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STATE OF SOUTH CAROLINA
In the Supreme Court

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge
The Honorable L. Casey Manning, Circuit Court Judge

Appellate Case No. 2020-001383

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

And

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

**REPLY TO RETURN FILED BY SWEENEY, WINGATE AND BARROW, P.A. ON
BEHALF OF RESPONDENTS TO MOTION TO SUPPLEMENT THE RECORD ON
APPEAL**

Petitioner submits the following reply to the return filed by the law firm of Sweeney, Wingate and Barrow, P.A. ["SWB"] for all Respondents.

Continuing Objection to SWB's Return for All Respondents

Petitioner preserves the continuing objection that Robert Buchanan, Jr. and Petitioner have made since 2010 to SWB's or Russell Bauknight's filing any motion or response for or "on behalf of" the Attorney General of South Carolina ("AG") while serving Tommie Rae¹ and owner-successors to Respondent Legacy Trust, including Respondents who have repudiated in Court filings the positions taken by SWB and Tommie Rae. [R. 477-480; 1617-1633; 1581-1601; 1689-1743; 481-484]

SWB's Objections to the Motion Emphasize the Need to Supplement the Record

This is the second of three pre-conclusion-of-discovery appeals in this 10 ½ -year-old case which this Court urged the AG to conclude in 2013. In 2013 the Supreme Court also urged the AG to conclude two related 2011 FOIA cases which are still pending.

The public documents still being withheld by the AG under FOIA after 9 ½ years include the "Wingate Contract" to bring this suit ("Richland 4900"). The Wingate Contract FOIA case was the subject of the first Richland 4900 appeal. That FOIA case was consolidated with Richland 4900 in 2011. It was remanded in 2019, and the AG has not produced the complete Wingate Contract. *See Pope v. Wilson*, Richland County Court of Common Pleas.

This second appeal involves the lower court's dismissal of the AG as a Richland 4900 Plaintiff under Rule 21 SCRCF. [R. 19-24] The third appeal, Court of Appeals Case No. 2018-2229 involves an order granting the AG, Tommie Rae and the Legacy Trust summary judgment as to the counterclaims of Robert Buchanan, Jr. and Petitioner after the AG was dismissed as a

¹ To avoid confusion all Respondents who claim kinship to entertainer James Brown are identified herein by their first names.

party under Rule 21 and the Legacy Trust had secured a lower court ruling that it does not exist.

[R. 3-18]

On page 2 Respondents, through SWB, assert that the Supreme Court should not consider the AG's October 2020 Documents or grant the motion to supplement for five reasons. Taken together they assert that the motion violates Court rules; presents no new issues; was contrived to appear startling; and is both too early and too late. Petitioner respectfully asserts that evidence SWB presents, when taken in context, provides clear support for supplementing the record in this extraordinary case. Each of Respondents' objections is addressed below.

I. The Motion to Supplement the ROA is Properly Before the Court.

Respondents suggest that the Supreme Court lacks jurisdiction to consider supplementing the record on appeal ("ROA") until it decides whether to grant certiorari, and that the motion is not properly before the Court. This argument ignores the history of the Supreme Court's relationship to Richland 4900.

Prior to the Petition for Certiorari filed herein, Richland 4900 had not come to this Court as an appeal. It is a Richland County case that was noted by the Supreme Court on February 27, 2013 in *Wilson v. Dallas*, 403 S.C. 411, 441, 743 S.E.2d 746 (2013). The Richland 4900 complaint, which has not been amended in 10 ½ years, seeks damages against Robert Buchanan, Jr. and Petitioner for Tommie Rae and others trying to enforce a 2008 settlement deal brokered by the AG which became the subject of *Wilson v. Dallas*. [R. 176-188]

The Richland 4900 complaint asserts that Buchanan and Petitioner caused tens of millions of dollars damage to Tommie Rae and other Legacy Trust owners by not accepting a \$100 million offer for the music empire of entertainer James Brown in 2007. [R. 183] The complaint also asserts that the two intentionally overstated the value of the James Brown's music empire by tens of

millions of dollars in IRS filings so Buchanan and Pope could get a \$5 million commission on what Respondents told the Supreme Court in 2011 was James Brown's \$5 million estate. [R. 186] If true, the claimed intentional overstatement would be a federal felony.

The FOIA cases the Supreme Court asked the AG to conclude on February 27, 2013 hold the answers to many questions first raised by Buchanan and Petitioner in 2010. In 2020 the AG, at the behest of SWB and despite the Supreme Court's admonition, has not produced under FOIA the public Wingate Contract. The AG has also not produced the Afterman claimed \$4.7 million value of the music empire the AG used to accuse Buchanan and Petitioner of a felony, or a Legacy Trust 2011 amendment.

Respondents assert that the motion is an attempt by Petitioner to "circumvent the rules and manipulate the certiorari process." Respondents assert that Petitioner's "sensational argument must wait its turn." Respondents assert that Petitioner "misleadingly characterizes" the AG's October 2020 Documents as new public information, and that this is not proper. Respondents are incorrect.

The claim by Buchanan and Petitioner that Richland 4900 is unconstitutional and improper has, as SWB states, been made since 2010. [R. 193-203] It is not new. The claim that SWB's clients have disrupted FOIA compliance since 2011 to prevent release of the Wingate Contract, the fabricated Peter Afterman \$4.7 million valuation of James Brown's music empire, or the January 2011 documents which amended the Legacy Trust and transferred an interest to Forlando has been made since 2011. [R. 1808-1827] It is not new. Petitioner has also known since 2013 that the AG – to differing degrees at different times – has taken the position that it was not represented by SWB *after this Court's decision in Wilson*. [See R. 810-811, wherein SWB moves

to be relieved as counsel (later withdrawn), asserting that the AG “no longer wishes to utilize [SWB’s] services as counsel in this case.”]

What *is new* is that after 10 ½ years the AG’s October 2020 Documents confirm that the AG was *never* a client of SWB; that the AG opined in 2013 that SWB would be subject to disgorgement under *Wilson v. Dallas*; and that the AG never enjoyed a “common interest” privilege with Tommie Rae or other SWB private clients.

What is also new is that SWB, in January 2012, advised the AG not to comply with his duty as the State’s constitutional officer charged with the enforcement of FOIA. Further, the record shows that until the release of the AG’s October 2020 Documents the AG appears to have followed that advice.

The motion to supplement is properly before the Court and should be considered.

II. The Request to Supplement the ROA Does Not Violate Court Rules and is Relevant.

In their second argument Respondents assert that the motion to supplement the ROA with the AG’s October 2020 Documents violates Rules 209, 210 and 212, SCACR, and that Petitioner’s motion is a “tactic already repudiated by the Court of Appeals.” Respondents, through SWB, even assert:

The understanding or lack there thereof between the attorney general and SWB as to the representation agreement is not a fact of consequence in Pope’s appeal.

Respondents’ Argument II overlooks that on February 27, 2013 the Supreme Court initiated its own involvement with Richland 4900 and the FOIA cases which remain unresolved in 2020. It overlooks that the Wingate Contract, still being withheld under FOIA, is a fact of consequence in this appeal. It overlooks that two SWB attorneys, Kenneth Wingate, Esq., and Everett Kendall, Esq., failed to disclose the non-existence of the attorney-client relationship

between SWB and the AG when directed in 2017 by the Honorable Jean H. Toal, Acting Circuit Judge, to answer questions about their authorization to bring Richland 4900.

On February 27, 2013, the Supreme Court in footnote 29 of the first, later substituted, *Wilson v. Dallas* decision, directed that the lower court should consider Richland 4900 and the FOIA cases in the first instance.

On March 6, 2013, Petitioner met with the AG, the Chief Deputy and the Solicitor General to discuss the damage done to Brown's charity, and not corrected by *Wilson v. Dallas*, by the Afterman \$ 4.7 million claimed value and Bauknight's claims to the IRS that Tommie Rae was James Brown's spouse. Petitioner and counsel Adam Silvernail, Esq., had a second meeting with the Chief Deputy and Solicitor General. [R. 1002; 1038]

On April 24, 2013 the Chief Deputy confirmed – in a letter never released until 2020 -- to SWB that the AG was *never* SWB's client. Shortly thereafter, SWB moved to be relieved as the AG's counsel (indicating it had been terminated), but still not disclosing that it had *never been engaged or authorized to bring this action*. [R. 810-811]

On March 1, 2017 Judge Toal, with waivers from Petitioner and SWB related to Judge Toal's prior involvement in *Wilson v. Dallas*, denied motions by Wingate and Kendall to quash notice of their depositions in "Aiken 1337"² and directed both to answer questions. Neither disclosed the April 24, 2013 communication. Both said they believed the AG to be SWB's client. [Exhibit H to Motion to Supplement, dtd. 10/16/20]

On March 9, 2017, 3 days after the Wingate/Kendall depositions SWB, speaking for the State/AG secured a *coup* for Tommie Rae and others in Richland 4900 with an order sealing an affidavit of Petitioner without review, and stating in part:

² Aiken County Case 2013-CP-02-1337.

(2) All further Affidavits filed by Defendant will be placed under seal; (3) a determination will be made at the time of trial which Affidavits will be used in the trial of this matter. This Order specifically makes no finding about the content of the January 17, 2017 Affidavit. [R. 27-28]

From March 2017 until October 2020, SWB used the State's power and prestige to silence Petitioner; prevent any FOIA compliance; and cleanse this record of any evidence that Richland 4900 was a house of cards created by Tommie Rae and those aligned with her.

In 2020 the Supreme Court, at the request of several Richland 4900 Plaintiffs, found that Tommie Rae was not the spouse of James Brown. *Brown v. Sojourner*, S.C. Sup.Ct. Op. No. 27982 (June 17, 2020). SWB and those aligned with Tommie Rae increased the intensity of their attacks on Petitioner even though most Respondents had rejected the claims made in the Richland 4900 complaint years earlier.

As set out more fully below, the public release of the AG's October 2020 Documents is not an insignificant "internecine" struggle between SWB and the AG, as SWB claims. The AG's 2020 Documents are truly new and startling.

In 2017 Solicitor General Cook stated under oath that in forty years he had never seen a case like Richland 4900. That was before Tommie Rae was declared not to be James Brown's spouse and before release of the October 2020 Documents. It was when the FOIA cases were unresolved for only 6 years.

The submission by Petitioner to the Supreme Court of the AG's October 2020 Documents is proper. The Court's decision to supplement the ROA in a case the Supreme Court asked the AG to conclude in 2013 will promote judicial economy and justice.

The Orders Proffered by SWB Support Petitioner's Motion to Supplement the ROA

Respondents cite a 2018 order in this appeal and a 2020 order in Case No. 2018-002229 to support their claim that the motion before the Supreme Court to supplement the ROA is "another example of a tactic that has already been repudiated by the Court of Appeals." That is not the case.

The April 28, 2018 Order Did Not Exclude Many Documents the AG Sought to Exclude

Between the filing of this appeal in September 2017 and the AG's request to strike Petitioner's brief filed on February 22, 2018, hundreds of pages of testimony and documents had already become part of Aiken 1337. That testimony is now part of Court of Appeals Case No. 2019-000362.

On October 24, 2017 Petitioner moved to lift the automatic stay imposed by this appeal.³ SWB, for Respondents other than the AG, opposed the motion, and it was denied.

By January 2018 Respondent Tommie Rae and her son had been sued in federal court by Respondents Venisha, Deanna, Yamma and Tonya.

On February 20, 2018 Bauknight moved to strike a filing supporting documents related to an affidavit of Petitioner filed January 30, 2018 seeking to make the Afterman \$4.7 million claimed value of the music empire public because it had been shared with Levenson and others.

On February 22, 2018 the AG filed a 22-page motion to strike Petitioner's initial brief and designations in this appeal. The AG sought to limit designations to matters which were before the circuit court in August 2016, when the AG's motion to be dismissed under Rule 21 was heard.

The AG objected to an expert opinion-affidavit of Wm. Jeffrey Smith, Esq., which the AG asserted "is not properly before the Court as to the orders on appeal because it was filed in support

³ By February 20, 2018, the depositions of the Governor, the AG and numerous others had been filed Aiken 1337.

of Petitioner's Rule 59 motion granting Respondents' Motion for Summary Judgment as to Petitioner's counterclaim." The AG stated at footnote 2 on page 6:

Appellant cites at least eight times in her brief a 111 page William Smith document that was filed after the orders under appeal were issued except for the order denying the Rule 59, SCRCF, Motion to Alter... the Smith document is irrelevant, quotes from depositions in cases other than this one, and is not properly before the Court...

The AG's strenuous objection to the Smith opinion, now within ROA at pages 2100-2210 is noteworthy because the AG was seeking mainly to exclude the testimony of the AG's own Richland 4900 experts, taken in Aiken 1337, which the AG, through SWB, had tried twice to consolidate with Richland 4900. [See, e.g., R. 851-853]

The AG sought to prevent the Court's consideration of the AG's own termination rights expert Roger Miller which refuted the Afterman \$4.7 million value; Russell Bauknight; Respondent Jason Brown-Lewis; Jonas Herbsman, Esq., the AG's termination rights expert who knew nothing about termination rights litigation or valuation, but was told that Tommie Rae was James Brown's spouse; SWB's expert Ellison Thomas, CPA, who testified he did not know of anything Buchanan and Petitioner had done wrong; Wallace Lightsey, Esq., Petitioner's IP expert; R.B. Alexander, Petitioner's image and likeness valuation expert; and Thomas Pope, III who had represented a journalist in a James Brown FOIA noncompliance case.

The Smith opinion and a number of other documents the AG asked to strike were not stricken in the April 2018 Order. [See Order of the Court of Appeals, dtd. April 26, 2018]

The May 21, 2020 Order was the Product of Tommie Rae's Sanctions Efforts

By April 24, 2020 the efforts of Tommie Rae and those aligned with her to blame what is now 14 years of relentless, baseless litigation to secure control of James Brown's music empire and the assets of his "I Feel Good" charity on Buchanan and Petitioner had intensified.⁴

On April 24, 2020, SWB moved to strike Petitioner's brief in Case No. 2018-002229, and for sanctions. SWB claimed that Petitioner's actions were "so pervasively improper and not in compliance with the Rules that the Court should impose sanctions."

The Court of Appeals did strike the brief of Petitioner. It did not grant sanctions. [See Order of the Court of Appeals, dated August 21, 2020]

III. The AG's Admission that it was Not a Client of SWB, and SWB's Knowledge are New.

In argument III, SWB asserts that the AG's 2020 Documents are "superfluous and unnecessary for the reviewing court." SWB then presents what SWB asserts is a non-exhaustive "list of examples in this case from the Record on Appeal as well as the appellate filings, in which Petitioner states her contention and her alleged factual support..." The examples stated do not change the fact that the October 2020 Documents are new, and they do not demonstrate that either the AG or SWB had ever produced documents prior to 2020 that showed the AG had *never* been represented by SWB.

The AG told the Supreme Court in March 2013 that it was seeking to be dropped as a party to Richland 4900, and hinted that the AG had not agreed to the Wingate Contract. Within two days

⁴ The willingness of those aligned with Tommie Rae to call anyone who does not agree with Tommie Rae's claims a liar, then conceal the documents which show they are not, appear endless. Among recent examples is a claim by Bauknight's attorney who was present on May 29, 2013 when the plan of Levenson and Tommie Rae's counsel to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement deal was announced in open court to the Honorable Doyet A. Early that this well-documented event never happened.

after the final *Wilson v. Dallas* decision, however, SWB, speaking for the AG, told a different story.

If the AG had agreed with Petitioner that it was never a client of SWB, as the October 2020 Documents confirm, Richland 4900 and the FOIA cases might be over today. The AG did not do this. The AG also never admitted until October 2020 that SWB gave the AG legal advice not to comply with FOIA.

The AG continues FOIA noncompliance in November 2020. The withholding of the Wingate Contract and the Afterman \$4.7 million value to discredit Buchanan and Petitioner are the backbone of Richland 4900.

The AG, Solicitor General Cook, and Governor McMaster, a former U.S. Attorney, have all testified under oath to the seriousness of the false felony claim the AG has lodged against Buchanan and Petitioner since 2011 based on the Afterman claimed \$4.7 million value.

By August 2013 Bauknight and Peter Afterman, working as agent for Tommie Rae and her lawyers, were already implementing the plan to reinstate the AG's 2008 settlement. Bauknight defended the AG's 2008 settlement and even claimed in a 2013 deposition that Petitioner (and presumably Buchanan) had "raped" James Brown's estate.

On March 9, 2018 in a reply related to a motion to strike in this appeal the AG, in a footnote, said:

The Attorney General does not address the merits of the argument that the suit [Richland 4900] was unauthorized because it is not before this Court, but would vigorously argue to the contrary if the issue were properly presented. [AG's Reply to Return to Motion of AG to Strike, dtd. March 9, 2019, p. 10, n. 4]

What is new is that, for the first time in 2020, the AG's October 2020 Documents show that the AG's Office agrees with Petitioner and Buchanan that SWB was never properly engaged

by the AG. Instead of “oft-repeated contentions concerning the relationship between SWB and the AG” we now have documented admissions of the non-relationship.

The motion and October 2020 Documents do not, as Respondents suggest, “merely rehash her prior contentions.” They provide clear proof that there never was a legal relationship, affirmed by the AG himself.

Petitioner respectfully submits that these admissions are both new and sensational.

Respondents’ reliance on what Petitioner said to the circuit court on March 29, 2013 confirms that the AG said it was not SWB’s client during that brief period, but never indicated that it had never been a client of SWB. In fact, SWB’s motion to be relieved as the AG’s counsel (R. 810-811) clearly indicated that the AG had only then-recently terminated SWB’s services. Further, SWB refuted the claimed nonrepresentation on May 10, 2013. On that day SWB attorney Mark V. Gende, Esq., told Judge Manning that the removal of footnote 29 from the final *Wilson v. Dallas* decision indicated that the Supreme Court “no longer puts any primacy or priority on any court hearing [Richland 4900 or the FOIA cases].”⁵ [R. 2048-2050]

On page 9 Tommie Rae and others, through SWB, assert that none of Petitioner’s documents represent new information and none are available for review by the Supreme Court. This is not correct.

The fact that the AG and SWB, knowing that Richland 4900 was not legally authorized, would coordinate FOIA disruption and noncompliance and discovery noncompliance and stays in Richland 4900 from 2013 until 2020 to increase the damage to Buchanan and Petitioner is new.

⁵ As shown on Exhibit A, attached (Letter of Mr. Gende to Jg. Manning, dtd. 4/27/15), in 2015 and thereafter SWB continued to take the position that neither the FOIA cases nor Richland 4900 could proceed “until the Aiken matters are resolved.”

The suggestion that Petitioner controlled the timing of the public release of the AG's October 2020 Documents is without merit. It was the AG who made that decision.

IV. The Motion to Supplement the Record in Not Moot

In Argument IV Respondents, through SWB, assert that Petitioner's motion is moot because the Court of Appeals properly dismissed the AG from Richland 4900. The matter is not moot. It is for this Court to decide whether a private law firm, with knowledge of its lack of authority since April 24, 2013, can continue to use the prestige and power of the State/AG for its private clients in a tort action against private citizens where the AG has, since 2013, asserted that it should be dismissed under Rule 21 SCRPC.

Both SWB and the AG have been in a position to end the State/AG's position in Richland 4900 for at least 7 ½ years since the Chief Deputy's April 24, 2013 letter to SWB. Both have not done so. Both had suppressed the information until the AG's release of the October 2020 documents.

SWB has secured stays for 6 of the 7 ½ years since the Chief Deputy's April 24, 2013 letter. During the period from March 2016 to September 2017, the only period a stay has not been in place, both SWB and the AG worked to suppress information damaging to Tommie Rae's positions.

The stay has been in place since September 2017, and SWB has bitterly opposed all efforts to lift it and continue discovery.

When the Court of Appeals dismissed the AG, it did not have the benefit of the AG's October 2020 admissions. The Court of Appeals did not know that on April 24, 2013 the AG, through his Chief Deputy had made clear to SWB:

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. [Exhibit F to Motion to Supplement the Record, dtd. 10/16/20]

The Court did not have this new information because it was being withheld both by the AG and by SWB.

V. Due Process, the First Amendment, FOIA and *Wilson v. Dallas* Support the Motion

Respondents, through SWB, assert that Petitioner “has no rule, controlling case or treatise to support her Motion.” The extraordinary actions of SWB, a private law firm, acting as sole counsel for the State/AG, Tommie Rae and successors to a primary plaintiff which now claims it does not exist, have no precedent in South Carolina, and perhaps in the nation. Petitioner is unaware of any FOIA cases, other than a journalist’s similar suit, where the AG has tried to transfer FOIA cases to another county and consolidate them with a tort suit.

In 2016 the Governor testified that he did not authorize Richland 4900 to be brought in the name of the State/AG. Instead of taking remedial action, both the AG and SWB sought to keep the Governor’s testimony out of the record.

In 2017 the Solicitor General testified that in forty years he had never seen a case like Richland 4900. Nor has anyone else involved in Richland 4900.

In 2017 the circuit court, at the behest of the State/AG through SWB, silenced Petitioner by striking an affidavit without review and directing that all future filings of Petitioner be under seal, violating both her Due Process and First Amendment rights.

By 2018 half of the Richland 4900 Plaintiffs had repudiated the claims in the never-amended Richland 4900 complaint, but SWB continued to use State action for Tommie Rae.

In 2019 SWB. after attempting to constrict the record for years, tried to expand it with an extraordinary circuit court order in Aiken 1337 which found that Brown's worldwide music empire was worth only \$4.8 million when he died; Bauknight and Peter Afterman, Tommie Rae's termination rights advisor, had provided great benefits to Brown's charity; and that Buchanan and Petitioner had breached their fiduciary duty as James Brown's PR/Trustees by challenging and appealing the AG's 2008 settlement.

By 2020 it was clear that SWB was using the power and prestige of the State of South Carolina and its highest legal officer for the 46% private benefit of Tommie Rae; 9% benefit of Forlando; and remainder for Legacy Trust successors, former Levenson clients, to whom Buchanan and Petitioner never owed a duty.

SWB states that the cases cited by Petitioner are not controlling in South Carolina, but the Due Process clause and First Amendment are, as are FOIA and *Wilson v. Dallas*.

The Due Process clause of the Constitution prevents a private law firm from naming or speaking for the State of South Carolina in a tort lawsuit in which the Attorney General is not an attorney and does not have control over the litigation, and in which the primary beneficiaries of the damages sought are the private clients of the law firm. A citizen's right to be free from such a lawsuit should necessarily include the right not to be dragged into "internecine," battles between the private law firm and the State/AG over which of the two is responsible for the damage to the citizen.

The violation of Petitioner's and Buchanan's Due Process rights, and the First Amendment and FOIA rights of Petitioner are unprecedented and rest on their own facts, the Constitutions and FOIA. What the AG has done, and has allowed SWB to do, is directly contrary to the mandate of *Wilson v. Dallas*.

VI. Counter-Designations Should be Appropriately Limited by the Court

Petitioner respectfully requests that the Court allow such counter-designations and additional designations as will serve the interests of justice and judicial economy, and not unnecessarily delay this 10 ½-year-old case.

Response to Conclusion of Tommie Rae and Others

Tommie Rae and those aligned with her, including the AG, have attempted since 2013 to characterize Richland 4900 as a 2010 a “breach of fiduciary duty” action against Buchanan and Petitioner. It is the opposite. It is a tort claim by the AG, Tommie Rae, and other Legacy Trust owner-beneficiary-successors to whom Buchanan and Pope never owed a fiduciary duty. Its purpose was, and is, to punish Buchanan and Petitioner for protecting the estate plan and charity of James Brown from 2007 until 2013 by opposing and appealing the AG’s 2008 settlement which became the subject of this Court’s opinion in *Wilson v. Dallas*.

Richland 4900 was brought to damage Buchanan and Pope and to blame them for the mayhem Tommie Rae was inflicting on James Brown’s charity. The fabricated \$4.7 million Afterman value, concealed in both discovery and FOIA since 2011, was their sword. The damage was increased by the secret addition of Forlando and the false Grammy© claim he planted in 2011. SWB continued the use of the State’s power and prestige after *Wilson v. Dallas* for the same purpose.

Petitioner is not “forced to admit” that an attorney representing the AG’s office told the lower court in open court that SWB was the attorney for the AG. She knows it. It has been a bitter pill, but not a poison pill.

Due Process should not require a citizen sued by the State/AG in a tort suit to decide which official of the Office of the AG is telling the truth – the Attorney General under oath, or the AG official sitting in court and allowing himself to be introduced as a client.⁶

SWB calls the AG's October 2020 documents "an inconsequential FOIA release" and the motion "an effort to exploit" it to "improperly place additional material into the appellate record." As to SWB's 7 ½ years of State action for the benefit of Tommie Rae and others with knowledge of its lack of authority to act for the State/AG, SWB says:

...[T]o the extent there are any differences of opinion about that Relationship, it is at best an internecine issue between the Attorney General and Sweeny, Wingate & Barrow.

The Attorney General's own Wingate Contract says that the AG will control the litigation. SWB hid that contract. And Tommie Rae's counsel controlled the litigation, both before and after April 24, 2013, for her benefit. Due Process does not allow this State action by SWB, no matter who is at fault.

It is SWB, not the AG, who summarily rejected, and filed, numerous offers by Petitioner to let the AG and others out of Richland 4900.

Conclusion

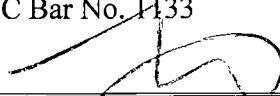
The new information that SWB has, with known lack of authority, used the power and prestige of the Office of the Attorney General since April 24, 2013 to continue the damage caused to Buchanan and Petitioner by the unauthorized Richland 4900 and two related FOIA cases is new and material to this appeal. It is properly before the Court. The motion to supplement should be

⁶ A troublesome application of this conundrum is found in the Aiken 1337 Deposition of the Attorney General, taken in 2017. The AG's staff had shown AG Wilson one deposition of Governor McMaster which was incomplete, and not shown AG Wilson the later, October 2016 deposition of the Governor. In the later deposition, Governor McMaster's testimony was unequivocal and emphatic.

granted. To the extent the new information causes internecine differences between SWB and the Attorney General, those differences should not delay the appeal of this 10 ½-year-old case.

Respectfully Submitted,

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