

STATE OF SOUTH CAROLINA
In the Supreme Court

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MAY 16 2013

S.C. Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge

Appellate Case No. 2012-212917

IN RE: THE ESTATE OF JAMES BROWN A/K/A JAMES JOSEPH BROWN

Adele J. Pope Appellant,

v.

Alan Wilson, Attorney General of South Carolina,
Russell Bauknight as Trustee of the Legacy Trust
and in other fiduciary capacities, and Tommie
Ray Hynie Brown Respondents.

**AFFIDAVIT OF ADELE J. POPE IN SUPPORT OF DISMISSAL OF ATTORNEY
GENERAL WILSON AND RUSSELL BAUKNIGHT AS PARTIES, AND
IN SUPPORT OF RENEWED MOTION TO EXPEDITE APPEAL**

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

1. This affidavit is based on my own personal knowledge and belief.
2. I am informed and believe that expedited voiding of the Gag Orders
which are the subject of this appeal has become more urgent since May 8, 2013.
3. I am informed and believe that if the Gag Orders are not voided

Tommie Rae, Forlando Brown and others will retake the \$50 Million this Court has just restored to The James Brown "I Feel Good" Foundation.

4. I am co-author of an unpublished article entitled "*Private Foundations, Copyright Heirs and Musical Millionaires: Why The James Brown "I Feel Good" Trust doesn't...*" which analyzes the damage caused to the "I Feel Good" Foundation by failure to complete the wise DNA protocol established by Rodney Peeples, Esq. and the hasty and unsupported decision to treat Tommie Rae as Brown's spouse when she was not.

5. On January 4, 2011 Tommie Rae and Terry, with others, secretly modified the Legacy Trust and Terry assigned his rights to son Forlando.

6. On May 8 Forlando told the South Carolina District Court:

On February 27, 2013, the Supreme Court of South Carolina decided that Defendants should be removed as trustees and representatives due to various misappropriations of property and money and acting without the best interest of the Brown trust (the "Supreme Court Decision").
[Emphasis supplied]

7. On May 10, 2013 Mark Gende, Esq., the Richland County Court on behalf of Tommie Rae, Russell Bauknight and others attempting to delay both my counterclaims against Tommie Rae in Richland County and the James Brown FOIA Cases.

8. Russell continues to be a Plaintiff "on behalf of the Attorney General of South Carolina" in that case.

9. The Gende letter, with emphasis supplied, is attached as Exhibit A.

10. Forlando, with joint venturers David Cannon and Albert Dallas, Esq., has engaged in egregious dirty tricks in the James Brown cases. Among them,

his family filed six grievances in two states against attorney Louis Levenson, Esq., accusing him of forging their 30% fee contract.¹

11. I am informed and believe that the Gag Orders prevent me from fully protecting myself against this new wave of attacks by the settling parties.

12. Tommie Rae's attorney has threatened to sue me if I speak of the "diary" contents. I do not want to subject myself to yet another lawsuit.

13. Russell and Tommie Rae are seeking sanctions against me in a FOIA case.

14. Tommie Rae's lawyer agrees her writings, if discussed, will do Tommie Rae irreparable harm. But voiding the Gag Orders will protect the "I Feel Good" Trust and:

- a. Prevent Tommie Rae from further interference with my FOIA rights.
- b. Allow me to defend fully against Tommie Rae's claims in Case 4900.
- c. Allow me to question Brown's family to confirm she is not the spouse.
- d. Strengthen my ability to defend against these new attacks.

15. I request that expedited relief be granted.

¹ See Exhibit B, portions of Memorandum of Law in Support of Plaintiff's Motion for Leave to File Answers.... dated and filed May 8, 2013, U. S. District Court, 3:08-cv-00014-WOB-JBW. In March 2009, while the settlement hearings were taking place in Aiken County, Forlando's lawyer David Bell, Esq., wrote Robert Buchanan, Jr. and threatened to file a judicial grievance against Bob, a part-time Federal Magistrate Judge, if he did not resign as PR/Trustee and abandon his objection to the settlement which was the subject of *Wilson v. Dallas*.

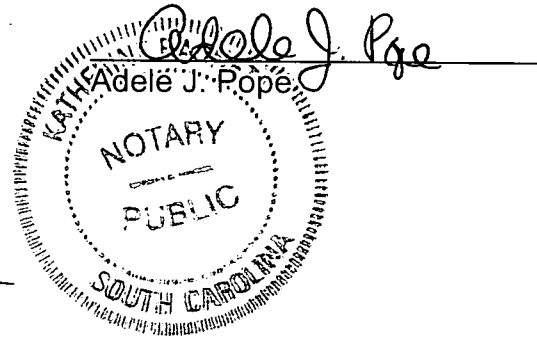
FURTHER DEPONENT SAYETH NOT.

SWORN TO BEFORE ME this 16th day
of May, 2013

 (L.S.)

Notary Public for South Carolina

My commission expires: 10/23/2022





SWEENEY WINGATE & BARROW P.A.

May 10, 2013

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x121
mvg@swblaw.com

VIA EMAIL AND U.S. MAIL

Honorable L. Casey Manning, Jr.
Circuit Court Judge
Richland Judicial Center
1701 Main Street, Room 214 (2nd Floor)
Post Office Box 192
Columbia, SC 29202-0192

Exhibit A

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Judge Manning:

Please accept this letter as Richland County Case 4900 Plaintiffs' and Proposed FOIA Intervenor's assessment why all matters in Case 4900 should be held in abeyance pending the outcome of all James Brown Estate matters that the Supreme Court has now unequivocally remanded to Aiken County.

On Wednesday, May 8, 2013 the South Carolina Supreme Court denied all petitions for rehearing and took a significant additional step. The Court substituted a new and revised opinion for its prior decision in the James Brown Estate matter. This new opinion is lengthy and makes certain additions and deletions to the prior, replaced opinion. This new opinion has significant bearing on the continued progress of Case 4900.

First, the new Supreme Court opinion creates significant uncertainty as to what persons or entities constitute the plaintiffs group. The new opinion voids the Section 1102 settlement agreement that had bound the plaintiff's group together. The new opinion also voids the appointment of Russell Bauknight as personal representative and trustee of the James Brown Trust and Estate, but expressly allows Mr. Bauknight the right to reapply and, potentially, be

reappointed as a fiduciary of the Trust and Estate. Therefore, until the individual family members' position with reference to the Trust and Estate is finally determined by the Aiken Court and until fiduciaries are installed for the Trust and Estate, my firm has substantial uncertainty on what basis each named plaintiff will continue in Case 4900. We believe these matters can and will be resolved as each Aiken County matter is resolved.

Furthermore, the Attorney General, for whom Sweeny, Wingate & Barrow, PA is counsel of record in Richland Case 4900, has independently filed a motion to withdraw from the case and made various other representations and filings in related matters. Consequently, Sweeny, Wingate & Barrow, PA today is filing a motion to be relieved as counsel for the Attorney General.

Second, the new Supreme Court opinion upholds the for-cause removal of the Case 4900 Defendant, Mrs. Adele Pope, as a fiduciary of the James Brown Estate. In upholding her for-cause removal, the court relies on some of the very same allegations made by the Case 4900 Plaintiffs against Mrs. Pope. Mrs. Pope is afforded no opportunity to reapply for any fiduciary position with the Trust or Estate. Because of her for-cause removal, she can have no further part in the Estate and Trust.

Third, the Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 of the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be heard "in the first instance" without any clear definition of what that meant. Such language is totally absent from the new order. While the court does recognize that the Attorney General is contesting releasing some documents pursuant to FOIA, the court no longer puts any primacy or priority on any court hearing these matters. We believe that such a position is entirely appropriate, because the documents requested under FOIA are subject to a claim of privilege which is the subject of a motion for protective order before this court in Case 4900. The claim of privilege must be decided before any court can make a determination of the application of any FOIA claim.

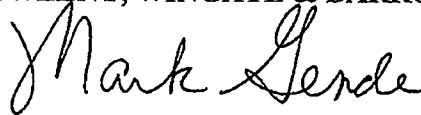
In summary, all of the uncertainty that your honor recognized at the last status conference still exists, and possibly a bit more. With the Supreme Court now having said all it is going to say on the matters that were before it, it is now abundantly clear that all matters related to the James Brown Estate cases must now be heard and decided by the Aiken Court. How the Aiken Court rules on a number of issues across a number of cases will then determine the posture of the group of plaintiffs or individual plaintiffs who will continue on with Case 4900.

Therefore, Case 4900 Plaintiffs and Proposed FOIA Intervenors respectfully request that Case 4900 be held in abeyance in its entirety until all the underlying issues related to the Plaintiffs are resolved by the Aiken Court. Should you deem it best for Plaintiffs to make a formal motion for stay, I would be pleased to do so.

As always, I am available to provide the court any further information it requires in order to fully consider this matter.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.



Mark V. Gende

MVG/lda

cc: Adam T. Silvernail, Esquire
Daryl L. Williams, Esquire
J. Emory Smith, Jr., Esquire

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,)	
)	
Plaintiff,)	
v.)	CIVIL ACTION FILE
)	
Adele J. Pope, individually and as Trustee)	NO. 3:08-cv-00014
of the Irrevocable Trust established by)	
James Brown on August 1, 2000, and)	
)	
Robert J. Buchanan, Jr., individually and as)	
Trustee of the Irrevocable Trust established)	
by James Brown on August 1, 2000,)	
)	
Defendants.)	

Exhibit B

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO
FILE ANSWERS TO DEFENDANT BUCHANAN'S AMENDED COUNTERCLAIMS
AND DEFENDANT POPE'S AMENDED COUNTERCLAIMS**

Plaintiff seeks an order from this Court allowing Plaintiff to respond and file answers to Defendant Buchanan's Amended Counterclaims filed on May 18, 2012, and to Defendant Pope's Amended Counterclaims files on May 11, 2012 as follows:

FACTS

1. This case involves Plaintiff, the grandson of iconic star James Brown.
2. This case began in 2008 when Plaintiff filed a complaint against Defendants alleging various forms of defalcation of the estate and trust of Plaintiff's grandfather, James Brown.
3. James Brown's estate and trust has been the subject of widespread litigation including a case in South Carolina state court which was recently appealed to the South Carolina Supreme Court Appellate number 2009-142286 (the "Appellate Case").

4. On August 15, 2008, Adele Pope and Robert Buchanan filed their first counterclaims against Plaintiff. (Doc. 86).
5. On September 4, 2008, Plaintiff filed an answer to those first counterclaims. (Doc. 89).
6. On March 29, 2010, Defendants filed their Second Amended Counterclaims against Plaintiff without first seeking leave from the Court. (Doc. 169).
7. On March 31, 2010, the Court denied Defendants' request to file such amended counterclaims. (Doc. 171).
8. After consideration, Plaintiff withdrew his claims against Defendants. (Doc. 217).
9. On April 19, 2012, the Court entered an order allowing Defendants 30 days to re-file their amended counterclaims. (Doc 217).
10. On May 11, 2012, Defendant Pope filed her Amended Counterclaims. (Doc. 221).
11. On May 18, 2012, Defendant Buchanan filed his Amended Counterclaims. (Doc. 227).
12. This case was stayed on May 25, 2012, the day an answer to Pope's amended counterclaims was due, pending the resolution of Appellate Case including the issue of whether Defendants Buchanan and Pope should be removed as representatives and trustees of the James Brown trust. (Doc. 228).
13. On February 27, 2013, the Supreme Court of South Carolina decided that Defendants should in fact be removed as trustees and representatives of the estate and trust due to various misappropriations of property and money and creating extreme discord with the Brown trust (the "Supreme Court Decision"). *Wilson v. Dallas*, 2013 WL 697042 (S.C. February 27, 2013).

Respectfully submitted this 8th day of May, 2013.

/s/ Michael Melonakos
Michael Melonakos
S.C. FED I.D. No. 11400
THE ROTH FIRM
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/s/ Andrew J. King
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Pro hac vice requested
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Attorneys For Plaintiff

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Adele J. Pope Appellant,

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Alan Wilson, Attorney General of South Carolina,
Russell Bauknight as Trustee of the Legacy Trust
and in other fiduciary capacities, and Tommie
Ray Hynie Brown.. Respondents.

PROOF OF SERVICE

I certify that on the 16th day of May, 2013 I have served the Affidavit of Adele J. Pope in Support of Dismissal of Attorney General Wilson and Russell Bauknight as Parties and inSupport of Renewed Motion to Expedite Appeal.. by depositing a copy of same in the United States Mail, postage prepaid, addressed to their attorneys of record as follows:

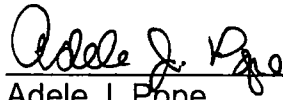
ATTORNEYS OF RECORD FOR RESPONDENTS:

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Pro Se

May 16, 2013