury; attempted to keep out the deposition testimony of the Governor, the AG, the Solicitor General, the Chief Deputy AG, AG Jones, my experts Lightsey, Esq; Judge (Retired) Walter Williams; Hardin; and others; and even falsely accused me of making a $19 million dollar demand of Brown's Estate/2000 Trust to settle my fee claim.[4]

74. By February 2018 Bauknight, a co-defendant with Hynie and James in a federal suit,

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[4] The claimed $19 million demand, as the record shows, was a complex proposal made by me to the Attorney General and others in Richland 4900 which could have been funded with assets valued by Respondents at $10 million, but which I valued at a higher figure; would have immediately put $10 million into a properly run private foundation and guaranteed $500,000 a year in James Brown scholarships for 10 years, beginning in 2018. If the AG had wanted to do so, the proposal could have been completely funded with the $1 million a year and nearly 1/3 (31%) Bauknight had shifted out of the charity and over to Forlando and others in 2011. There is no evidence that the AG was ever presented with the offer, which could have ended Richland 4900 in 2017.
When I deposed Solicitor General Cook in 2017 I learned that he, also, had never seen the offer Bob and I presented in 2010 to end Richland 4900 before it began.

admitted that he had spent tens of millions of dollars from Brown's charity. He filed those litigation costs *ex parte* with the Aiken 1337 Court under a December 2017 order. After review, they were discarded by the Aiken 1337 Court, and no copy was retained for the appeal in Case No. 2019-000362.

75. I believe that what Respondents (Bauknight) have spent from James Brown's charity to protect Hynie since 2013 shows that the deposit into the court without prior permission, and when permission had been sought and not granted, was made in bad faith , and that Respondents will continue to spend extraordinary amounts of money, including on this appeal, to damage me, even though they are providing no benefit to James Brown's estate plan.

Respondents, through the Nonpayment Orders, Support Hynie's Incorrect Spousal and Termination Rights Claims Made to the Supreme Court and Other Courts Since 2008

76. Hynie supported her frivolous claim to $1 million a year income and a quarter of Brown's assets with transparent, and incorrect "facts" and law, and much name calling and finger pointing.

77. Hynie's termination rights claims worked when the AG, charged with the duty to protect the "I Feel Good" charity, went along without checking to see if Hynie's claims were correct. They worked even better when the AG approved Bauknight's expenditure of tens of millions of dollars from Brown's charity to promote Hynie's claims.

78. There were several flaws to Hynie's termination rights claims:

a. Hynie was not Brown's spouse. She knew it, and so did several of Brown's children, directly from Brown himself.

b. The AG's 2008 Settlement intentionally excluded a number of known children under the Copyright Act.

c. Termination Rights would never apply to the non-U.S. half of the copyrights, about $2 million of the $4 million annual royalty stream.

d. There would be no possible loss from termination rights until 2012, and a $300 DNA test for James and others would help solve many issues.

e. Termination rights would accrue slowly, and the "I Feel Good" Charity had multiple strategies available to slow the impact, as the Ray Charles Foundation had done.

f. It was not good for Brown's charity to "stipulate" that Hynie was his spouse.

79. In 2011, however, in addition to being part of the false felony claim against Bob and me, the AG supported the incorrect claims Respondents' counsel, coached by Hynie's counsel (Medlin) made to the Supreme Court in oral argument in *Wilson v.Dallas,* including:

a. Hynie's elective share claim was a "slamdunk."

b. If the AG's settlement were not approved there would be nothing in the "I Feel Good" charity by 2023 because of termination rights.

c. Nobody is trying to buy James Brown's copyrights.

d. Hynie and James control the termination rights.

e. Brown's estate and 2000 Trust have no assets to speak of.

f. Termination rights are all this estate/case is about.

80. The statements made by Respondents and endorsed by the AG to promote Hynie's claim were simply incorrect, and an example of the ability of Hynie's counsel to enlist someone else to pay for her litigation.

81. By 2017 Hynie had collected about $1 million in termination rights "sales" as Brown's claimed spouse; SA/ST David Sojourner, Esq. had billed $1.4 million, and been paid most of it; Sojourner had claimed he no duty to protect Brown's copyrights from Hynie's termination rights claims; Medlin had said Bauknight should be "knighted" for his service as trustee of the Legacy Trust; Bauknight had said the Legacy Trust did not exist; and Wingate continued filing documents supporting Hynie's position, even though a dozen Richland 4900

Plaintiffs had fired the lawyers who signed the Wingate Contract for them and were publicly taking the opposite position.

82. By January 2018, as Wingate continued to speak in Richland 4900 filings for all Richland 4900 Plaintiffs, Deanna, Yamma, Tonya and Venisha were suing Hynie, James and Bauknight in federal court over alleged "backroom deals" related to termination rights.

83. By 2019 most Richland 4900 Plaintiffs were challenging in the strongest terms Hynie's spousal claims; Hynie's false termination rights claims; and Afterman's 2019 claim that termination rights were worth tens of millions of dollars.

84. In August 2020 the Supreme Court appeared to shut down, for a second time, Hynie's plan to dismember James Brown's estate plan, but Respondents were claiming that a fee case over protection of Brown's estate plan was a "companion case" to Hynie's attempt to get 46% of the damages she claims Bob and I owe *Hynie* and those associated with her for defending James Brown's estate plan from Hynie from 2007 until 2013.

85. In 2020 Respondents worked with Wingate to prevent lifting the stay in Richland 4900 allowing Hynie and James, now living in London, U.K., to delay the conclusion of Hynie's 2016 Richland 4900 deposition (at her expense) for what may be years.

86. I believe these, and the facts that follow, show that it is manifestly unjust to tie my $47,972 payment to Richland 4900, which principally seeks damages for Hynie and those aligned with her

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Levenson's Alliance With Hynie Continues Despite Damage to his Former Clients

87. In early 2007 Levenson represented every individual named in Brown's estate plan.

88. Every adult client knew Hynie was not Brown's spouse, and all of the adults had

discussed Brown's estate plan with him, and knew it was what he wanted.

89. If Levenson had only challenged Hynie, by 2008 all of his clients would have had education benefits to age 35; some of his clients would not have challenged the heir status of Daryl and Larry; all would have the household effects valued by their expert Woolley at $1 million or more. By 2012 all could begin to enjoy about half of the termination rights valued by their expert at $8.8 million in 2018. They would enjoy termination rights for decades. Deanna would likely have been a trustee of The James Brown "I Feel Good"Trust in the seat Bob and I were trying to create for a family member who supported the estate plan.

90. Instead, Levenson agreed to align his clients with Hynie and get 30% of the ¼ of Brown's charity the AG proposed to give them; and get more than $8 million for himself.

91. In May 2010 Levenson abandoned more than half of his clients when he signed the 40% Wingate Contract to bring Richland 4900, and approved the Richland 4900 complain which had claims he knew to be false and beyond the statute of limitations.

92. The clients Levenson abandoned in order to continue his alliance with Hynie included Daryl; Larry; Daryl's daughters; Venisha, who was incarcerated; and grandchildren whose education trusts had been dissolved by the AG.

93. I have learned about Levenson's alliance with Hynie and his support for her continuing false claims against Bob and me from the public record; from attending the deposition of many former Levenson clients; and from attending Levenson's November 2017 deposition in Aiken 1337, as well as from his Aiken 1337 trial testimony.

94. I prepared "What Levenson Wants," in 2012. It shows that Levenson did this to get about $8.7 million if he could stop the *Wilson v. Dallas* appeal

95. Levenson has continued to support Hynie in numerous way, including by testifying

that Bob and I should not have appealed the AG's 2008 Settlement.

96. For example, Levenson was with Bob and me in 2007 when the Grammy© was withdrawn properly from the Christie's sale, without penalty, to avoid paying about $5,000 to defend the perfectly legal sale, as Christie's counsel urged us to do.

97. Levenson, like me, speculates in his deposition that Dallas likely assisted Forlando in planting the false 2011 Grammy© claim with an Atlanta law firm. Yet he supports false accusations by Hynie and others about Bob's and my entirely correct decision, with him present, to withdraw it from the Christie's sale.

98. The clients Levenson abandoned when he signed for them the 40% Wingate Contract to bring Richland 4900 to favor of Hynie and his $8.7 million fee include:

a. Daryl - whose heir status under the Copyright Act has now been challenged by Hynie and some of Levenson's other former clients,

b. Larry – whose heir status under the Copyright Act has now been challenged by Hynie and some of Levenson's other former clients.

c. Daryl's daughers Janise and Lindsey – whose status both under the Copyright Act (after Daryl's death) and under Brown's 2000 Trust has been challenged by Hynie, other former Levenson clients, or both.

99. In his deposition, Levenson confirmed that when Daryl tried to break away from the AG's 2008 Settlement and support James Brown's estate plan, he and Bauknight paid Daryl and his daughters a visit.

100. When asked in his 2017 deposition about preventing a GAL for Venisha and minor clients, as well as other actions in Richland 4900, Levenson described himself as sort of a "client" of Wingate, who, kept up with matters only on a "need to know" basis, and just signed what they sent him to sign.

101. Levenson testified in his deposition that he had seen the Afterman $4.7 million

appraisal years ago, then reversed that sworn testimony in an affidavit a few weeks later when I moved to declare the $4.7 million appraisal nonconfidential.

102. Levenson's extraordinary and vitriolic support for Hynie; the AG's 2008 Settlement; the Bauknight/Afterman $79 million devaluation of Brown's music empire to $4.7 million; and Richland 4900's effort to reinstate the AG's 2008 Settlement years after being terminated by his original clients, all of whom now assert that Hynie was not Brown's spouse, and some of whom admit that the Will/Trust challenges Levenson lodged for them were baseless, suggest that he will help Hynie and Wingate prolong Richland 4900 for years.

Bell, Forlando, Terry and the Changed Wingate Contract Page

103. In March 2007 Terry and Forlando fired Levenson and hired David Bell, Esq., who was closely aligned with Dallas and Cannon.

104. By 2008 Forlando/Bell and an Atlanta Law Firm had filed a 50-page federal complaint to enjoin Brown's 2000 Trust from taking any action until Cannon and Dallas were reinstated as Brown's trustees. That year Bell falsely accused Levenson of forgery on his fee contract with Terry and Forlando, and filed incorrect affidavits in Forlando's case.

105. In 2009 Bell/Terry joined the AG's settlement, securing a right of first refusal to buy Brown's music empire (the "ROFR") at what Hynie and others assured would be "fair market value."

106. In 2010 Bell signed the 40% Wingate Contract for Terry and approved the Richland 4900 complaint which took the exact opposite position Bell/Forlando were taking in federal court.

107. In 2011 Terry, Levenson, the AG and Hynie secretly amended the Legacy Trust and Terry assigned his ROFR and interest in the Estate and Richland 4900 to Forlando, who planted

the false Grammy© claim that month with an Atlanta firm. AG Jones circulated the amendment and assignment to Hynie and others.

108. Forlando's secret position in Richland 4900 was the opposite of the position he was taking in his federal court injunction suit.

109. In 2012 Forlando fired Bell and revealed his ownership and the transfers from Terry.

110. In 2013 Bauknight testified in Forlando's case that Forlando had done nothing wrong, and that Bob and I had "raped" Brown's estate. Bauknight denied that the transfer from Terry had taken place, even though AG Jones had circulated it, and the amendment was prepared by Bauknight's atorneys.

111. In October 2013 the federal court in Forlando's suit directed Bauknight to release the Afterman $4.7 appraisal to Forlando, Bob and me, under a confidentiality order, and directed that Bauknight produce the Wingate Contract not under a confidentiality order.

112. Bauknight produced the Wingate Contract, which showed that Bell had signed it for Terry, and approved the Richland 4900 complaint for Terry.

113. At some point Forlando terminated Wingate and testified under oath that the $4.7 million value was "bogus," a fact confirmed by experts Miller and others since. Wingate, however, has continued to act for Terry in Richland 4900 since the 2011 transfer, with no notice to any court.

114. By 2016 Respondents had hired Wingate to help Forlando escape payment from his trust share -- increased exponentially by the $4.7 million devaluation -- for his 4-year effort to enjoin the 2000 Trust and reinstate Cannon and Dallas. At the time Cannon and Dallas had been named by Wingate as witnesses for the Richland 4900 Plaintiffs since 2010.

115. In 2017, deposed at the direction of the Honorable Jean Toal, Acting Circuit Judge, Wingate and his partner, Everett Kendall, Esq., identified the Wingate Contract which had been produced in 2013 as the contract; said they knew of no changes in parties since 2010.

116. In 2019 the Court of Appeals ruled, at Terry's request, that Terry had never challenged the estate plan of James Brown, but Wingate continues to take positions for Terry which support Hynie; support the AG's 2008 Settlement; and are directly contrary to Terry's own representation.

117. In 2020 Judge Newman directed Wingate to produce the 2020 Wingate Contract which I first request both under FOIA and in discovery more than 9 years ago.

118. The Wingate Contract produced by Wingate in 2010 contains a different page for Terry. This time it contains Terry's signature – not Bell's signature [redacted].

119. This still-unexplained difference is consistent with the problems associated with Bell in the James Brown cases since at least 2008.

120. In 2020 Wingate, for the benefit of Hynie and those still aligned with her, successfully avoided having the automatic stay which has been in place since 2017 lifted, delaying for years inquiry into how the Wingate Contract signed by Bell got changed, as well as many other matters.

121. These actions, like the actions of Hynie in Richland 4900, have nothing to do with Aiken 1337 and make clear that Wingate, Hynie and those aligned with Hynie are prepared to spend what it takes to delay Richland 4900 for a decade or more, while making the false claim that it is a "companion case" to the long-concluded Aiken 1337.

Respondents Continue Alliance and Attack of Hynie Instead of Estoppel to Protect Charity

122. Since June 10, 2015 my only involvement with James Brown's estate plan has been

to protect myself, and my counterclaims, in Richland 4900; be fairly paid from Brown's estate (which could have been resolved for $2.1 million or less); conclude my 2011 FOIA cases which are still pending; and assure that blame for the second dismembering of James Brown's estate plan, as announced by Hynie and Levenson on May 29, 2013, is not blamed on Bob and me.

123. Before that, however, as well as today, I -- and anyone else – can observe that *Wilson v. Dallas* put Respondents in a position to save Brown's estate plan and "I Feel Good" Charity easily by defeating Hynie's claims then using estoppel to reduce the termination rights claims of the Levenson and Bell.

124. Because the Levenson and Bell clients had endorsed, and benefitted from, the claim that Hynie was Brown's spouse, estoppel provided Brown's "I Feel Good" charity with both a strong legal position and a strong negotiating position as to the Levenson and Bell clients in termination rights matters.

125. The facts that Respondents have not yet told the Supreme Court that termination rights will never apply to half of Brown's $4 million annual royalty stream; that Respondents continue to conceal the $4.7 million Afterman claimed "appraisal" and have paid him $1 million; that Respondents paid SA/ST David Sojourner, Esq. $1.4 million to take one deposition and <u>not</u> to defend the "I Feel Good" charity against Hynie's claims, or those of James; and that Respondents have allowed James to escape to London, U.K. with a $700,000 legal war chest from Brown's charity, I believe, make clear that Respondents and Hynie will continue Richland 4900 for the benefit of Hynie, James and those aligned with them for what may be a decade or more.

126. For each reason stated herein; contained within the depositions of the Governor, the Solicitor General and others; and contained within the return dated today; I respectfully submit

that the motion to dismiss should be denied.

127. If Respondents continue to withhold my funds despite the fact that interest continues to accrue, I ask that the Court expedite this appeal to prevent unnecessary loss both to me and to Respondents, which only benefits Hynie and those associated with her.

128. I support this deposition with the record I have referenced and a few documents, including:

Exhibit 1 – Bob's and my Answer and Counterclaim (partial)
Exhibit 2- Bauknight's 2012 position about the Legacy Trust (partial)
Exhibit 3- What Robert Rosen wants. $9.7 Million (2012)
Exhibit 4 - What Louis Levenson wants. $8.7 million (2012)
Exhibit 5 - Bauknight/Legacy Trust Fraud (2012)
Exhibit 6- Offer of Judgment to Sydney Lumar (2012) when she was a minor (partial) (This is one of many the Richland 4900 Plaintiffs moved to strike.)
Exhibit 7 - Disallowance by Bauknight, May 29, 2013, which forced me to file Aiken 1337 (Partial)
Exhibit 8 – Aiken 1337 Complaint, 2013, before Rule 12 motions granted (partial) w/ Exhibit 6
Exhibit 9 - Petition for Allowance Incorporated into and made part of Aiken 1337 Complaint
Exhibit 10 - Respondents' Answer to Petition for Allowance of Claim, Aiken 1337 (complete, 2 pages, with no request for offset or counterclaim)
Exhibit 11 - Terry Brown's July 2016 Brief supporting estate plan, raising concerns about Levenson testimony (partial).
Exhibit 12 - Court of Appeals Decision Finding Terry never challenged estate plan. (2019) partial.
Exhibit 13 - Ltr. of SWB to Silvernail and portion of Wingate Contract signed by Terry (2020)

FURTHER DEPONENT SAYETH NOT.

Adele J. Pope

SWORN TO BEFORE ME this 31st day of August, 2020

(L.S.)
Notary Public for South Carolina
My commission expires: 4/25/2027

Exhibit 1

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)
) FIFTH JUDICIAL CIRCUIT

Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMcaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

AND

Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown,

Plaintiffs,

vs.

Adele J. Pope and Robert L. Buchanan, Jr.,

Defendants.

) Civil Action No.: 2010-CP-40-4900

RICHLAND COUNTY
FILED
2010 SEP 30 PM 1:06
JEANETTE W. McBRIDE
C.C.P. & G.S.

ANSWER AND COUNTERCLAIM OF ROBERT L. BUCHANAN, JR. AND ADELE J. POPE

(Jury Trial Demanded)

Defendants Robert L. Buchanan, Jr. and Adele J. Pope, subject to their Motion to Dismiss and any Motion filed or to be filed for a change of venue, answer the Complaint of Plaintiffs and Counterclaim against Plaintiffs, as follows:

settlement, and it is not a party to this action.

48. Defendants are informed and believe that in the absence of their joinder, the case should be dismissed.

FOR A NINTH DEFENSE TO ALL CAUSES OF ACTION
(Estoppel)

49. All allegations made above are incorporated herein where relevant.

50. Plaintiffs have engaged in conduct during relevant times which was calculated to convey the impression that the facts were otherwise than and inconsistent with those they now seeking to assert, including at least the following conduct:

A. AS TO AG McMASTER:

(i) On July 30, 2008, AG McMaster, personally, wrote a letter to Defendants supporting their service as PRs and Trustees.

(ii) AG McMaster has ratified the Will and Trust which Defendants seek to uphold.

B. AS TO TOMMIE RAE BROWN:

(i) Prior to her 2001 ceremonial marriage to Mr. Brown, she executed a Pre-Nuptial Agreement in which she waived all rights as a spouse to share in or make any claim against the estate of Mr. Brown; all rights as a spouse in the property of Mr. Brown; any spouse's right of election or claim as an omitted spouse against Mr. Brown's estate under the law of any state; and any right to serve as a fiduciary under Mr. Brown's estate.

(ii) During Mr. Brown's 2004 action against her to void the marriage, Tommie Rae contracted never to claim to be Mr. Brown's common law spouse.

(iii) She admits and has complained that after the 2004 annulment, Mr. Brown would not marry her again.

(iv) She claims to have been a member of the Advisory Board to the Trust that Defendants are seeking to uphold.

(v) She has otherwise ratified the Will and Trust which Defendants seek to uphold.

C. AS TO DEANNA J. BROWN THOMAS AND YAMMA BROWN:

Exhibit 22

Exhibit E

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

IN THE COURT OF COMMON PLEAS

Adele J. Pope,

Plaintiff,

vs.

Alan Wilson, in his capacity as Attorney General of South Carolina and James Brown Legacy Trust, by Russell L. Bauknight, its Trustee,

Defendants.

Case No. 2011-CP-36-00364

AFFIDAVIT OF RUSSELL L. BAUKNIGHT

PERSONALLY APPEARED BEFORE ME, the affiant, Russell L. Bauknight, who, being sworn, deposes and states the following:

1. I am a resident of Richland County, South Carolina;
2. The principal place of administration and usual place of business for the below mentioned Estate and Trusts is located at 1517 Gervais Street, City of Columbia, Richland County, South Carolina 29201;
3. For nearly three years I have served as the court-appointed Personal Representative and Trustee of the James Brown Estate and August 1, 2000, Irrevocable Trust Agreement (Trust);
4. For nearly three years I have also served as the Trustee for the James Brown Legacy Trust. The Legacy Trust was created pursuant to a settlement agreement that ended years of litigation surrounding the validity of James Brown's Will and Trust.
5. As its Trustee, I manage, control, and oversee the Legacy Trust. While the South Carolina Attorney General has a right to remove and replace me, the beneficiaries of the Legacy Trust—the James Brown Children, for example—also have the right to remove me pursuant to the Trust Code.
6. Ms. Adele Pope appealed the settlement agreement and that appeal is pending at

Exhibit 3

Exhibit G

What Robert Rosen wants.

$9.7 Million

for 1 ½ years' work destroying James Brown's Estate Plan, including

The James Brown "I Feel Good" Trust

and

Getting Tommie Rae 23.5% of a music empire Rosen &Tommie Rae say was worth less than $4.7 Million on December 25, 2006 – the day that matters.

Exhibit 4

Exhibit F

What Louis Levenson wants.

$8.7 Million

for 1 ½ years' work destroying

The James Brown "I Feel Good" Trust

and for destroying the

$285,000 Education Trust Funds of Lindsey, Janise, Sydney, Carrington & Jason.

Exhibit 5

Bauknight/Legacy Trust Fraud

Exhibit H

1. Less than $4.7 Million value.

2. Fabricated "Heirs." (Intentional exclusion of proven heirs.)

3. False IRS criminal accusations.
(Against Bob & Adele)

4. Over- valuation of Copyright Act rights of Settling Parties.
(Subject to Confirmation when appraisal released.)

5. False "slam dunk," Copyright Act, other Tommie Rae and "no corpus to speak of" representations. .
(See Mot. To Supp. Record: CD of Oral Argument 11/1/11. Also seek Black incorrect representation to Jg. Early in 2012 that he had ruled Tommie Rae to be spouse.)

6. Concealing documents.
(See FOIA refusals to produce public documents; W. Klett corresp. w/ Gonzales; I&A.)

Exhibit 6
Exhibit 4

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND RUSSELL L. Bauknight, as Trustee, and others and HENRY DARGAN McMASTER and others Plaintiffs, v. Adele J. Pope, Defendant	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT Case No.: 2010-CP-40-4900 Offer of Judgment of Adele J. Pope to Sydney L., a minor

TO: PLAINTIFF SYDNEY BROWN AND SWEENEY, WINGATE AND BARROW, PA. ("WINGATE") HER ATTORNEYS:

Pursuant to South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, and all other applicable law, Defendant Adele J. Pope ("ADELE") proffers an Offer of Judgment to Plaintiff and Counterclaim Defendant SYDNEY L. ("SYDNEY"), a minor, in the above-referenced matter as set out below:

If pursuant to said rule and law, the Offer is not timely accepted and the judgment against said Defendant Pope is less than the above proffer, said Defendant/Counterclaim Plaintiff shall seek from SYDNEY all expenses and costs, including attorneys' fees, under South Carolina Code §15-35-400, Rule 68 of the South Carolina Rules of Civil Procedure, the South Carolina Trust Code, and all other applicable law, and interest under Rule 68.

Recitals

On June 15, 1999 SYDNEY's famous grandfather James Brown created the first

EXHIBIT
L

fiduciary duty to SYDNEY by appealing the dismantling of SYDNEY's $285,000.00 Education Trust.

Terms of Judgment

The Court shall issue its order substantially as follows:

1. As to all claims of SYDNEY against ADELE, SYDNEY is entitled to nothing.

2. As to the counterclaims of ADELE against SYDNEY, ADELE, is entitled to judgment against SYDNEY on all causes of action in the aggregate amount of $1.00.

AND IT IS SO ORDERED.

Respectfully submitted,

Daryl L. Williams
Jeter & Williams, P.A.
1204 Main Street, Suite 200
Post Office Box 7425
Columbia, South Carolina 29202
Telephone: (803) 765-0600
Facsimile: (803) 765-0619
dwilliams@jeterandwilliams.com

Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1218 Taylor Street
Post Office Box 1898
Columbia, South Carolina 29202-1898
Telephone: (803) 779-1770
Facsimile: (803) 403-8092
Adam@silvernaillawfirm.com

Attorneys for Defendant Adele J. Pope

August 7, 2012

Exhibit 7 Exhibit 2

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF AIKEN	)	**NOTICE OF DISALLOWANCE OF CLAIM**
	)	
IN THE MATTER OF: JAMES BROWN		CASE NUMBER: 2007 ES02 0056

TO:

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

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

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

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

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

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

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

Executed this 29th day of May, 2013.

Signature: _____
Name: Russell L. Bauknight
Address: 1517 Gervais St.
Columbia, SC 29201

E-mail: rbauknight@bpscpas.com
Telephone (O): 803.771.8943
Telephone (H): _____

Exhibit 8

STATE OF SOUTH CAROLINA COUNTY OF AIKEN Adele J. Pope, Plaintiff, v. Estate of James, Brown, Deceased; The James Brown 2000 Irrevocable Trust; Russell L. Bauknight, Individually, as former *Executor de son tort,* and in every current and former fiduciary status claimed or held as to the Estate of James Brown and The James Brown 2000 Irrevocable Trust, Defendants. AND: Robert L. Buchanan, Jr., Interested Party.	IN THE PROBATE COURT Estate File No. 2007-ES-02-0056 Complaint[1] to Void Appointment and Notice of Disallowance; for Review and Direction to Pay Commissions and Fees under *Wilson v. Dallas;* Remove Bauknight; Require Emergency Appointment of Litigation SA/ST to Prevent Further Damage by Bauknight in *Wilson v. Dallas* and Related Cases; for Accounting; And for Related Relief (Jury Trial Requested)

Plaintiff Adele J. Pope ("Adele"), responding to the Notice of Disallowance served on her on May 29, 2013, attached hereto as Exhibit A (the "Notice"), and in order to protect the noble Estate Plan of James Brown to leave his entire $100 Million worldwide music empire to the "I Feel Good" Private Foundation to provide scholarships for needy students, would respectfully show this Court:

[1]See also Petition for Allowance, attached hereto and incorporated herein as Exhibit 1.

Filed: 06-10-2013
Sue H. Roe
Judge of Probate
By: [illegible]

231. On December 6, 2007 AG McMaster's Sr. Assistant ("Sonny") inquired about the $100 Million offer and expressed fear it would disappear if not accepted. But in September 2008 Forlando – part of the purchase group – confirmed that offers of $150 Million were still available.

232. On May 6, 2011, to the extreme detriment of the Estate/2000 Trust, Russell filed documents in the Probate Court – under oath – asserting that the at-death value of Brown's worldwide music empire and claims against the Cannon Group was less than $4.7 Million.

233. On information and belief, Russell earlier, and falsely, represented to the IRS that Bob and Adele had committed the federal crime of overstating Brown's assets by $79 Million – more than 15 times their real value – for the improper purpose of obtaining a $5 Million dollar commission.

Russell Claims Tommie Rae's Elective Share a "Slam Dunk"

234. In early 2008 and thereafter Bob and Adele moved to protect the Estate/2000 Trust by dismissing or obtaining Summary Judgment ("SJ") as to Tommie Rae's challenges to the Will and 2000 Trust and other claims to entitlement on the following grounds;

a. Her "spousal" claims (Elective Share & Omitted Spouse) were not timely filed because they were filed in the wrong Court; failed to comply with legal requirements, including a summons and were otherwise defective;

b. She was not Brown's spouse;

c. Before entering the void ceremony she had waived any claim to Brown's assets;

d. After the void ceremony and Brown's discovery of her marriage, Tommie Rae agreed never to claim to be Brown's common law spouse.

235. On September 15, 2008, just after the Lukich decision, Bob and Adele supplemented their Motion to Dismiss all "spousal" claims of Tommie Rae. These motions have not been heard. On November 1, 2011, Russell's counsel told the Supreme Court Tommie Rae's Elective Share claim was a "slam dunk." On information and belief, an SA/ST is needed to free the Estate/2000 Trust from statements Russell made under the void appointment; hold Tommie Rae's baseless claim to 1/3 of the $5 Million she claims was the value of Brown's assets at death LESS costs of administration; then defeat the claim because she was not Brown's spouse; was intentionally omitted; is not an heir; and has waived all rights.

Russell's Actions in Case 4900 and Refusal to Get GALs

236. Since 2007, Bob and Adele have protected the $285,000 share of the 7 had grandchildren for whom Brown provided a trust under the 2000 Trust while Russell and with their own parents sought to destroy them. Russell and Wingate made the already-damaged minors among them Plaintiffs against Adele and Bob in Case 4900, but have refused for 3 years to appoint a Guardian ad Litem ("GAL") for them. In 2012 Russell and Wingate filed a Motion to Strike Adele's beneficial Offers of Compromise to the minors which, on information and belief, neither he nor Wingate presented to them before the motion. On information and belief, and SA/ST serving under the Will and 2000 Trust is essential to undo this damage in Case 4900.

Russell's Knowledge of Terry/forlando's Fraud on the Courts

237. Forlando, the "family" face of Buddy and Cannon, continues in 2013 his deception of the Federal and State Courts begun when he filed a known-false

a. Russell's hiring of Forlando/Buddy's lawyers, PG, for "tax advice" related to the settlement, and its relationship to the less-than $4.7 Million value;

b. "Confidential" payments Russell advised the Court on May 29 that he has made to counsel for former fiduciaries;

c. The preparation by Bauknight's NP lawyers of the Modification by Terry of the Legacy Trust, made at the same time of the assignment to Forlando and secreted from the Supreme Court and the Federal Court for 2 years.

252. On information and belief, an ST is needed in the Forlando Suit to protect the 2000 Trust both from Forlando and Russell.

Russell's Estate Tax Return Needs to Be Corrected

253. On September 25, 2008 court-appointed CPA William Sellars filed the Estate Tax Return for the Estate of James Brown, showing all assets at just under $85 Million (Approximately $100 Million less the TIAA Debt.).

254. Bill Sellars and his partner Mary Jo Cole ("Sellars & Cole") served the Estate/2000 Trust faithfully between August 10, 2007 and May 26, 2009, and were properly paid.

255. On May 6, 2011 Russell – while acting under Color of State Authority, which he did not have – began to accuse Bob and Adele of the Federal Crime of overstating Brown's music empire by $79 Million for the improper purpose of obtaining a $5 Million commission.

256. Russell, on information and belief, made this same false allegation to the IRS months earlier.

257. On information and belief, the allegation was made with the intention of – and did – severely damage Bob's and Adele's careers.

258. In 2012 Adele was engaged by a $40+ Million upstate private foundation to

conduct a multi-year self study as it transitions to a new generation of trustees.

259. In connection with her proposed engagement, Adele disclosed, as was prudent:

a. That she had no professional liability insurance because it had been cancelled when Russell, Tommie Rae and others filed Case 4900;

b. That she had been accused by someone purporting to speak for the State of impropriety in the very area in which she was being engaged, including of making knowing false statement to the IRS; and

c. At the time she had no idea of the outcome of *Wilson v. Dallas;* had been sued for conducting the appeal and other alleged wrongdoing; but believed the decision was important for the future of private philanthropy in South Carolina.

260. On information and belief, the Trustees would not have hired Adele had they not known from earlier direct dealings with her that the allegations were inconsistent with what they had observed.

261. The shadow cast by these false allegations has rendered Adele unable to accept engagements as an expert, for mediations and consultations, and for other collaborations which should be the heart of her career at this stage.

262. But Russell's action damages the Estate/2000 Trust as well, and needs to be corrected.

263. Russell's lawyers have told the media the "appraisal" that supports this outrageous claim is "under lock and key"

264. On information and belief, it needs to be unlocked; corrected; and thrown away.

The Estate/2000 Trust Need to Be Out of the FOIA Suits

265. In August 2011 Adele filed a FOIA suit to get the Wingate Litigation

Exhibit 6

Wilson v. Dallas Review

Attorneys in *Wilson v. Dallas,* Related Cases who should be paid by Russell, Legacy Trust, Tommie Rae, Terry/Forlando and/or Others, but Not by

Estate of James Brown,James Brown 2000 Trust or Brown Entities

1. William Hammond, Esq. - Hull Towell ("HT")
2. William Custer, Esq. Powell Goldstein ("PG"), now Brian Cave, LLP. - & all PG attorneys, including 3,4
3. Jennifer Dempsey, Esq. - PG.
4. William Shearer, Esq. - PG.
5. Stan Jackson, Esq.
6. James Huff, Esq.
7. Angela Kirby, Esq. - McAngus Goudelock ("MG")
8. Sherry Lydon, Esq.
9. Eric Bland, Esq.
10. Ronnie Richter, Esq.
11. Jan Warner, Esq.
12. Max Pickelsimer, Esq.
13. Brent Fortson, Esq. - Greenville
14. Richard Ness, Esq.
15. Gene Covington, Esq.
16. Wes Kirkland, Esq.
17. Henry McMaster, Esq.
18. David Black, Esq. - Nexsen Pruet ("NP")
19. Freddie Kingsmore, Esq. - NP
20. William Wilkins, Esq. - NP
21. William Klett, Esq. - NP
22. William Newsome, Esq. - NP
23. Rick Reames, Esq. - NP
24. Stephen P. Groves, Sr., Esquire
25. Kenneth Wingate, Esq. - Sweeney, Wingate & Barrow, P.C. ("SWB")
26. Mark Gende , Esq. - SWB
27. Erin Hayes, Esq. - SWB
28. Rett Kendall, Esq. - SWB
29. Todd Boudreaux, Esquire - Augusta
30. Julio E. Mendoza, Esq.- NP
31. George, A. Scott, Jr., Esq. - NP
32. G. Markus Knight, Esq. - NP
33. Robert Rosen, Esq.
34. Alan Medlin, Esq.
35. T. Heyward Carter, Esq.
36. Jean Lee, Esq.
37. Steven Slotchiver, Esq.
38. Albert P. Shahid, Esq.
39. David L. Michel, Esq.
40. John Sparks, Esq. - Atlanta
41. David B. Bell, Esq.
42. The Hon. Ernest Finney,
43. Jerry Leo Finney, Esq.
44. Ronnie Maxwell, Esq.
45. Matthew Bodman, Esq.
46. Louis Levenson, Esq.
47. David Yount, Esq.
48. Lori Chrisman - Levenson's firm
49. William Barr, Esq.
50. Camden Lewis, Esq. - after 11/20/07, FOIA matters
51. Arial King, Esq. - after 11/20/07, FOIA matters
52. Andrew J. King, Esq.
53. William Bird, Esq.

Exhibit 9

STATE OF SOUTH CAROLINA)
)
COUNTY OF: AIKEN)
)
ADELE J. POPE)
Petitioner)
vs.

ESTATE OF JAMES BROWN, DECEASED; THE JAMES BROWN 2000 IRREVOCABLE TRUST; RUSSELL L. BAUKNIGHT AND OTHERS
Respondent(s) (if applicable)

IN THE PROBATE COURT

PETITION FOR ALLOWANCE OF CLAIM

CASE NUMBER: 2007-ES-02-0056

Exhibit 1

The undersigned petitions the Court to allow the following claims against the estate in the amounts set forth below:

Creditor Name and Address	**Amount of Claim**
Adele J. Pope, 1228 Walnut Street, Newberry, SC 29108	
~~All Amounts Requested in Original Claim and All Relief Requested in Complaint of Which this Petition for Allowance is an Exhibit, all of which is incorporated herein by reference.~~	

In support of this Petition, Petitioner states that each claim is valid, was presented within the period for the presentation of claims as provided by law, and has not been paid, and, as to those claims which were presented to the Personal Representative and not filed with the Court, that a copy of the statement of each such claim is attached to this Petition and made a part hereof.

(Other:)

See Complaint to Void Appointment and Notice of Disallowance and for other relief, filed herewith.

Executed this 5th day of June, 2013.

Signature: Adele Pope
Name: Adele J. Pope
Address: 1228 Walnut Street
Newberry, South Carolina 29108
Telephone(O): (803) 413-0753
(H):

Attorney:
Address:

Telephone:

Exhibit 10

STATE OF SOUTH CAROLINA COUNTY OF AIKEN	IN THE PROBATE COURT
ADELE J. POPE, Petitioner, vs. ESTATE OF JAMES BROWN, DECEASED; THE JAMES BROWN 2000 IRREVOCABLE TRUST; RUSSELL L. BAUKNIGHT AND OTHERS, Respondents,	Case No. 2013-CP02-1337 **ANSWER TO PETITION FOR ALLOWANCE OF CLAIM**

1.17.14
Liz Godard
I.C.C.P.&G.S.
Anita Knoepfle 12 20
Deputy Clerk

Respondent, Russell L. Bauknight, as Special Administrator and Personal Representative of the Estate of James Brown and as Special Trustee and Trustee of The James Brown 2000 Irrevocable Trust, answering the Petition for Allowance of Claim of Petitioner Adele J. Pope dated June 5, 2013, would respectfully show the Court as follows:

FOR A FIRST DEFENSE

1. Any allegations not specifically admitted herein are denied and strict proof demanded thereof.

2. As to the allegations and representations in the Petition, Respondent admits that Petitioner has filed a creditor's claim against the Respondent.

3. As to the allegations and representations in the Complaint attached to the Petition, except as expressly specifically admitted herein, Respondent lacks sufficient information to either admit or deny the allegations and therefore denies all allegations and demands strict proof thereof.

FOR A SECOND AND AFFIRMATIVE DEFENSE
(Rule 12(b)(6))

4. All allegations hereinabove made are incorporated where relevant.

5. The Petition fails to state facts sufficient to constitute a cause of action against any Respondent herein named other than Russell L. Bauknight, as special administrator or personal representative of the Estate of James Brown.

6. Accordingly, the Petition must be dismissed with respect to The James Brown 2000 Irrevocable Trust, Russell L. Bauknight, in any capacity other than as special administrator or personal representative of the Estate of James Brown, and the undisclosed "Others" to the extent they are included as respondents in the Petition.

WHEREFORE, having fully answered the Petition, Respondents would ask that the Court inquire into the matter, ascertain the reasonable amount, if any, of the claim due to be paid to the Petitioner; for costs and attorneys' fees incurred in the defense of Petitioner's unfounded allegations; and for such other and further relief as this court may deem just and proper.

William G. Newsome III
SC Bar No. 63027
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, SC 29202
803.253.8268

Attorneys for Respondent Russell L. Bauknight, as Personal Representative of the Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust

January 15, 2014
Columbia, South Carolina,

Exhibit 11

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM AIKEN COUNTY

Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2016-001373

Russell L. Bauknight, in his capacity as Personal Representative of the Estate of James Brown and Trustee of the James Brown Irrevocable Trust Agreement u/a/d August 1, 2000, David C. Sojourner, Jr., in his capacity as Limited Special Administrator of the Estate of James Brown, a/k/a James Joseph Brown and Limited Special Trustee of the James Brown Irrevocable Trust, u/a/d August 1, 2000, Tonya Brown a/k/a Sarah LaTonya Brown, Vanisha Brown, Larry Brown, Deanna J. Brown Thomas, Jason Brown Lewis and Yamma N. Brown Lumar, individually and on behalf of her minor children, Sydney Lumar and Carrington Lumar.....Respondents,

v.

Terry Brown and Darryl Brown of whom Terry Brown is the ..... Appellant.

In Re: The Estate of James Brown a/k/a James Joseph Brown

INTIAL BRIEF OF APPELLANT

John A. Donsbach
South Carolina Bar No. 69681
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Attorney for Appellant Terry Brown

15, 2016 to respond to such motion. Only the LSA filed a response in opposition to Appellant Terry Brown's Motion to Alter, Amend or Reconsider. The lower court held a hearing on May 16, 2016. Only Appellant Terry Brown and the LSA presented arguments. The lower court order was entered on May 31, 2016 and served via e-mail on all parties. Appellant Terry Brown filed a timely Notice of Appeal on June 29, 2016 appealing the two separate orders of the lower court of March 7, 2016 and May 31, 2016.

STATEMENT OF FACTS

James Joseph Brown ("Mr. Brown") died Christmas day 2006. Mr. Brown left a Last Will and Testament dated August 1, 2000 ("Will") and Trust, which were very specific as to his intentions for the disbursement of his assets.[7] The Will devised all of his personal and household effects to six adult named children: Deanna J. Brown Thomas, Yamma N. Brown, Vanisha Brown, Darryl J. Brown, Larry Brown and Terry Brown. Mr. Brown left the remainder of his estate to the Trust.[8] Mr. Brown created the Trust under separate agreement, as part of his estate plan to provide financial assistance for the education of his grandchildren and disadvantaged youths.[9]

Upon Mr. Brown's death, the principal and income contained in the Trust, as augmented by Mr. Brown's General estate, was to be divided, by its terms, into two "shares" or subtrusts: (1) The Brown Family Educational Trust ("Family Trust"), which was capped in the amount of $2 million for tax purposes and designated for the education of Mr. Brown's grandchildren; and (2) The James Brown "I Feel Good" Trust ("Charitable Trust"), which Mr. Brown declared "shall be used solely for the tuition,

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[7] See Will and Trust.
[8] Id.
[9] Id.

> unexpected death and had reaffirmed his intentions in this regard. Brown had a reputation as a strong-willed individual who did not take orders from others, and he made his desires abundantly clear during his lifetime. We find there is no reasonable basis for the undue influence claim asserted here other than as a means to dismantle Brown's estate plan. The result is to enable those who were disinherited to obtain Brown's assets to the detriment of the charitable entity that Brown so fervently desired. Because he knew that it would be a source of dispute, Brown went to remarkable lengths to protect his right to designate the appropriate legacy for his life's work, including having numerous provisions in his estate documents and informing family members of his intentions in advance. We see no reasonable or substantial basis to support a good faith finding here. The AG acknowledged during oral arguments in this matter that he undertook no inquiry into the undue influence claims of the Respondents and the circumstances surrounding Brown's execution of his will. (citations omitted)

Wilson v. Dallas, 403 S.C. 411, 437-440 (2013).

As noted above, the South Carolina Supreme Court was particularly troubled by the lack of evidence of any undue influence that would support a claim and allow for settlement of the action at hand. Amazingly, in the almost three (3) years since the issuance of this opinion, there is no more evidence than existed at the time the South Carolina Supreme Court entered its opinion in Wilson v. Dallas. Incredibly, there is actually more evidence that it was clearly the decedent's intent to exclude the beneficiaries if they challenged the documents as noted in the above deposition excerpts. The drafting attorney made this clear and convincing in his deposition of December 9, 2015.[43] Unbelievably, after the drafting attorney made it clear that the decedent's intent with the in terrorem clause was to exclude all heirs and their beneficiaries that challenge the will, LSA's counsel began asking questions which could only be described as an attempt to assist the contesting parties with an end run on the in terrorem clause.[44] Such actions directly subverted the decedent's intent and wishes with regard to the in terrorem clauses which were confirmed

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[43] Id.

[44] Id. at (541:25, 542:1 through 555:14)

evidence. They came to the lower court in December 2015 with a motion to settle. The evidence that was available at the time they filed their claims in 2007 has not changed. The failure of the Moving Parties to provide any evidence of undue influence is their issue. Wilson v. Dallas gave the parties a roadmap for settling this matter and instructed the parties what evidence was necessary. Almost three (3) years later, the Moving Parties failed to provide the evidence required to invoke the probable cause exception, which can lead to but one conclusion. There is none. Based on this, the Court should reverse the lower court and remand with instructions finding that the Challenging Children and Heirs violated the in terrorem clauses and did not meet the requirments of the probable cause exception for enforcement.

Further, the testimony of Levenson should have been denied as there was no preliminary indication that he would testify at the hearing as required by Rule 6, SCRCP. Appellant Terry Brown was never given an opportunity to provide opposing affidavits or prepare for such testimony. Further, such ambush, surprise testimony was a violation of due process. In fact, it was clear that Levenson was offering evidence for the first time that none of the parties had seen or heard to which Appellant objected.[46] Appellant Terry Brown objected to the testimony at the hearing.[47]

Allowing the testimony of Levenson without: 1) any prior notice of such testimony; 2) adequate opportunity to prepare or be heard; 3) the right to introduce evidence in rebuttal of a "surprise" witness; 4) the right to **meaningfully confront and adequately** cross examine a witness was a violation of both substantive due process and procedural due process in accordance with Rule 6(d), SCRCP, U.S. Const. am. XIV, § 1,

[46] January 14, 2016 Hearing Transcript, pp. 45:14-25; 52:6-16.

agreement was a breach of an in terrorem clause. Finally, the lower court provided no evidence or case law in support of its ruling in footnote 10. The ruling was an abuse of discretion and should be reversed.

VI. THE LOWER COURT ERRED WHEN IT ALLOWED A PARTY WITH NO STANDING TO PARTICIPATE IN THE PROCEEDING WHEN IT WAS RULED THAT SUCH PARTY DID NOT HAVE STANDING.

It was error for the lower court to invite Mr. Medlin to be involved in the proceeding in any fashion as it was determined that he did not have standing to be involved in the motion hearing by the lower court.[93] The Court specifically asked him if he wanted to be involved: "Anyone else? Professor Medlin."[94] Mr. Medlin attempted to tell the Court he was not a party, but the Court invited him to testify.[95] Further, while Mr. Medlin is an accomplished and distinguished attorney and professor in South Carolina, it reflects a bias of the lower court when he is referred to as "Professor" while he is acting as an advocate for a client in open court. Based on this issue, the lower court ruling should be reversed for procedural deficiencies.

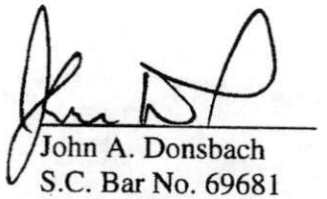
CONCLUSION

In conclusion, for the reasons stated above, the Appellant respectfully requests that this Court reverse the judgment of the Circuit Court. The lower court abused its discretion and erred in the application of law and evidence. The settlement agreements were legally and procedurally improper. The in terrorem clauses in the Will and Trust were improperly ignored. In fact, the lower court failed to properly apply the evidence in this matter and should have found that there is no probable cause for the undue influence

[93]January 14, 2016 Hearing Transcript, p. 75:15-21; 100:1-25; 101:1-25.
[94]Id.

claims filed by the Challenging Children and Heirs. Further, as a result of such finding, the in terrorem clauses in the Trust and Will should have been enforced against such individuals thereby ending their interest in this matter. The lower court abused its discretion and misapplied and misconstrued the law when it ruled otherwise. Therefore, this Court should reverse the lower court ruling and remand with instructions that the lower court find that no probable cause exists for the Challenging Children and Heirs to bring and undue influence claim and that they have no further interest in the Estate as a result of the application of the in terrorem clause.

This 28th day of July, 2016.



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Attorney for Appellant

[95] Id.

Exhibit 12

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

In Re: The Estate of James Brown a/k/a James Joseph Brown

The Estate of James Brown; James Brown Irrevocable Trust Agreement, u/a/d August 1, 2000, by and through its fiduciaries Russell L. Bauknight, Personal Representative and Trustee, and David C. Sojourner, Jr., Limited Special Administrator and Limited Special Trustee, Respondents,

and

Tonya Brown, a/k/a Sarah LaTonya Brown, Vanisha Brown, Larry Brown, Deanna J. Brown Thomas, Jason Brown Lewis, and Yamma N. Brown Lumar, individually and on behalf of her minor children, Sydney Lumar and Carrington Lumar, Respondents,

and

Daryl Brown and Terry Brown, Respondents below,

Of whom Terry Brown is the Appellant.

Appellate Case No. 2016-001373

Appeal From Aiken County
Doyet A. Early, III, Circuit Court Judge

Opinion No. 5651
Submitted December 6, 2018 – Filed May 22, 2019

AFFIRMED

Terry Brown, of Eastanollee, Georgia, pro se.

Louis Levenson, of Levenson & Assoc., of Atlanta, Georgia, for Respondents Vanisha Brown, Larry Brown, Deanna Brown Thomas, Jason Brown Lewis, and Yamma N. Brown Lumar; J. David Black, of Nexsen Pruet, LLC, of Columbia, for Respondent Russell L. Bauknight; Lyndey Ritz Zwingelberg and John Fisher Beach, both of Adams and Reese LLP, of Columbia, for Respondent David C. Sojourner, Jr.; Ittriss J. Jenkins, of Law Office of Ittriss J. Jenkins, of Charleston, for Respondent Tonya Brown.

HILL, J.: In this estate controversy, we must decide whether some of the beneficiaries (the Probate Code defines them as "successors") under a Will can agree to settle an action they brought to contest the Will and the accompanying Estate plan without the consent of all the beneficiaries. We hold that, under the unique circumstances of this case, they can because the settlement neither binds the non-settling beneficiaries nor changes the Will or the Estate plan.

In 2000, the legendary singer and entertainer James Brown executed a Will that devised his personal property and household effects to his six children and poured over the remainder of his estate to a charitable and educational Trust. Brown died in 2006. His Estate has been ensnared in relentless litigation ever since. *See, e.g., Wilson v. Dallas*, 403 S.C. 411, 416, 743 S.E.2d 746, 749 (2013). Several of his children and grandchildren—whom we shall refer to as "Respondents"—contested the 2000 Will and Trust, seeking to set them aside on the grounds that he lacked testamentary capacity and had been unduly influenced.

In 2015, the Estate and the Trust, acting through the Personal Representative, the Trustee, and the Limited Special Administrator and Trustee (the Fiduciaries),[1] reached a settlement of the will contest with Respondents, wherein each

[1] We are aware the Estate, the Trust, and the Fiduciaries are also Respondents to this appeal, but we will call the Personal Representative, Trustee, Special Administrator, and Limited Special Administrator "Fiduciaries" in this opinion for ease of reference.

Respondent agreed to dismiss their will contest claims in exchange for payment of $37,500.00. Respondents would retain other rights, including (as to the Respondent children) the devise of personal property under the Will. The Fiduciaries presented the settlements to the circuit court seeking confirmation of their authority to enter them on behalf of the Estate and Trust, a procedure contemplated by § 62-3-105 of the South Carolina Code (Supp. 2018). Two of Brown's children—Terry Brown, who never contested the Will and Trust, and Daryl Brown—opposed the settlements and their confirmation. After a hearing, the circuit court entered an order confirming the Fiduciaries' authority to enter into the settlements. The circuit court further ruled Respondent children had probable cause to contest the Will and the Trust, and the settlement was just and reasonable.

Terry Brown (Appellant) now appeals, claiming the Fiduciaries lacked authority to enter the settlements because his consent was required by §§ 62-3-912, 62-3-1101, and 62-3-1102 of the South Carolina Code (Supp. 2018). He further contends the circuit court erred in finding probable cause and in finding the settlements just and reasonable.

I.

According to Appellant, under South Carolina law there are only two ways to settle a will contest: by entering into a private family settlement agreement as provided by § 62-3-912, or presenting the settlement to the court for approval as provided by §§ 62-3-1101 and 1102. Because he contends both ways require the consent of all successors, Appellant claims the settlements here are invalid because he did not agree to them.

The issues Appellant raises require interpretation of several sections of the Probate Code, which are questions of law that we review de novo. *Univ. of S. Cal. v. Moran*, 365 S.C. 270, 274–75, 617 S.E.2d 135, 137 (Ct. App. 2005); *see also Barton v. S.C. Dep't of Prob. Parole & Pardon Servs.*, 404 S.C. 395, 414, 745 S.E.2d 110, 120 (2013).

II.

A. Section 62-3-912

Appellant first argues the settlements must conform to § 62-3-912 and, consequently, require his consent to be valid. Section 62-3-912 provides in pertinent part that "successors may agree among themselves to alter the interests,

Exhibit 13

S·W·B

SWEENY WINGATE & BARROW P.A.

May 21, 2020

Reply to: Main Office

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Daryl L. Williams, Esquire dwilliams@gertzandmoore.com
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Columbia, SC 29202

Re: *Russell L. Bauknight, et al. v. Adele J. Pope*
Civil Action No.: 2010CP4004900
Our File: 4077-7389

Dear Adam and Daryl:

In response to Judge Newman's May 12, 2020 Order and as a supplement to the Plaintiffs' discovery responses, attached please find documents Bates numbered: Case 4900-Plaintiff-2020 000001 – 000019.

In providing these documents, the Plaintiffs do not admit or concede that all sections of the litigation retention agreement are incorporated and enforceable terms of the document. Furthermore, Plaintiffs waive no argument of privilege or protection with respect to any material referenced explicitly or by implication in any portion of the document.

Should you have any questions, please feel free to contact me.

Sincerely,

SWEENY, WINGATE & BARROW, P.A.

Mark V. Gende

MVG/gpc
Enclosure

AGREEMENT FOR LEGAL SERVICES

This Agreement this 18th of May, 2010 between Sweeny, Wingate & Barrow, P.A. ("Firm") and Russell L. Bauknight as Personal Representative of the Estate of James Brown and as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust ("Trustee"). This agreement shall remain in effect until such time as it is terminated, in writing, by either of the parties.

The Trustee hereby retains the Firm to represent its interest and pursue claims on its behalf against Robert Buchanan and Adele Pope. The Firm hereby agrees to accept such representation.

The parties hereto specifically acknowledge that the following persons, parties, and entities are third-party beneficiaries to this Agreement: Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommy Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown; Larry Brown and Terry Brown (hereinafter collectively "Third-Party Beneficiaries").

The Third-Party Beneficiaries are signators to a Settlement Agreement dated August 10, 2008 with Addendum dated March 25, 2009. This Settlement Agreement was approved by the Circuit Court of South Carolina by Order dated May 26, 2009. In the event that this Order should be overturned, vacated or in any manner set aside, this Agreement shall continue with the Third-Party Beneficiaries becoming the principal parties.

ATTORNEY FEES

The Firm will be compensated on a contingency fee basis. The fee for professional services will be based upon the gross proceeds of any money collected as result of actions initiated or pursued by the Firm, in the following percentages.

a. Pursuant to the Settlement Agreement dated August 10, 2008, as amended by Addendum dated March 25, 2009, 47.5% of the gross proceeds will be attributed to the charitable portion of the James Brown Estate, the James Brown 2000 Irrevocable Trust, and/or the James Brown Legacy Trust for fee calculation purposes only. The Litigation Retention Agreement which is attached hereto as Exhibit A and which is incorporated herein shall govern the terms of representation and the payment of fees to the Firm with respect to the 47.5% of the gross proceeds attributed to the charitable portion of the James Brown Estate, the James Brown 2000 Irrevocable Trust, and/or the James Brown Legacy Trust. For example, fees will be paid to the Firm from these proceeds based on the following schedule:

CONFIRMATION, APPROVAL AND ACKNOWLEDGMENT

The undersigned confirms and approves the retention of Sweeny, Wingate & Barrow, P.A. on its behalf by Russell Bauknight, as Personal Representative of the Estate of James Brown, Trustee of the James Brown 2000 Revocable Trust, and Trustee of the James Brown Legacy Trust, and hereby acknowledges that Sweeny, Wingate & Barrow, P.A. is representing the "Third-Party Beneficiaries" as defined in the attached Agreement For Legal Services dated May 18,2010 (the "Retention Letter") through Russell Bauknight as fiduciary. The undersigned further confirms and approves the filing on its behalf of the lawsuit (evidenced by the attached draft complaint (the "Complaint")) by Sweeny, Wingate & Barrow, P.A. and the inclusion of the undersigned's client(s) as party(ies) to the action.

The undersigned acknowledges and confirms that the undersigned has reviewed the attached Retention Letter along with exhibits thereto, agrees to all terms contained therein, and directs Russell Bauknight as fiduciary to sign the Retention Agreement on its behalf, or otherwise ratifies the Retention Agreement. The undersigned further acknowledges and confirms that the undersigned has reviewed the attached Complaint and that there is good ground to support it. The undersigned confirms the allegations contained therein, and the undersigned approves the filing of the same on behalf of the undersigned's client(s) by Sweeny, Wingate & Barrow, P.A.

x _____

Print Name: Terry Brown

Attorney For: _____

RECEIVED
AUG 31 2020
SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable Clifton Newman, Circuit Court Judge

Appellate Case No. 2020- 000967

Adele J. Pope, Appellant,

v.

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

PROOF OF SERVICE

The undersigned Appellant, *pro se,* certifies that she has served a copy of the Appellant's Return and Memorandum Opposing Respondents' Motion to Dismiss Appeal on all Respondents on the date shown below, by hand-delivery, addressed as follows:

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Kirsten E. Small (Bar No. 75681)
NEXSEN PRUET, LLC
1230 Main Street, Suite 700
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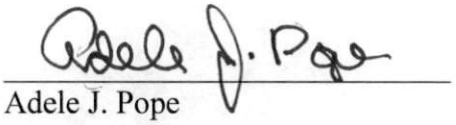
(803) 771-8900
Counsel for Respondents



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Appellant, *pro se*

August 31, 2020