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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.

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

APPELLANT'S PETITION FOR REHEARING

In December 2019 Respondents owed Petitioner \$47,972, with interest from March 8, 2008 at the legal rate. The amount was an undisputed judgment. It was directed to be paid to Petitioner by orders of the Honorable Doyet A. Early, III.

When Petitioner asked Respondents for the \$47,972, with interest, Respondents did not pay it. Respondents paid the disputed funds into the Clerk of Court for Aiken County. Then Respondents secured two orders from the Honorable Clifton Newman which approved Respondents' actions and directed that Petitioner's property be withheld from her until Tommie Rae Hynie and those aligned with her conclude Richland County Case No. 2010-CP-40-4900 ("Richland 4900").

With no support in the record of this case, Aiken County Case No. 2013-CP-02-1337 (“Aiken 1337”), or Richland 4900, based on representations by counsel for Respondents, the circuit court issued a final order which misapplies Rule 67 SCRPC in a fundamentally unconstitutional way; deprives Petitioner of her Due Process Rights; enjoins Petitioner from receiving property which should have been paid to her in 2009 until some undetermined time in the far future; and denies her Equal Protection rights as a first priority creditor of Respondents.

The “Nonpayment Orders” on appeal have no support under Rule 67 or under the massive record of the now-concluded Aiken 1337, or the 10-year-old Richland 4900, bogged down for the last seven years by legal machinations of Hynie’s counsel, Sweeny Wingate and Barrow, PA. (SWB), to conceal its fundamental weaknesses.

The circuit court relied on representations of Respondents, through fiduciary Russell Bauknight. In doing so the circuit court made two extraordinary findings which deprive Appellant of fundamental rights and have no support in any record.

This circuit court’s first fundamental erroneous finding that in 2015 – two years before she obtained the final \$47,972 judgment, now about \$100,000 with interest – Petitioner consented to an indefinite withholding of her property until Hynie finally decides at some undetermined time to abandon her decade-old assault on Appellant and Robert Buchanan, Jr. in Richland 4900.

The circuit court’s second fundamental error was the finding that Richland 4900 – a case now being pursued solely for the benefit of Hynie (about 46%), former Will/Trust contestants represented by Louis Levenson, Esq. (about 45%), Terry and Forlando Brown (about 9%) -- is a “companion case” to the now concluded Aiken 1337.

The circuit court was new to these cases. The court relied on Bauknight, as claimed fiduciary and protector of the estate plan of James Brown, to provide correct information to the Court. The reliance was misplaced. As a result, Appellant was irreparably harmed.

Respondents did not advise the circuit court that Bauknight currently acts "on behalf of" Hynie in Richland 4900. They did not disclose that Bauknight, with no authority, also purports to act on behalf of the Attorney General of South Carolian (AG) in Richland 4900. They did not disclose that Bauknight even claims to be acting in Richland 4900 on behalf of Plaintiffs Deanna Brown Thomas and others who are suing Hynie, her son, and Bauknight. Complaint, Richland 4900, Ex. A.

A motion to supplement the record in this matter, filed on October 14, 2020, incorporated herein by reference as fully as if set out in its entirety, helps complete the picture of how Hynie, since 2008, has been able to enlist the services of a dozen Legacy Trust attorneys paid \$375 - \$500 an hour; six attorneys with SWB; and another five or more attorneys working for two AG to advance her plan to dismember James Brown's charity and blame the destruction on Petitioner and Robert Buchanan in Richland 4900. The motion also suggests that the AG may finally be withdrawing the power and prestige of the State's highest legal officer, which has been used by SWB for a decade to hold up Hynie's house of cards.

Petitioner respectfully submits that the Court overlooked facts which demonstrate that the Nonpayment Orders are final; that they constitute an incorrect reading of Rule 67 SCRCF which violates Petitioners' Due Process rights; that they enjoin the payment to Plaintiff in violation of her Due Process rights; and that the lower court's findings of fact about Richland 4900 and Petitioner's alleged consent to the injunction are clearly erroneous and deprive Petitioner of the level playing field to which she is entitled. In addition, they advance the violations of Section 62-

1-106 of the Probate Code and other wrongdoing by Hynie which have prolonged Richland 4900 for more than a decade and disrupted FOIA for more than 9 years.

Petitioner respectfully requests that the Court reconsider, and reverse, its dismissal based on the facts the Court may have overlooked in Petitioner's return to the motion to dismiss and Petitioner's motion to supplement the record, as well as those set out herein.

Background

Within weeks of the death of entertainer James Brown, Hynie had begun what is now almost-14-years of relentless litigation to secure control of Brown's worldwide music empire and a large portion of his "I Feel Good" charity. Louis Levenson, Esq., for a dozen family members and claimed family members, began the same quest at about the same time.

The AG brought Hynie and Levenson together in August 2008, but it was Hynie – not Levenson – who took control. Hynie's method were simple:

- a. Identify as "family" anyone who will go along with Hynie's spousal claim;
- b. Assert that the "family" knows more about what James Brown wanted than Brown did;
- c. Conceal the facts and law through discovery abuse and FOIA disruption;
- d. Marginalize, discredit and/or criminalize anyone who disagrees with the plan;
- c. Claim that giving away assets to the "family" is good for Brown's charity; and
- d. Have Brown's charity or the S.C. taxpayers pay the legal bills.

From 2008 until 2013 these strategies worked. From 2010 Richland 4900 and the FOIA cases the AG, Hynie and Bauknight have ensnared in their consolidation attempts have been critical to the strategy.

From 2009 until 2013 Hynie was served by her own 6 attorneys¹, about a dozen Legacy Trust attorneys paid \$375 – \$500 an hour; another 6 or so from the AG's office; and another 5 or so with SWB. The taxpayers of South Carolina and Brown's charity paid the bills.

The AG and Respondents not only paid the bills, they agreed with whatever Hynie counseled them to tell the Supreme Court in *Wilson v. Dallas*, or told SWB to say in Richland 4900. This included:

- a. The claim in Richland 4900 that Buchanan and Petitioner should have accepted a \$100 million offer for Brown's music empire; Complaint
- b. The claim to the Supreme Court that there were no offers; nobody was trying to buy the James Brown assets; they were worth only \$4.7 million when he died; and Brown's estate and 2000 Trust had no corpus to speak of;
- c. the claim that Buchanan and Petitioner were greedy, incompetent felons, even though Hynie's attorneys had twice nominated Petitioner for her expertise, and nominated Buchanan once;
- d. the claim that Hynie's elective share claim was a "slamdunk."

Hynie also enlisted whoever was needed, including actual felons. In 2010 Hynie and the AG named felon David Cannon and his co-trustee as their witnesses in Richland 4900. In 2011, Forlando Brown joined the Legacy Trust and Richland 4900 as a silent partner and planted the false Grammy© claim later noted by the Supreme Court. SWB kept his stake in Richland 4900 a secret while he took the opposite position in federal court.

On January 5, 2011 SWB sent Bauknight a 3 ½-page letter and a "Discovery Tracking Chart" in *Bauknight v. Pope and Buchanan*, copies of which went to the AG; Hynie's attorneys; Levenson and others. Even today, these non-confidential communications remain redacted under FOIA, still providing residual help to Hynie from the State's highest legal officer.

¹ Identified by last name only herein, Hynie's personal attorneys for herself and James from 2008 – 2013, and continuing after that, include: Medlin, Rosen, Michel, Shahid, Carter, and Lee.

Hynie's FOIA disruption through SWB and Bauknight, is unprecedented. In 2011 she even moved to be part of a FOIA case and obtain sanctions against Petitioner. Then on January 30, 2012, her SWB attorney advised the AG not to release the public Wingate Contract. To persuade the AG to ignore his statutory duty under FOIA, Hynie's SWB attorney stated in part:

First, you will certainly incur the sanction of costs and attorney fees in the pending FOIA actions. That defeat will be more costly and publicly embarrassing than a decision to continue litigating the fee agreement.

And:

Secondly, your decision will jeopardize the rights of your co-litigants...

The Attorney General Repudiates Claim that he is a Richland Co-Plaintiff With Hynie

On February 27, 2013, the Supreme Court issued the first *Wilson v. Dallas* decision. Footnote 29 told the AG to conclude Petitioner's 2011 FOIA cases and Richland 4900 "in the first instance." This should have been the end of Hynie's and SWB's use of the power and prestige of the State's highest legal officer, but it was not.

Between February 27 and April 23, 2013, SWB attorneys Wingate and Kendall met with the AG and presented a TERMINATION OF REPRESENTATION.

On April 24, 2013, the AG, through Sr. Asst. AG McIntosh, advise SWB (Kendall) that the AG never had an attorney-client relationship with SWB; had never been SWB's client in Richland 4900; and that if *Wilson v. Dallas* remained the same SWB would have to disgorge all the funds paid to it in Richland 4900. Chief Deputy AG McIntosh stated in part:

Your letter is entitled "Privileged Attorney-Client Communication". Please be advised that the Office of the Attorney General has never been a client of Sweeny, Wingate & Barrow in this matter.

... As you are aware, if the Supreme Court decision stands as is, any fees Sweeny, Wingate and Barrow have heretofore received in the 4900 case are required to be disgorged and returned to the trust established by James Brown. In any event, there is no liability on this Office for legal fees.

Hynie and SWB Use Prestige and Power of AG Without Authority in Richland 4900

On May 29, 2013 Hynie, through Alan Medlin, Esq., and Levenson announced to the Aiken Circuit Court their plan to disregard the Supreme Court's decision in *Wilson v. Dallas* and reinstate the AG's 2008 settlement which dismembered James Brown's estate plan and charity. Nobody advised Judge Early that the AG had never engaged SWB in Richland 4900.

The record in Case 4900, part of Appellate Case 2018-2229 and Appellate Case 2019-000362 is full of Hynie's representations, through SWB, that SWB represents the AG in Richland 4900. SWB and Bauknight continued to try to move FOIA cases and keep the public Wingate Contract secret in U.S. District Court case 3:08-cv-00014 -WOB. A motion to lift stay, attached as Exhibit B, shows how SWB and Hynie have delayed and bogged down Richland 4900.

In a July 8, 2014 order in Summer v. AG FOIA case, 2012-CP-35-688, the Honorable Eugene C. Griffith, Jr., directed the AG to comply with FOIA while Bauknight and SWB were still trying to disrupt FOIA.

In 2016 and 2017 Hynie's SWB lawyers were able to attend depositions in Aiken 1337 based on SWB's representation in open court that the AG was its client.

In 2017 the Honorable Jean Toal, Acting Circuit Judge, Ordered SWB attorneys to testify about their "authorization to file and continue the lawsuit of the Attorney General and others against Robert Buchanan and Adele Pope filed May 19, 2020 and Continuing today." [Exhibit C]

Neither Kenneth Wingate, Esq., nor Everett Kendall, Esq., SWB principals involved in the March and April 2013 events, disclosed that the AG's Office had never been a client.

Today Richland 4900 is being managed for the benefit of Hynie and the dwindling number of Richland 4900 Plaintiffs who think she should be declared the spouse of James Brown and given a quarter of his assets in exchange for her nonexistent termination rights.

Richland 4900 is Not a Companion Case to Aiken 1337

Richland 4900 was not a companion case to Aiken 1337 before April 24, 2013. Nor is it after.

Solicitor General Robert Cook testified correctly in 2017 that he had never seen a case like Richland 4900 in 40 years. Neither has anyone else. It is certainly not a “companion case” to Appellant’s concluded Aiken 1337 fee case.

If Hynie’s tenacity in the federal court long after she had been determined not to be James Brown’s spouse is an indication of her future actions, Richland 4900 could last a decade.

Judge Early did Not Grant the First Request of Respondents to Pay into the Court

As is shown on Exhibit D, Affidavit of Appellant, Respondents tried to pay the \$47,972 into the court during the Aiken 1337 trial. Instead of addressing the matter separately, Judge Early repeated in the final order that the \$47,972 should be paid to Petitioner.

Applying Rule 67 to Liquidated, Undisputed Judgments Violates Due Process

In the hierarchy of statutory construction, the U.S. Constitution and its Due Process clause are the law. Statutes must comply with Due Process. Court rules, which are promulgated pursuant to statute must not only comply with the statutes which authorize them, but with the Constitutions of South Carolina and the U.S. In the construction and application of rules of civil procedure the lower court was required to follow these principles. It did not.

The circuit court’s misreading of Rule 67 is not only erroneous, it has no support in the record; reverses a judgment with no basis; and finally deprives Petitioner of her fundamental right to her property.

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).

Properly applied, Rule 67 will not violate the Due Process clause because it addresses funds which have not been finally determined to be the property of either party in a litigated case. These funds are merely being held as the required “due process” is being carried out.

The circuit court’s application of Rule 67, which is applicable solely to funds which have no finally-determined owner in particular case, to enjoin the payment to Petitioner of her own funds is a patent violation of the Due Process clause.

In 2017, for the second time, the Honorable Doyet A. Early, III, awarded \$47,972, with interest at the legal rate until paid to Petitioner, in a summary judgment order. The terms of the award were then clearly restated in the final order of January 2019, which was drafted for the Court by Respondents.

Respondents did not seek reconsideration of, or appeal, the \$47,972, with interest award. There is no dispute as to the interest. Unlike a case where funds are not the finally-determined property of one party or the other, the \$47,972, with interest, is the undisputed property of Appellant.

The Nonpayment Orders are immediately appealable because they violate Appellant’s Due Process rights, the substantial right to have her property.

Petitioner’s Right to Her Undisputed, Liquidated \$47,972, With Interest, is Substantial

The Nonpayment Orders “involve the merits” for purposes of the exception to the final judgment rule when it finally determines some substantial matter forming the whole or part of

some cause of action or defense. S.C. Code Ann. § 14-3-330; *Duncan v. Government Employees Ins. Co.*, 449 S.E.2d 580, 331 S.C. 484 (1994); *Tillman v. Tillman*, 801 S.E.2d 757, 420 S.C. 246 (S.C. App.2017).

The Orders on Appeal Finally Determined Respondents' Claimed Right to Withhold Funds

The January 16, 2019 order was immediately final as to Petitioner's \$47,972, because no reconsideration was sought. It became final as to all other matters when reconsideration was denied. Those matters are now the subject of S.C. Court of Appeals Case No. 2019-00362.

Following the final orders ending Aiken 1337, Respondents paid a sum into the clerk of court which they had a duty under the Probate Code to pay to Petitioner. Their duty was to pay a first-priority claim that has been liquidated and earning interest at an agreed rate since March 2008 to Petitioner. They did not do so, even though they had paid tens of millions of dollars in litigation costs, claims of an equal or lower priority than the judgment of Petitioner, to others.

Respondents, instead, paid the funds into the Clerk of Court for Aiken County, then asked the circuit court to enjoin the release of those funds until Richland 4900 is finally concluded.

At the behest of Respondents, based on patently incorrect information, the circuit court summarily approved the action and applied the inapplicable Rule 67 to enjoin the clerk of court from returning Petitioner's funds to her for an indeterminate time which may be a decade from now.

The circuit court summarily reversed Judge Early's order, then enjoined payment to Petitioner until Tommie Rae Hynie concludes a suit she commenced in 2010.

For purposes of determining whether an order is appealable, "final judgment" is a term of art referring to the disposition of all issues in the case. *Doe v. Howe*, 607 S.C. 354, 362 S.C. 212, rehearing granted in part, on subsequent appeal, 626 S.E. 2d 25, 367 S.C. 432.

The lower courts orders should be reviewed because they affect a substantial right and in effect determine and discontinue the action. *Duncan v. Government Employees Ins. Co.* 449, SE2d 580, 331 S.C. 484 (1994); *Tillman, supra*.

In this summary post-judgment proceeding, the only issue was Respondents' request that the circuit court bless its payment into court of funds which should never have been paid, depriving Appellant of her liquidated, undisputed funds. The court has done so.

Petitioner has no further ability to protect her substantial rights except in this appeal. For this reason alone, the appeal should not have been dismissed.

The Nonpayment Order are Immediately Appealable Because They Grant an Injunction

The Nonpayment Orders prohibit the Clerk of Court of Aiken County from paying to Petitioner funds that are hers and that are not subject to dispute. Quite simply, they are an injunction.

An injunction is a drastic remedy issued by court in its discretion to prevent irreparable harm suffered. *Peek v. Spartanburg Reg. Healthcare Sys.*, 626 S.E.2d 34, 367 S.C. 50. The circuit court granted an injunction of payment of \$47,972 with interest to Respondents, whose fiduciary had admitted that he has spent tens of millions of dollars in litigation costs.

The lower court has enjoined the Aiken Clerk of Court from releasing funds which belong to Appellant until some indeterminate time in the future, and for no legal reason.

The Lower Court's Adoption of Respondents' Unsupported Claim that in 2015 Appellant Consented to an Injunction in 2020 Violates Petitioner's Due Process Rights

The lower court, in this post-trial matter, supported its reversal of the clear 2017 summary judgment ruling granting Appellant her \$47,972, with interest and the January 16, 2019, with a finding that Petitioner consented to the injunction directing the Clerk of Court for Aiken Count not to deliver Petitioner's \$47,972, with interest, to her until some indeterminate future time tied to

another case. This claim by Respondents was absurd, and the lower court's adoption of it where there is not a scintilla of evidence to support the claim provides further evidence of the lower court's violation of Petitioner's substantial rights.

For the first time, Respondents' claimed that in 2015 -- two years before she was granted summary judgment in 2017 -- Petitioner consented in an email to the improper payment into the court of Respondents and an injunction which will prevent the Aiken Clerk of Court from paying the funds to Appellant for years. Respondents did not attempt this position before Judge Early in 2018. It was concocted for a new circuit court, unfamiliar with the massive record.

The lower court simply adopted the incorrect claim, part of the continuing retaliation against Petitioner and Buchanan which began more than a decade ago.

Enjoining Payment to Petitioner Until Hynie and SWB Conclude Richland 4900 Violates Appellant's Due Process Rights and Promotes Hynie's § 62-1-106 Violations

In October 2020 the Attorney General of South Carolina ("AG") released under FOIA documents which reveal the extraordinary actions of Hynie and her private counsel in Richland 4900 since it was begun more than a decade ago. The Court is asked to take judicial notice of these "October 2020 Documents" which confirm that Respondents and SWB have used the power of the State/AG to deprive Appellant of her Due Process rights.

The AG's October 2020 Documents make the improper violation of Petitioner's rights in the Nonpayment Orders clear.

On September 18, 2020 Hynie and others, through SWB, asked this Court in Case No. 2018-2229 to issue an order holding Petitioner in contempt of court for certain errors made by her counsel in the final brief. They did not reveal that the AG was not a client of SWB; never was a client of SWB; and that Bauknight had no authority to speak "on behalf of" the AG.

On October 6, 2020 a journalist published certain documents released under FOIA by the Honorable Alan Wilson, one of two Attorneys General of South Carolina (AGs) claimed by SWB to have been Hynie's co-Plaintiff in Richland 4900 from 2010 until 2017.

The AG's October 2020 FOIA documents begin to clarify the troublesome role of both Respondents' fiduciary and SWB in Richland 4900 for the last 7 ½ years.

On September 9, 2020, Respondents filed a Reply in Support of Motion to Dismiss Appeal as Interlocutory, which stated in part:

Instead of attempting to counter Respondents' arguments for dismissal, Appellant used the Return as a vehicle for a rambling, counter-factual screed against Tommie Rae Hynie...and, to a lesser extent, the breach of fiduciary duty case... "Richland 4900"... While Respondents cannot rule out the possibility that some of Appellant's rantings may be relevant to the merits of this appeal, it is clear that none of them is relevant to the threshold issue of appealability...

The Court should take time to look at this "screed." Facts do matter, especially when fundamental rights are at stake. In this appeal both Petitioner's Due Process and her Equal Protection rights as a creditor of Respondents are at stake.

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). Allowing Appellant's property to be held by the Court where no law or rule provides for that is a violation of her right to equal protection as a creditor. That is especially true where Respondents have admitted to spending tens of millions of dollars on other creditors from what they claim is a \$4.7 million music empire, while withholding \$47,972 from Petitioner.

CONCLUSION

Based on the foregoing, this Court should consider the extraordinary October 2020 documents; reconsider and reverse its decision to dismiss this appeal as interlocutory; and proceed with briefing in this matter.

Respectfully submitted,

s/ Adele J. Pope
Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
adele@popelawfirm.com
S.C. Bar No. 4501

Appellant pro se

October 26, 2019

Exhibit A

201 CCP4004900

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of 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

IN THE PROBATE COURT

Civil Action No. 2006C400007

SUMMONS

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RICHLAND COUNTY, S.C.

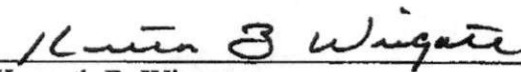
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JEANE L. M. McBRIDE
C.C.P. & G.S.

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,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
Everett A. Kendall, II
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 19, 2010

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of 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

IN THE PROBATE COURT

Civil Action No.

**COMPLAINT
(Jury Trial Demanded)**

10 MAY 19 PM 1:08
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ANY... LOCH
PROBATE JUDGE
RICHLAND COUNTY, S.C.
JEANE L. M. MCBRIDE
C.C.P. & G.S.

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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;

Complaint

- 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

Complaint

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

Complaint

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;

Complaint

- 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

Complaint

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;

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- 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

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- 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;

Complaint

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

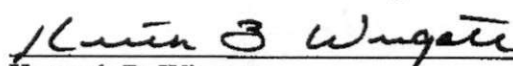
29. As a result of Defendants' negligent and grossly negligent acts and omissions, the Plaintiffs are entitled to judgment against the Defendants for actual and punitive damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law,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

SWEENEY, WINGATE & BARROW, P.A.


Kenneth B. Wingate
Everett A. Kendall, II
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 19, 2010

Exhibit B

STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge

The Honorable L. Casey Manning, Circuit Court Judge

Appellate Case Nos.: 2018-002229 and 2017-001899
Richland County Circuit Court Case No. 2010-CP-40-4900

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

And

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

v.

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

Of whom Adele J. Pope is Appellant.

MOTION FOR ORDER TO LIFT STAYAND FOR RELATED RELIEF

TO: PLAINTIFFS AND THEIR COUNSEL SWEENEY, WINGATE AND BARROW, P.A.

You will please take notice that ten days after service hereof, or as soon thereafter as this motion may be considered, Defendant Adele J. Pope will move before the Honorable Clifton Newman, Circuit Judge, pursuant to Rule 241 SCACR and other applicable rules and law for an order as follows:

1. Lifting the automatic stay imposed by Rule 241 SCACR which has been in force since September 12, 2017 as a result of the above appeals.
2. Upon lifting of the stay, voiding Respondents' attempted discovery as addressed in Exhibit A and Respondents' other attempted actions during the stay.
3. Joining pursuant to Rule 19, SCRCP, the successors in interest to Respondent Legacy Trust; the estate of Venisha Brown (Venisha)¹ and others as necessary.
4. Directing that discovery in this 10-year-old case proceed as expeditiously as possible in light of Court directions related to the COVID-19 pandemic.

The grounds of this motion are that Plaintiffs/Respondents, through Sweeney, Wingate & Barrow, P.A. (SWB), while opposing all motions to lift the automatic stay resulting from the above appeals are taking actions contrary to the stay and also actions to deprive the Court of jurisdiction and render the contested issues moot.

If the stay is not lifted; the parties corrected; and discovery allowed to proceed, the Court is in danger of losing jurisdiction over the parties and property subject to its jurisdiction since 2010. Further, the actions taken by Respondents threaten to render the contested matters in this pretrial appeal moot.

This motion is supported by the entire record in this case and in the two appeals from this case and the memorandum which follows.

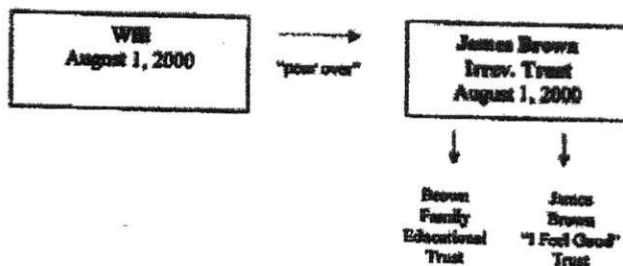
¹ To avoid confusion, persons with the last name Brown will be referred to herein by first names.

Memorandum in Support of Order Lifting Stay and Granting Related Relief

Richland 4900 and FOIA Before *Wilson v. Dallas*

On May 19, 2010 the AG, Legacy Trust and individual Plaintiffs, beneficiaries and owners of Respondent Legacy Trust,² sued Robert Buchanan, Jr. and Appellant Pope for tens of millions of dollars. The suit was to benefit the Legacy Trust, not the Estate/2000 Trust of entertainer James Brown. Respondents described the difference:

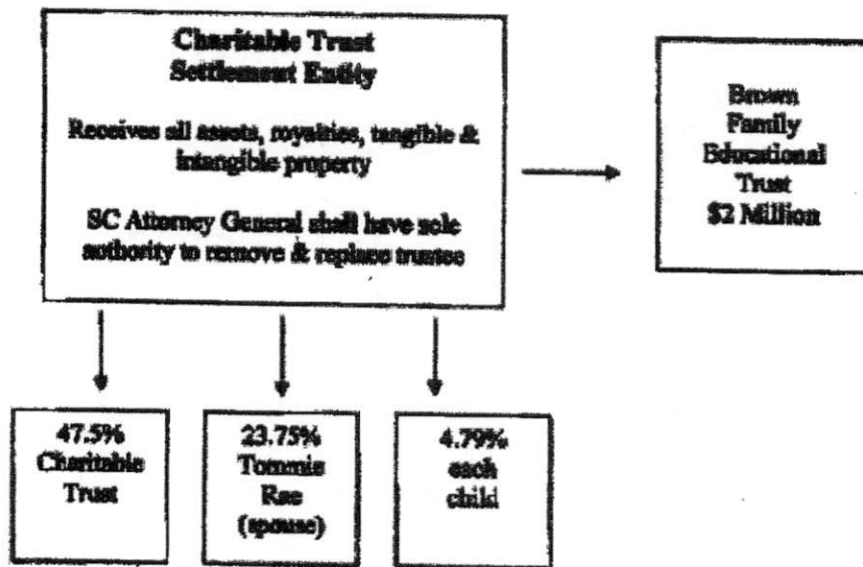
The original estate plan of James Brown included a Last Will and Testament which "poured over" the bulk of his estate to a separate, irrevocable trust that was created and funded on August 1, 2000. The relationship between the estate and the Irrevocable Trust are shown as follows:



Although in 2020 it has been shown to have no charitable component, in 2010 Respondents called the Legacy Trust a charitable trust and described its ownership and control as follows:

² Respondent James Brown Legacy Trust (Legacy Trust) was not created by James Brown. It was created by the AG and individual Respondents in 2008.

The Charitable Trust is diagrammed as follows:



The six 4.79% Legacy Trust owners were Respondents Terry, Venisha, Daryl, Larry, Yamma and Brown-Thomas.

In January 2011 Terry transferred his 4.79% to his son Forlando.³

In 2011 the AG, with others, began accusing Buchanan and Pope of a federal felony in Supreme Court filings. The false felony claim was based on a purported \$4.7 million "appraisal" of Brown's worldwide music empire secured by Russell Bauknight, trustee of the Legacy Trust, from Peter Afterman. The AG did not review the Afterman valuation.

³ Since January 2008 Forlando had been pursuing S.C. District Court Case No. 3:08-00014-WOB to help reinstate David Cannon and Albert Dallas as trustees of James Brown's 2000 Trust. Cannon had taken \$17 million from Brown. In 2011 Forlando planted the false Grammy © noted by the Supreme Court in its 2013 *Wilson v. Dallas* decision. A motion to add Forlando as a real-party-in-interest has been pending in this case since April 16, 2013 [ROA, pp. 776-777]

In 2011 the AG and Bauknight began a 9-year effort to disrupt and prevent FOIA compliance which continues in Richland 4900 today.

The Supreme Court's Opinion in *Wilson v. Dallas*

In February 2013 the Supreme Court issued its first *Wilson v. Dallas* decision.

In March 2013 Appellant met personally with the AG, the Solicitor General and the Chief Deputy AG to review the damage to Brown's charity of the \$4.7 million valuation.

In March 2013 the AG told the Supreme Court he was getting out of Richland 4900 and hoped to conclude the FOIA cases shortly.

Footnote 30 of the Supreme Court's final, May 8, 2013, opinion in *Wilson v. Dallas*, states:

We note that the AG and/or Bauknight have allegedly entered into contingency-fee agreements with outside counsel, Kenneth Wingate, for Wingate to sue Appellants on behalf of the State, Bauknight and others while also representing private plaintiffs in the suit. We are aware that a suit has been filed in Richland County seeking damages to Brown's estate allegedly arising during Appellant's service as fiduciaries. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this reported arrangement. However the AG has recently informed this Court, in petitions filed after this Court's initial opinion, that he is now withdrawing as a party in that lawsuit and his office will maintain a monitoring role.

The AG Supports the May 29, 2013 Plan to Disregard *Wilson v. Dallas*

The AG did not withdraw. Today he is still declining to comply with the 2011 FOIA requests. In 2020 he filed briefs to support the 7-year-old plan to disregard *Wilson*. The AG's support for disregarding *Wilson* began immediately after the decision, and Richland 4900 had been its main vehicle.

By May 10, 2013 the AG, with other Richland 4900 Plaintiffs, had reinstated Bauknight as Brown's fiduciary in Aiken County. The AG, through SWB, asked the Richland

County Court to stay both Richland 4900 and the FOIA suits indefinitely. This was followed by a written motion for stay.

On May 29, 2013 Tommie Rae and all Richland 4900 Plaintiffs except Terry Brown, through counsel, announced to the Honorable Doyet A. Early, III in open court their plan to disregard the *Wilson v. Dallas* decision and reinstate the AG's 2008 settlement. After the plan was announced, Sr. Asst. AG Havird "Sonny" Jones advised the Aiken Court of the AG's pleasure that Bauknight had been reinstated.

On June 13, 2013 at the request of Bauknight, Tommie Rae and the Levenson clients, the Aiken Court ordered that Buchanan and Pope not participate in any James Brown hearing except their own fee claims. The clerk of court was directed to return any attempted filing by either in another case.

By August 2013 Peter Afterman was helping Tommie Rae and her son James file public notices with the U.S. Copyright Office seeking to siphon off termination rights proceeds under Sections 304 and 203 of the Copyright Act to more than 90 songs. She and Bauknight had told this Court in 2010 that her termination rights proceeds, like those of all individual Respondents, were owned by the Legacy Trust.

That month, Bauknight defended the AG's 2008 settlement in a deposition, and claimed that Appellant [and presumably Buchanan] had "raped" James Brown's estate.

In October 2013 the Aiken Court conducted a *Wilson v. Dallas* remand hearing for Buchanan; approved all of his actions; praised his service, all of which was joint with Appellant; and confirmed that no disgorgement was necessary. The Court left open the possibility of Buchanan's re-entry into Richland 4900 pursuant to a 2012 motion to pursue counterclaims against parties other than Brown's Estate/2000 Trust.

In January 2015 the Aiken Court declared Tommie Rae to be Brown's spouse. That ruling is currently under appeal by Respondents Brown-Thomas, Yamma and Venisha.

On May 8, 2015 the Aiken Court filed a status report with the Supreme Court. The report praised Bauknight; denigrated Buchanan and Appellant; and failed to advise the Supreme Court of the May 29, 2013 announced plan of Tommie Rae and the Levenson clients to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement. The Aiken 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.* Status Report, p. 4[emphasis supplied]⁴

The Supreme Court Assigns Richland 4900 to the Honorable Doyet A. Early, III

On March 24, 2016 the Honorable Donald W. Beatty, then Acting Chief Justice, assigned Richland 4900 and two FOIA cases to the Honorable Doyet A. Early, III.

On April 11, 2016 the AG and others moved to consolidate discovery in this case with discovery in Aiken County Case 2013-CP-02-1337 ("Aiken 1337").

On May 17, 2016 the AG and other Richland 4900 Plaintiffs moved for summary judgment as to Buchanan's/Appellant's counterclaims, based solely on *Wilson v. Dallas*

In July 2016 the Aiken Court dismissed the two FOIA suits and ruled that Respondent Legacy Trust does not exist. Appeals followed which were resolved in 2019 and 2020.

On August 11, 2016 the AG filed a notice of special appearance and motion to be dropped as a party in Richland 4900 based on Rule 21 misjoinder.

⁴ Buchanan and Pope were not asked by the Court to respond to the status report, and did not. Others, however, advised the court of other inaccuracies contained in the status report.

At the August 2016 hearings the AG and Legacy Trust took the following positions:

1. The Legacy Trust claimed it did not exist but sought partial summary judgment as to the Buchanan/Pope counterclaims.
2. The AG claimed it was misjoined under Rule 21 and should never have been a party, but also sought partial summary judgment.
3. Both the AG and Bauknight sought certain discovery relief, and both continued to participate in discovery.

Appellant opposed the Rule 21 dismissal and summary judgment motions on various grounds, including that the AG had been active in the case for six years; discovery was ongoing; Respondents had been uncooperative in discovery; and motions to correct the parties to add Forlando and Buchanan were pending, along with other motions.

In 2016 and 2017 SWB was allowed to attend depositions of Governor McMaster, AG Wilson, Chief Deputy AG John McIntosh; Solicitor General Robert Cook; Sr. Asst. AG Creighton Waters; Sr. Asst. AG Havird "Sonny" Jones; Asst. AG Mary Frances Jowers; and AG auditor Sandra Matthews in Aiken 1337 to protect the AG, SWB's client in Richland 4900. Appellant also deposed 7 experts SWB and Respondent Estate/2000 Trust had jointly designated in Richland 4900 and Aiken 1337.

On March 1, 2017 the Honorable Jean H. Toal heard and denied motions of SWB partners Kenneth Wingate, Esq., and Everett Kendall, Esq., to prevent their depositions in Aiken 1337. Both were deposed in Aiken 1337, and refused to answer most questions. Their depositions were, however, very important.

In his 2016 deposition Governor McMaster testified emphatically that he did not authorize SWB to bring Richland 4900 in the name of the State/AG; did not authorize Bauknight to act "on behalf of" the AG in Richland 4900; and did not even know he was a named Plaintiff in Richland 4900 until after he left office in January 2011.

The Solicitor General testified that he, also, did not and could not have authorized Richland 4900. He also testified that in a March 2013 meeting he believed Appellant to be competent, concerned about Brown's "I Feel Good" charity and not the greedy felon she had been characterized to be in filings by SWB, the AG and Bauknight.

AG Wilson, who had secured an order not to be deposed in Richland 4900, was deposed in Aiken 1337. He did not recall, but did not challenge, Appellant's account of the March 2013 meeting where Appellant raised concerns about the millions of dollars damage the Bauknight/Afterman claimed \$4.7 million valuation had done to Brown's charity, and how it might be quietly corrected. [It was not corrected.]

The Aiken Court granted the AG's motion to be dropped as a party in orders that became final on August 14, 2017.

Respondents Oppose Lifting the Automatic Stay Despite Changes in Parties

On September 12, 2017 Appellant filed Court of Appeals Case No. 2017-001899. In 2017-001899 Appellant seeks to reverse circuit court orders granting the AG's motion to be dropped under Rule 21; declining to disqualify SWB from representing the office of the AG; declining to enjoin Bauknight from purporting to speak for the office of the AG; and setting aside entry of default of all Respondents.

On December 6, 2017, the circuit court, at the request of Respondents, denied Appellant's motion to lift the automatic stay imposed by the filing of 2017-001899.

On January 12, 2018 Respondents Tonya, Yamma, Venisha and Deanna Brown-Thomas, with others, sued Respondents Bauknight, Tommie Rae, James and others in California District Court over the termination rights proceeds which all had told this Court

in 2010 were owned by the Legacy Trust and held by Bauknight as its trustee. [ROA, pp. 1345- 56]

On February 28, 2018 Bauknight admitted in the California Suit that tens of millions of dollars in litigation costs had been spent from James Brown's charity since Brown's death, all to be paid from funds Brown gave his "I Feel Good" Charity. Tommie Rae and James asserted that they are residents of London, U.K.

In 2018 Respondents' experts Roger Miller and Bradley Sharp testified in Aiken 1337 that termination rights proceeds of *all* heirs had a value of \$8.8 million.

By May 2018 the testimony of Governor McMaster, AG Wilson, Chief Deputy AG John McIntosh; Solicitor General Robert Cook; Sr. Asst. AG Creighton Waters; Sr. Asst. AG Havird "Sonny" Jones; Asst. AG Mary Frances Jowers; and AG auditor were presented by Appellant in Aiken 1337. Respondents have admitted that this testimony covers the same facts and issues in Richland 4900, but are now attempting to prevent Court review of this testimony and the related documents.

On September 19, 2018 Respondent Venisha died intestate, a resident of Aiken County. She owned own a *vested* interest in U.S. royalty termination rights proceeds to at least 246 songs, payable between 2018 and 2026, either in the Legacy Trust or as a successor. Appellant's counterclaims against Venisha are a subject of both appeals from Richland 4900.

On October 10, 2018 John Donsbach moved to be relieved as counsel to Terry in this case. Although the motion is pending and Forlando advised SWB years ago that he had terminated SWB, SWB continues to act for Terry in Richland 4900.

On October 30, 2018 Appellant moved to lift the automatic stay. [ROA, pp. 1325 - 1369] She incorporates herein, and supplements, the reasons and arguments to lift the stay.

In November 2018 Respondent Brown-Thomas filed sworn documents with the Aiken Probate Court asserting Venisha had little or no assets at her death.

Both Appellant and Louis Levenson, Esq., Venisha's former attorney, filed claims in Venisha's estate in the manner prescribed by the Probate Code where no PR has been appointed.

On November 25, 2018, during the pendency of the stay imposed by the first pretrial appeal, the circuit court issued its final ruling granting summary judgment to all Respondents as to the Buchanan/Pope counterclaims. Discovery was still pending, as were motions to correct the parties.

In January 2019 Judge Early issued an order in Aiken 1337 which faulted Buchanan and Pope for appealing the AG's 2008 settlement. The order overlooked material testimony and documents of the Governor, the AG, the Solicitor General, Wallace Lightsey, Jr., Esq., SA/ST David Sojourner, Esq; Rita Caughman, Esq; Graham Foundation Trustee Stephen Lambert; Philanthropist Judge (Retired) Walter Williams; and other expert and fact witnesses.⁵

In 2019 Brown-Thomas served Appellant with a petition for formal probate. Appellant responded properly seeking appointment of herself or someone else with termination rights knowledge to protect the creditors of Venisha's estate.

⁵ The January 2019 order praised Bauknight even though, with the \$4.7 million claimed value, he had shifted about \$1 million a year and nearly 1/3 (31%) of Brown's "I Feel Good" Charity from the charity to family members for up to 20 years, causing serious tax and charitable problems; overstated the TIAA debt by \$3+ million; allowed James Brown's critical tax files to be destroyed; never properly accounted for the tens of millions of dollars he has spent since 2009; and did not have any idea of the value of Brown's Estate/2000 Trust at trial. The order is now subject to appeal in Case No. 2019-000362,

On February 26, 2019 Judge Early issued an order denying Appellant's October 30, 2018 motion to lift the stay to correct the parties.

In its final decision of May 22, 2019 in Court of Appeals in Opinion No. 5651, Terry took the position that he never opposed the estate plan and that Respondent Bauknight shirked his duties by not imposing the no contest clauses in Brown's Will/2000 Trust against Respondents Venisha, Yamma, Brown-Thomas and others. SWB, however, continues to take the exact opposite position for Terry in filings, including by seeking sanctions for Terry against Appellant, one of the few people who defended the estate plan.

On October 18, 2019, after Appellant answered the petition served on her by Brown-Thomas, Brown-Thomas sought sanctions against her in Venisha's estate, Aiken Case 2019-CP-02-00320. Then SWB, purportedly speaking for the AG, the claimed nonexistent Legacy Trust and others, joined in the request for sanctions. Both seek to deprive this Court of jurisdiction it has had over Venisha's termination rights proceeds since 2010.

On October 28, 2019 Respondent Tommie Rae filed a petition in a S. C. Supreme Court case that advised the Court that she was retaining 35% of the termination rights proceeds she had advised this Court in 2010 she had put in the Legacy Trust. [Mot., p. 2]

An affidavit of Peter Afterman was attached to the motion which asserted that termination rights are worth tens of millions of dollars. Afterman had previously valued the entire music empire at only \$4.7 million. Afterman's claimed \$4.7 million valuation was the source for the AG's false felony claim.

On November 19, 2019 Respondents Yamma and others asserted that Tommie Rae's motion was improper and "inaccurate and highly misleading," but did not inform the Court

that Tommie Rae's - and their - termination rights proceeds had been placed in the Legacy Trust in 2009.

On December 27, 2019 in a filing in the South Carolina Supreme Court in Appellate Case No. 2018-001990, Respondent Tommie Rae filed additional information about the 35% of termination rights proceeds she is retaining. Because of her relocation to the U.K. jurisdiction over these assets formerly represented to be in the Legacy Trust may be lost.

On April 1, 2020 the Supreme Court denied certiorari in Appellate Case No. 2019-001581, leaving in place a 2016 order that confirms that Richland 4900 is now being pursued *solely for private, individual* Respondents and Forlando as the owners and/or successors to the Legacy Trust, namely:

Tommie Rae: about 46%

Venisha's Estate, Daryl, Larry, Yamma, Forlando and Brown-Thomas: about 9% each

Due Process Requires that the Parties be Corrected

Since 2010 Appellant has been sued for tens of millions of dollars by the State/Attorney General who now says he was never a party to Richland 4900. The State/AG's claims against Appellant in this 10-year-old civil suit have included a claim that Appellant and Buchanan committed a federal felony. The claims are so strong, and so incorrect, that the AG has asserted that he has prosecutorial immunity for his actions.

In 2020 the Attorney General continues to claim he was never a proper party while filing briefs which actively support the announced May 29, 2013 plan to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement which gave about \$2 million a year and half of Brown's charity to Tommie Rae and six former Levenson clients. In addition, the AG is taking

action through SWB to sanction Appellant without reason; deprive the court of jurisdiction; and render issues in this appeal moot.

Rule 17 SCRCP requires that every action shall be prosecuted in the name of the real party in interest. Due Process and Equal Protection prohibit the State/AG from singling out citizens to attack. Due Process requires that a private law firm not legally authorized to act not seek sanctions on behalf of the State/AG. Due Process requires that SWB not continue to act for a Trust which has secured a ruling that it does not exist. For these reasons, alone, the stay should be lifted; the parties corrected; and the efforts of the AG, SWB and Respondents to render contested issues moot and deprive the Court of jurisdiction over the parties and property which is the subject of this action.

The Court is in Jeopardy of Losing Jurisdiction over Legacy Trust Assets

In 2020 it became irrefutable that the AG has given up any claim for any charity to the Legacy Trust assets. Appellant, however, has not given up her claim to the Legacy Trust assets, and Buchanan's position as to them has been in limbo since 2012.

Now the AG, SWB and Bauknight are working with, or allowing, Afterman and others to siphon off portions the Legacy Trust's valuable termination rights proceeds.

Bauknight's Explanation for the Disappearance of the Legacy Trust

Bauknight's January 31, 2017 deposition testimony about the alleged disappearance of the Legacy Trust and its assets is inadequate. It is also directly contrary to the sworn 2016 and 2017 testimony of both Governor McMaster and AG Wilson. Neither knew anything about its operation.

Asked about the Richland 4900 caption, Bauknight stated, in part:

Q. Well, it says "Russell L. Bauknight as Trustee of

11 **the James Brown 2000" --**

12 A. Ah, okay. Well, I can explain this caption to
13 you, I believe. "Russell Bauknicht," that's me,
14 "Trustee of the James Brown 2000 Irrevocable Trust
15 and the James Brown Legacy Trust" -- which existed
16 at the time was filed -- "and as Personal
17 Representative of the Estate of James Brown."

...

6 The reason that the Legacy Trust was listed
7 there and the reason that Henry McMaster is
8 listed there is that though Judge Early had
9 approved the settlement agreement, we knew you
10 were going to appeal it and everyone in this
11 case that was a party to the settlement
12 agreement was in fear that you would somehow
13 come back into power, Ms. Pope, and they knew
14 that the first thing you would do is drop the
15 lawsuit against yourself and if you did that,
16 if we didn't have Henry McMaster there
17 protecting the charity, there'd be no one to
18 prevent you from coming back. So that's the
19 reason he was listed here as part of that
20 charity. And it ultimately was reversed when
21 the Supreme Court sent that back down to Jack
22 Early or Judge Early to take more testimony,
23 the Legacy Trust ceased to exist. . .

...

8 ... And Henry McMaster has
9 looked at what's going on in the estate and
10 trust for the benefit of the charity -- not
11 Henry McMaster, but the Attorney General has
12 looked at that. They're very satisfied.
13 They've clearly said they're very satisfied
14 with what I'm doing it by administration.

...

18 **Q. So who gave them --**

19 A. But I'm not their agent.

20 **Q. -- permission to bring a suit on behalf of Henry**
21 **Dargan McMaster?**

22 A. I don't know the legalities, but you're well aware
23 of how all of that came about. You've had these
24 discussions. I'm not a lawyer.

This suit was brought for the benefit of the Legacy Trust. Bauknight represented to the Court in 2010 that he was administering the Legacy Trust in Richland County. Now the Legacy Trust seeks to deprive the Court of jurisdiction by disappearing into thin air. The stay should be lifted to stop this by making the successors parties under Rule 19.

Attempts of the AG and SWB to Suppress Testimony of the Governor and Others

In his sworn testimony Governor McMaster stated emphatically that he did not authorize SWB bring Richland 4900 in the name of the State/AG; that he did not authorize Bauknight to speak for the AG; and that he did not know that, as AG, he was a named Plaintiff in Richland 4900 until after leaving office as AG in January 2011. SWB is currently actively seeking to suppress and render moot this material testimony, and that of the Solicitor General.

Attempts to Suppress the Testimony and Documents of Wingate and Kendall

SWB and the AG are both working to render the issue of whether Richland 4900 was unconstitutional from its inception moot, even though it is a critical issue in this pretrial appeal and will be at trial.

On March 1, 2017 the Honorable Jean H. Toal directed Kenneth Wingate, Esq., and his partner Everett Kendall to testify about their bringing and continuation of Richland 4900. Wingate insisted that Richland 4900 was authorized by the now-Governor. This is in direct conflict with the testimony of the Governor and other evidence. The two also testified they were unaware of any change in parties since Richland 4900 was filed.

This important testimony is critical to the issues in controversy in this case and appeal.

Violations of Appellant's FOIA and Other Rights

Among the actions to render matters in controversy moot are SWB's continued action, purportedly on behalf of all Respondents, to prevent release under FOIA or discovery of the long-public Wingate contract.

In the FOIA remand in Richland 4900, the AG is continuing to violate both Appellant's FOIA rights and her First Amendment and Due Process rights by asking the Court to strike affidavits of members of the general public from the period 2011, 2012 which were part of the ROA in the FOIA appeals. This attempt to whitewash the consolidated record in this case and render moot the issue of the AG's 9-year FOIA noncompliance for the benefit of the Legacy Trust and support for an unconstitutional lawsuit should be checked.

This suppression of the public records, if not checked, will rewrite the facts in a way which leaves the Court without jurisdiction, renders contested matters moot, or both.

Violations of the Stay to Deprive the Court of Jurisdiction and Render Contested Matters Moot

While actively working to prevent lifting of the stay, Respondents, through SWB, served Appellant with discovery in 2020. Appellant's responses are found in Exhibit A.

Discovery should take place. SWB, however, should not be allowed to continue to act for the nonexistent Legacy Trust, the AG, the deceased Venisha, and Terry. The stay needs to be lifted to strike these violations of the automatic stay; correct the parties; and conclude with all discovery that can be completed while the appeals are pending.

CONCLUSION

For the reasons stated herein and for the reasons stated in Response and Objection to Discovery Requests attached hereto; and the reasons stated in Appellant's October 30, 2018 motion to lift stay, the automatic stay in this matter should be lifted; the actions taken by SWB during the automatic stay voided; and the parties corrected under Rule 19 as stated herein and found within pending motions. Discovery in this 10-year-old case should proceed.

Respectfully submitted,

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April 27, 2020

Counsel for Appellant Adele J. Pope

Exhibit C

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

FORM 4

Case No. 2013 CP 02 1597
Pending in Aiken County
JUDGMENT IN A CIVIL CASE

In re: Motion of Kenneth B. Wingate and Everett A. Kendall
Adelle Pope

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional information for the Clerk: *Motion of Kenneth B. Wingate and Everett A. Kendall to dismiss their Deposition Supervisors Denied.*

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of this boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code 2708

Date 3-1-12

For Clerk of Court Office Use Only

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

*Plaintiff will be permitted to answer each of these attorneys on their authorization to file

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT

Court Reporter

Clerk of Court

and continue the lawsuit of the Attorney General and others against Robert Richardson and Adelle Pope, filed May 19, 2010 and continuing today.

0267

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Exhibit D

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	Case No. 2013-CP-02-1337
	)	
Adele J. Pope,	)	
	)	
Plaintiff,	)	
	)	AFFIDAVIT OPPOSING PAYMENT
v.	)	INTO COURT
	)	
Estate of James Brown, Deceased et al.,	)	
	)	
Defendants.	)	
	)	

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

1. This affidavit is based on my personal knowledge. The opinions about Section 203 and 304 of the U.S. Copyright Act ("Termination Rights") and Estate Planning, Probate and Trust matters are made to a reasonable degree of professional certainty within my areas of expertise.

2. On August 16, 2017, for the second time, the Honorable Doyet A. Early, III, awarded me, for my Special Administrator (SA) service to the estate of entertainer James Brown, \$47,972, with interest at the rate of 8 ¾% from March 8, 2008, until paid in full.

3. By the sworn admission of Russell Bauknight, in January 2017, "millions" of dollars James Brown gave his "I Feel Good" Charity have been spent to defeat this claim and an additional approximately \$1.4 million, with interest from May 26, 2009, which was also awarded to me by Judge Early ten years ago.

4. I am informed and believe that the request to deposit into the court the \$47,972, with interest "until paid" should be denied because Rule 67 should not be

applicable because the amount is not in dispute and there is no appeal. In addition, I believe the motion is punitive and intended to further damage me for the personal benefit of Russell Bauknight, Tommie Rae Hynie and either Attorney General Alan Wilson (AG Wilson) or his Sr. Assistant AG Havird "Sonny" Jones (AG Jones), in their pursuit of an illegal¹ lawsuit filed against Robert Buchanan, Jr. (Bob) and me on May 19, 2010.

5. I am informed and believe that the actions of Bauknight, Bauknight music "expert" Peter Afterman, a dozen Nexsen Pruet (NP) lawyers, Alan Medlin, Esq. and AG Jones which have been uncovered and/or confirmed since I was denied partial summary judgment as to the \$47,972 -- especially since the November 1, 2017 deposition of Louis Levenson, Esq.-- show that the deposit into the Court should not be granted, and that Bauknight has, without any legal authorization to do so, pursued a vindictive, unconstitutional lawsuit against me to benefit himself, Tommie Rae and either the AG himself or AG Jones.

6. I am further informed that the attempt of Defendants to present the millions of dollars they have wasted on attacking me to the Court *in camera* and *ex parte*, as they presented the "Ethics Opinion" of Nathan Crystal, Esq., in 2013, and as Tommie Rae's son, James B., presented in his outrageous PR/GAL 2016 claim for \$700,000.00, puts me in great jeopardy of not being able to collect my claim.

7. I ask the Court to take judicial notice of the position of Bauknight and his 12 NP lawyers in the South Carolina Court of Appeals on September 13, 2012, in their

¹ The AG, although a Plaintiff, has not overseen the Wingate lawsuit; Governor McMaster says he did not authorize it to be brought in the name of the State/AG and did not authorize Bauknight to act "on behalf of the Attorney General of South Carolina;" and there is no valid, signed contract with the State or most Plaintiffs for the 23 - 40% contingency.

effort to conceal Tommie Rae's handwritten admissions that she was married, living with her husband and possibly pregnant when she took up with Brown; falsified her sworn application for a marriage license; and conducted a ceremony with Brown.

8. In that pleading, signed by AG Sonny Jones for AG Wilson, and offered by Bauknight through NP, Defendants said:

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. ...Pope has inappropriately used her brief to... carry out a back-door challenge to the family's Settlement agreement...Consequently, before turning to the legal issues it is necessary to set the record straight.

Tommie Rae and James were married in Beech Island...on December 14, 2001. Mrs. Brown gave birth to their son James Brown...

Although Pope professes to speak for James Brown, he had a different position than Pope. ...

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 presented 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.

[Emphasis sup., Mot to Dismiss or Stay Appeal, *Pope v. Wilson et al.* 9/13/2013, pp. 2-5]

9. On May 29, 2013, ignoring *Wilson v. Dallas*, counsel for Tommie Rae, Deanna and Yamma announced openly to Judge Early their intention to reinstate the AG's settlement that placed the AG (AG Jones) and Tommie Rae in direct 75% control of James Brown's assets for their personal benefit; dismembered Brown's noble estate plan; and reaped about \$20 million in undeserved legal fees for Robert Rosen, Esq., Alan Medlin, Esq., Louis Levenson, Esq., and David Bell, Esq.

10. As AG Wilson continued to express confidence in Bauknight – and with Bob Buchanan and Adele Pope prevented from appearing at Aiken hearings - Judge Early heard only what AG Jones and NP wanted him to hear.

11. In July 2013 NP delivered an *ex parte* "ethics" opinion to Judge Early which gave Judge Early comfort that it was appropriate for Bauknight to defend the estate plan he and a dozen NP lawyers had been attacking for four years. [Status Report, Jg. Early, 2015] The expert who delivered the opinion, Nathan Crystal, Esq., is now an expert for Tommie Rae in the Wingate Suit and for Defendants in this suit.

12. In October 2013, after being the only person to question Bauknight when he sought to be reinstated after his void appointments, Judge Early found that Bauknight, nominated by Will contestants Deanna and Yamma, was by far the most qualified candidate. Judge Early endorsed Bauknight's false claim that Peter Afterman had provided enormous benefit to James Brown's estate. He found that Bauknight had done a fine job on taxes, and everything was up to date. Judge Early found that the heirs determination was complete. He found that Bauknight had paid off \$14 million of the TIAA debt between 2009 and 2013.

13. In fact, the TIAA debt was \$11 Million in 2009 when Bauknight took office. And Bauknight had overstated it by the same \$3 Million to obtain the PBW valuation of Brown's music empire at \$4.7 Million. Then Bauknight and two NP lawyers had presented the false valuation to the IRS; overstated Brown's charitable deduction by \$2 million; and obtained an ill-gotten closing letter which shifted 1/3 of Brown's assets from the "I Feel Good" Charity to the taxable Grandchildren's Trust.

14. But for *Wilson v. Dallas*, the \$4.7 Million valuation Medlin, AG Jones and

Peter Afterman crafted would have resulted in more than 80% of Brown's assets being taken from Brown's "I Feel Good" Charity for Tommie Rae, the Levenson Will contestants and for the AG's newly-created Grandchildren's Trust, which bore no relation to what James Brown intended to do for 7 select grandchildren.

15. Baunight did not tell Judge Early that a month earlier Peter Afterman was helping Tommie Rae and her son James B. file defective public Termination Notices to try to siphon off U.S. Royalties from 90 of the "I Feel Good" charity's 900 copyrights for Tommie Rae between 2015 and 2023; that she would get \$1 million in 2015; and that it would rise to \$1,875,000 by 2017. Nor did Bauknight tell Judge Early that Peter Afterman was soliciting Deanna, Yamma and others as clients to siphon off even more royalties from Brown's "I Feel Good" charity.

16. Judge Early also appointed David Sojourner, Esq., to defend against the claims of Tommie Rae and her son.

17. By 2015 Sojourner and his lawyer would have ignored the defenses the Estate had already raised against Tommie Rae, including her defective pleadings; taken one deposition; done nothing to stop the defective Termination Rights elections; failed to proffer Tommie Rae's handwritten admissions that she was married when she conducted the bigamous ceremony with Brown; excluded anyone from the Tommie Rae spousal determination who was not represented by one of the lawyers to the AG's 2008 settlement; charged \$1.4 Million; and claimed he had no responsibility for protecting the "I Feel Good" Trust's copyrights from Tommie Rae.

18. The Court declined to grant me summary judgment even as to the \$47,972 based on Bauknight's claim that it was prohibited by *Wilson v. Dallas*. Bauknight and

his counsel did not disclose that the incorrect Grammy© claim cited by the Supreme Court had been planted by Bell and Forlando Brown in January 2011.

19. The Supreme Court was reasonably disturbed by the repeated – and false – claim made by AG Wilson, Tommie Rae and Bauknight that Bob and I were seeking a \$5 million commission from a \$5 Million estate. What the Supreme Court did not know is that the \$4.7 Million figure was not the product of an independent appraisal, but of Medlin, Afterman and Bauknight, with the consent of the AG (AG Jones).

20. Contents of the still-hidden PBW appraisal were revealed in March 2013 by Tommie Rae's son. He confirmed , with other documents, that Medlin, Bauknight and Peter Afterman had valued Brown's 900 copyrights at \$23.7 Million at Medlin's suggestion. Also at Medlin's suggestion Brown's Right of Publicity was valued at ZERO. Then, aided by two NP attorneys, Bauknight had overstated Brown's TIAA debt by \$3 Million; valued Brown's Tangible Personal Property at ZERO; valued the claim against GT/Cannon at ZERO; and valued the Morgan Stanley, Farr and other claims at ZERO.

21. AG Wilson never reviewed the fabricated PBW "appraisal," nor did AG Jones or Asst. AG Mary Frances Jowers (AG Jowers). Yet the AG, relying on AG Jones, used the fabricated \$4.7 million from 2011 until 2013 in Supreme Court filings to accuse Bob Buchanan and me of the federal felony of overstating Brown's assets by \$79 Million to obtain a \$5 Million commission.

22. In his 2015 Status Report to the Supreme Court, and after having excluded Bob and me from all Aiken proceedings except our own claims, Judge Early told the Supreme Court that he thought my \$47,972 SA claim was \$2 Million and that my

PR/Trustee commission claim was \$5 Million. [Status Report]

23. Judge Early's statement that my \$1.4 million claim earned in 2013 and additional requested \$1.4 million discretionary claim was \$5 million was apparently taken from claims Bauknight had been making to Judge Early since June 2013.

24. I am further informed and believe that the millions of dollars Bauknight has spent of James Brown's assets since 2013, and his failure to file any proper accountings, have violated my right to be timely paid my first priority claim; aided Tommie Rae and her son James B. in violations of the Statute of Elizabeth; and placed in jeopardy my entire claim in this case.

25. I am further informed and believe that Bauknight is now poised to spend millions of additional dollars of funds James Brown gave his "I Feel Good" charity to defend himself and David Sojourner, Esq., for his having maintained an inappropriate relationship with Tommie Rae; Sojourner's failure to protect the charity's copyrights from Tommie Rae and James B.; Peter Afterman's helping Tommie Rae siphon off "I Feel Good" Trust royalties; and the AG's condoning these acts, and that the entire claim is threatened by these expenditures. [See Exhibit A]

26. My claim in this case, including the \$47,972, with interest, has also been jeopardized by Defendant's continuing claim that James Brown's assets were worth only about \$6.5 Million at his death while spending more than \$5 Million since 2013, the year this case was filed.

27. The following is a brief chronology of the events described above and the role the AG (AG Jones), Bauknight and NP have played, and the money they have spent, to damage Bob and me in their effort to reinstate the AG's 2008 settlement deal:

- a. On May 8, 2013 the S.C. Supreme Court voided the AG's 2008 settlement and voided all fiduciary appointments of Bauknight;
- b. On May 29, 2013 counsel for Tommie Rae, Deanna Thomas, Yamma Brown and other will/trust contestants announced to Judge Doyet A. Early, III in open court their intention to reinstate the AG's settlement which gave Levenson about \$9 million and Tommie Rae's lawyers about \$10 million.
- c. I was served with the Disallowance on May 29.
- d. I filed this suit, as required by the Disallowance, on June 10, 2013.
- e. On June 13, 2013 Jg. Early banned Bob and me from James Brown hearings.
- f. In August 2013 Peter Afterman helped Tommie Rae file Termination Notices
- g. In August 2013 Bauknight confirmed Peter Afterman was the "expert" who advised PBW on the \$4.7 million valuation
- h. In Sept. 2013 Bauknight asked to be reinstated as PR/Trustee .
- i. In Sept. 2013 Afterman solicited Deanna and Yamma as clients to siphon off the "I Feel Good" charity's U.S. royalties.
- j. In October, nominated by Deanna & Yamma, Bauknight became PR/Trustee.
- k. In the year 2013 Bauknight disbursed \$2,475,246.49 from James Brown's Estate. The accounting for 2013 shows an ending balance of \$469,870.18, with "all other assets" valued at \$1. Distributions include:
- | | |
|---------------------------------|--------------|
| Peter Afterman's Firm | \$280,000 |
| Rodney Peeples | \$159,861.67 |
| Bauknight's Firm | \$165,000 |
| Nexsen Pruet | \$335,000 |
| Shawn Thomas (Deanna's husband) | \$100,801.49 |
| Melesh Construction | \$92,637.74 |
- l. In 2014 Judge Early dismissed portions of my Complaint under Rule 12(b) based on assurances that there were funds to pay my debt.
- m. In the year 2014 Bauknight disbursed \$2,657,621.76. The accounting shows an ending balance of \$712,643.73. Disbursements included:
- | | |
|-----------------------|-----------|
| Peter Afterman's firm | \$265,000 |
| Nexsen Pruet | \$850,000 |
| Sojourner | \$660,000 |
| Bauknight's Firm | \$315,000 |

n. In 2015 Judge Early's Status Report said he had denied my partial summary judgment. Judge Early praised Bauknight and repeated incorrect information from Bauknight about claims of Buchanan and Hayes.

o. In 2016 and 2017, the following, with others, were deposed and said:

Governor Henry McMaster – He did not sue Buchanan/Pope; did not authorize Wingate Firm to sue in name of State/AG; and did not authorize Bauknight to file suit "on behalf of the Attorney General of South Carolina." He knows nothing about facts; did not read Brown's Will; and relied on Sonny Jones and staff. Doesn't know anything about AG's Legacy Trust he used to exercise control over Brown's assets w/ Tommie Rae from 2009 until 2011.

Attorney General Wilson - In January 2011 authorized the Wingate Suit to continue against Bob and me, but did not inquire; knows nothing about the suit; knows nothing about AG's Legacy Trust through which he (AG Jones) and Tommie Rae exercised control over Brown's assets from 2011 to 2013. Knows nothing about tax consequences of \$4.7 million valuation. The AG has no recollection of March 6, 2013, meeting where I advised him of damage to "I Feel Good" Charity and its 900 copyrights if Bauknight's incorrect IRS filings were not corrected.

Solicitor General Robert Cook Did not authorize Wingate Suit; believes Pope to be competent and concerned about charity; confirms issues raised in meeting with Pope and Adam Silvernail in March 2013; Never seen a suit like the Wingate Suit. Relied on AG Jowers and AG Jones for Petition for Rehearing in *Wilson*. Did not speak to AG McMaster when made statements about filing the Wingate Suit in the Petition for Reharing in *Wilson*.

Sr. Asst. AG Jones - Has no understanding of Copyright issues and Tax issues; Claims he enjoyed a privilege with Tommie Rae and Medlin from 2008 until May 8, 2013, under the "Common Interest" doctrine, and enjoys one with Bauknight today. Claims to know nothing about Wingate Suit since 2013. Claimed AG was not a Wingate Suit Plaintiff until confronted with Complaint.

Fmr. Chief Deputy John McIntosh – Did not authorize Wingate Suit to be brought in name of State/AG or Bauknight to sue on behalf of State. Doesn't remember March 2013 meeting with Silvernail and Pope or AG/Pope meeting he attended.

Everett Kendall, Esq. - Wingate firm attorney. Unsure whether AG McMaster saw his name as Plaintiff on the Wingate Suit Complaint or not. Worked for years with Sonny Jones and AG Jowers on all Wingate Suit matters.

Kenneth Wingate, Esq. Refused to answer most questions. Is the only person who directly contradicts claim of Governor McMaster that he did not authorize

Wingate Suit to be filed in name of State/AG.

Roger Miller – Estate's expert. Confirms Brown's music catalog "solid gold." Copyrights alone worth \$45 - \$60 million when Brown died. This figure, alone, With the TIAA debt corrected, would more-than quadruple the Afterman/PBW \$4.7 Million "appraisal."

Louis Levenson, Esq. – Confirmed Peter Afterman's attempts to solicit Deanna Yamma and others to siphon off "I Feel Good" Trust copyrights. Confirmed planting false Grammy © story consistent with Bell/Forlando's actions. Confirmed he still thinks Brown's Will and 2000 Trust should be set aside.

Jonas Herbsman, Esq. - Termination Rights expert, but has no litigation expertise; Was told Tommie Rae was Brown's spouse when hired jointly by Bauknight and Wingate Firm; Does not understand relationship between probate law and Termination Rights.

Wm. Jeffrey Smith - Co-author of *Private Foundation, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust* doesn't... Confirmed the damage Bauknight has done by failure to protect the 900 copyrights from Afterman, Deanna and Tommie Rae.

Wallace Lightsey, Esq. – Confirmed that charities such as Ray Charles Foundation and James Brown "I Feel Good" Charity have multiple strategies to protect themselves in Termination Rights claims.

William Sellars, CPA - Was never asked for file by Bauknight, PBW or Afterman. File was destroyed after 6 years under routine file retention policy. Had little memory, but would not have signed the Estate Tax Return with \$84 Million for Schedule F2 "Music Empire" and \$83 Million Deduction to "I Feel Good" Charity If had not believed it to be reasonable.

W. Steven Johnson Opined in 2009, and again at deposition in 2016, that work of Buchanan/Pope was extraordinary.

Thomas Pope III – with Jay Bender, Esq., defended journalist when AG, through Wingate, sought her sources and notes, and when Judge Early issued Rule to Show cause after she published Tommie Rae's handwritten admissions. Confirms AG told Judge Eugene C. Griffith that nobody in AG's office had reviewed the claimed \$4.7 Million valuation. AG refused to produce Tommie Rae admissions she was not married to Brown. AG claimed he did not have December 2010 Amendments to AG's Legacy Trust signed by AG McMaster, Medlin, Terry Brown and Levenson.

Russell Bauknight Deposed in 2017, Bauknight accepted no responsibility for the \$3 Million overstatement of the TIAA debt; the \$2 Million overstatement of

the Estate's charitable deduction. Claimed he did not know of \$1 Million Tommie Rae had received and another \$1 Million to Deanna and others until the money changed hands.

Ray Gonzalez, Esq. - Former counsel to Estate/2000 Trust when Bob and I were PR/Trustees. Confirmed that he agreed to be successor Trustee; confirmed Bauknight did not pay his 2009 bill for about \$6,000. Confirmed that NP William Klett, Esq., requested file and Gonzalez requested payment in 2011, but was not paid. Confirmed that Klett directed him to destroy all copies and evidence that the file had been requested, and to ask Buchanan and Pope to destroy his request to them for permission to release file. Confirmed that Bob and I separately declined to destroy the communication because of pending litigation.

p. Defendants claimed that I was not entitled to partial summary judgment as to the \$47,972 SA fee and \$1.4 million court-approved contract, with interest, because of Richland 4900 and a false Grammy © story planted in January 2011 with the Kilpatrick Stockton law firm which Bauknight knew to be false.

q. In 2016 Tommie Rae was deposed in the Wingate Suit and said she had received about a million dollars for the "sale" of three of Brown's 800 songs, but the lawsuit recently filed against her, a copy of which is attached as Exhibit A, claims she received \$1,875,000.

r. In 2016 Bauknight and the AG failed to oppose an open-ended Order granting the lawyer and GAL for James B. about \$700,000, \$500,000 immediately and an additional approximately \$200,000 for what he claims will be 40 depositions at \$5,000 each to protect James B's maximum claim to 1/20 of what he asserts is a \$5 million Estate.

s. The 2016 award to James B's GAL and lawyer is in addition to the lawyer's (Peter Shahid', Esq.) contingency fee contract with Tommie Rae.

t. The suit filed by Deanna Thomas and Yamma Brown against Bauknight, Tommie Rae, Sojourner and James B. raises concerns about the alliance of Sojourner, Tommie Rae and Bauknight, but fails to mention any protection of the "I Feel Good" Charity such as the Ray Charles Foundation has raised.

28. Bauknight has not filed an accounting since 2015, and AG Wilson, who checked Bob's and my bank statements each month, has posed no objection to this failure to comply with Probate Code requirements. No accountings are correct, and you

cannot tell from the accountings the assets within the estate to satisfy debts. All show payments of lower priority claims than mine, which violates the Probate Code payment rules.

29. I am informed and believe that the California lawsuit is an effort by Tommie Rae and Deanna's group to reach a new agreement in another jurisdiction to take all of Brown's assets from South Carolina; not pay my claim; and reinstate the McMaster Settlement deal with almost no resistance from Bauknight or Sojourner, who will be concerned solely for protecting themselves. Further, both Bauknight and Sojourner have already shown willingness to let Afterman and Tommie Rae siphon off millions from "I Feel Good" Charity's copyrights with defective Termination Notices.

30. I am informed and believe that the article released in *Wealth Management* this week, a copy of which is attached as Exhibit B, tells an accurate story of the "near-allies" relationship of Tommie Rae and Deanna's group, but does not tell the whole story of their effort to cut out James Brown's "I Feel Good" Charity; other real heirs; and those who have worked to save James Brown's estate plan for their personal benefit.

31. In their depositions, Louis Levenson, AG Wilson and Governor McMaster — based on what AG Jones and Medlin told them — all assert the Supreme Court was wrong in *Wilson v. Dallas*, and the AG's settlement helped Brown's "I Feel Good" charity. It is my opinion that there is no basis in the Copyright Termination Rights provisions or Probate Code for that conclusion.

32. In her deposition in the Wingate Suit, which I attended, Deanna confirmed that Tommie Rae was not Brown's spouse. She asserted she knew this from James Brown. She admits the Wingate Suit, in which she remains aligned with Tommie Rae,

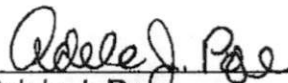
was brought to keep Bob and me from being paid.

33. More than \$2 million has already been awarded or paid to Tommie Rae and James B., who have escaped the State. There is mounting evidence that – having secured the Tommie Rae lower court spousal order – the AG, the AG's Legacy Trust, Deanna and Tommie Rae wish to resolve their differences outside South Carolina where Brown's "I Feel Good" Charity; heirs the AG chose not to favor; and I will have no voice.

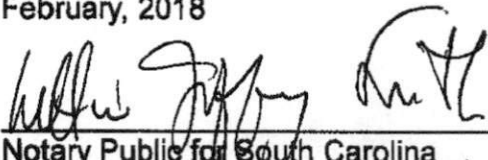
34. Having been advised in 2015 by the Supreme Court not to help *pro bono publico* protect the "I Feel Good" Charity, my sole – but critical—interest in these recent developments must be limited in this case to the protection of my claim for reasonable payment for my services from March 7, 2007 to May 8, 2013.

35. For the reasons stated above, and those stated in the Return and Memorandum, I am informed and believe that it would be manifestly unjust for the Court to grant the Motion to Pay Into court.

FURTHER DEPONENT SAYETH NOT.


Adele J. Pope

SWORN TO BEFORE ME this 15th Day of
February, 2018


Notary Public for South Carolina
My Commission expires: 2/27/2027 (L.S.)

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 Bellinger, Sarah LaTonya Fegan, Ciara Pettit and Cherquarius Williams

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

DEANNA BROWN-THOMAS, an
 individual; YAMMA BROWN, an
 individual; VENISHA BROWN, an
 individual; MICHAEL D. BROWN, an
 individual; NICOLE C. BROWN, an
 individual; JEANETTE MITCHELL
 BELLINGER, an individual; SARAH
 LATONYA FEGAN, an individual;
 CIARA PETTIT, an individual; and
 CHERQUARIUS WILLIAMS, an
 individual,

Plaintiffs,

vs.

TOMMIE RAE HYNIE a.k.a.
 TOMMIE RAE BROWN, an
 individual; JAMES J. BROWN II, an
 individual; RUSSELL L.
 BAUKNIGHT, as the Personal
 Representative of the Estate of James
 Brown and Trustee of The James
 Brown "I Feel Good" Trust; DAVID C.
 SOJOURNER, JR., as the Limited
 Special Administrator of the Estate of
 James Brown and Limited Special
 Trustee of The James Brown "I Feel
 Good" Trust; and DOES 1 through 10,
 inclusive,

Defendants.

Case No.: 2:18-CV-00307

COMPLAINT FOR:

- [1] DECLARATORY RELIEF
 (28 U.S.C. § 2201);
- [2] ACCOUNTING;
- [3] CONVERSION;
- [4] UNJUST ENRICHMENT;
- [5] INTENTIONAL
 INTERFERENCE WITH
 PROSPECTIVE ECONOMIC
 ADVANTAGE;
- [6] NEGLIGENT
 INTERFERENCE WITH
 PROSPECTIVE ECONOMIC
 ADVANTAGE;
- [7] VIOLATION OF
 CALIFORNIA BUS. AND
 PROF. CODE §§ 17200 *ET*
SEQ. and §§ 17500 *ET SEQ.*;
 and CALIFORNIA
 COMMON LAW UNFAIR
 COMPETITION

DEMAND FOR JURY TRIAL



WEALTH PLANNING > ESTATE PLANNING

James Brown's Estate: Not Much Progress 11 Years On

Will there be anything left to distribute once all is said and done?

Anne Sulkin | Feb 14, 2018

"The Hardest Working Man in Show Business" must be turning in his grave right now. The legendary singer, who persevered to overcome poverty, took the liberty of making sure that a vast majority of his fortune goes to fund the "I Feel Good" trust, an educational charity set up to fund scholarships for needy children in Georgia and South Carolina. However, 11 years on, Brown's estate is still unsettled, legal fees have cost his estate millions and on Jan. 12, nine of his children and grandchildren have filed yet another lawsuit, all of which begs the question: Where did he go wrong?

Brown seems to have known what he was doing when it came to having an estate plan in place. He explicitly included a provision that would cut out any past, current or future wives from a share of his estate. He provided \$2 million to be set aside to fund scholarships for his grandchildren. The children he recognized were also provided for, with his personal and household effects going to them. And, of course, he didn't forget the no-contest clause, which disinherits any beneficiary who challenges the will. Despite all this seemingly meticulous and thought out planning, not a penny has yet gone towards fulfilling Brown's wishes, with the new lawsuit serving another blow to the hopes of that ever happening.

New Lawsuit

Much has been written on the topic of Brown's estate, so we won't delve into all the past and pending litigation and unresolved issues. However, of relevance here, Tommie Rae Hynie, Brown's widow, who was actually married to another man when she married Brown, was granted a spousal ruling in her favor by a South Carolina court (an appeal of which is now pending). In the same action, her son James II was also declared to be Brown's biological child. The status of both Hynie and James II is of crucial significance because it entitles both of them to termination rights, as statutory heirs under the Copyright Act, regarding copyrights to hundreds of musical compositions authored or co-authored by

Brown. Termination rights revert the copyrights (that were sold to a music publisher) to Brown's songs back to his heirs either 35 or 56 years after publication, allowing them to enter new licensing agreements or to sell the copyrights.

The most recent federal lawsuit alleges that Hynie has acted in concert with administrators of Brown's estate to cut the plaintiffs out of royalties they're statutorily entitled to by means of "concealed illegal back-room agreements deliberately designed to destroy, circumvent and/or dilute Plaintiffs' interests." Further allegations in the complaint stipulate that in addition to attempting to coerce the children and grandchildren to forego their termination interests in exchange for money, the defendants also failed to disclose transactions involving the termination interests that resulted in proceeds payable to them.

A Story of Greed?

Lest you think that Brown's children are completely innocent in all this, it's worth mentioning that they were "near-allies" with Hynie in previous efforts to overturn the will on grounds of undue influence (arguing that Brown's drug-plagued past rendered him incompetent to set forth a will in the first place). Once those efforts to dismantle the will (and charitable trust) were shut down by the South Carolina Supreme Court, they now turned to fighting over the lucrative termination rights (such rights aren't bound by the terms of a will, which is why Hynie's adjudicated spousal status now entitles her to a share, despite being intentionally cut out of Brown's will).

Legislation Needed?

So what, if anything, could have Brown and his estate planner done differently to prevent this from happening? Not much it seems, at least as far as the most recent lawsuit is concerned since the federal statute on termination rights trumps any directive in a will. According to Mary Moran, Director, Planned Giving, Massachusetts General Hospital, "This case is an example of the need for legislation that would allow an artist to leave their copyrights to charity without being subject to termination rights by heirs." It's highly unlikely that this is on Congress' agenda, however, so it's probably not the last time we'll see such a case.

Source URL: <http://www.wealthmanagement.com/estate-planning/janice-brown-s-estate-not-much-progress-11-years>

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

OCT 26 2020

SC Court of Appeals

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

Appellate Case No. 2019-000967

Adele J. Pope, Appellant

v.

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

PROOF OF SERVICE

The undersigned hereby certifies that she has served a copy of Supplement to Record on Appeal by hand-delivering a copy of the same on the date shown below to Respondents' counsel, addressed as follows:

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

s/Adele J. Pope
Appellant, pro se

October 26, 2020