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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 Doyet A. Early, III Circuit Court Judge

Appellate Case No. 2019-000362

Adele J. Pope, Appellant,

v.

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

APPELLANT'S PETITION FOR REHEARING AND SUGGESTION FOR REHEARING *EN BANC*

Pursuant to Rule 221, *South Carolina Appellate Court Rules*, Appellant Adele J. Pope ("Appellant") respectfully asks this court to rehear and/or reconsider and modify the unpublished opinion of the Honorable Paula H. Thomas, the Honorable Stephanie P. McDonald, and the Honorable Blake A. Hewitt ("the Panel"). *See* S.C. Court of Appeals Op. no. 2022-UP-229 (May 25, 2022). Pursuant to Rule 219(b), SCACR, Appellant suggests a rehearing *en banc.* The panel overlooked the undisputed facts which show that the multiple orders on appeal in this case are unjust and inequitable, and that it was ultimately error for the lower court to find that Appellant should be paid nothing for her role in the joint service to the Estate of entertainer James Brown of Appellant and Robert L. Buchanan, Jr. between 2007 and 2013.

Summary of Grounds for Rehearing

While the Panel correctly expressed concern over the lower court's "re-scrutinizing the 2009 settlement and holding it against" Appellant, it found that "other parts of the order would stand to support" the lower court's finding that Appellant should be paid nothing for over 4,000 hours of work administering the Estate of entertainer James Brown and the James Brown 2000 Irrevocable Trust and defending the Estate, Trust and James Brown's "I Feel Good" charity against "a mountain of challenges." Despite questioning several aspects of the lower court's order, the Panel nonetheless joined the lower court in attributing no value to the service of Robert L. Buchanan, Jr. and Appellant, including their successful appeal of a 2008 settlement brokered by the South Carolina Attorney General ("AG"), which proposed to give away *half* of James Brown's assets to a woman who was not his spouse; her child who had refused proper DNA testing; and certain acknowledged children who had no viable claim to the assets of Brown's charity.

While the lower court's misuse of *Wilson v. Dallas,* 403 S.C. 411, 743 S.E.2d 746 (2013) against Appellant is one of several issues raised in this appeal, the Panel overlooked the extent to which the lower court's findings on this issue taint the orders on appeal herein.

The Panel overlooked the profound effect the lower court's criticism of *Wilson* had on the lower court's view of this case as a whole. The January 16, 2019 Order finding that Appellant was entitled to no payment for her work as PR/Trustee was ultimately the result of the plan to reinstate the AG's 2008 settlement agreement, which was announced to the lower court on May 29, 2013 (approximately a week after the

Wilson remittitur was issued); supported by Brown's Estate for the 6-year pendency of this case in the lower court; and colored the lower court's view of Appellant's case from May 29, 2013 forward.

Overall, the Panel overlooked the analysis used by the Supreme Court in *Matter of Estate of Kay*, 423 S.C. 476, 816 S.E.2d 542 (2018), which involved a dispute over personal representative's commissions owed to an attorney who acted as personal representative. The personal representative sought payment for his services in dealing with certain litigated matters, including his own fee, and two beneficiaries objected. The Supreme Court held:

> Under the Probate Code, when a 'personal representative defends or prosecutes any proceeding in good faith, whether successful or not, he is entitled to receive from the estate his necessary expenses and disbursements including reasonable attorneys' fees incurred.' S.C. Code Ann. § 62-3-720 (2009 & Supp. 2017).

The lower court made no finding that Buchanan and Appellant had acted in anything other than good faith, and the Panel observed:

> Pope is a well-regarded and accomplished lawyer. This is acknowledged by all at various points in the record. It is also clear from the record that Pope worked hard throughout her service in an effort to protect Brown's estate plan, particularly its charitable beneficiaries. There is no doubting she took actions that benefitted the estate.

Although the lower court and the Panel found the expert testimony at trial compelling in criticizing various aspects of Buchanan and Appellant's joint service, there was no evidence presented nor any finding that Buchanan and Appellant acted in bad faith in successfully defending the extraordinary challenges to James Brown's Estate Plan, as well as the numerous other proceedings involving the Estate and/or Trust. Therefore, Appellant submits that this Court should reconsider the Panel's opinion

affirming the lower court's order denying any payment to Appellant of PR/Trustee commissions.

The panel overlooked that Robert L. Buchanan, Jr., and Appellant were appointed as Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust, both of which include strong *in terrorem* clauses which state in part that any challenge to his estate plan "shall be considered an afront to the Grantor's wishes and shall be vigorously challenged as such by his fiduciaries." [R. 2578, 2604]

The panel overlooked that Buchanan and Appellant honored Mr. Brown's direction by defending Will and Trust contests filed within weeks of their appointment; opposed the AG's settlement of those claims just eight months later, which would have halved James Brown's charity; and fulfilled their duty under Mr. Brown's documents to defend his estate plan. The South Carolina Supreme Court held that Buchanan's and Appellant's opposition was correct in *Wilson*.

The panel overlooked that it would be manifestly unjust to Robert Buchanan, Jr., and Appellant, and to the memory of entertainer James Brown, to punish the two trustees for working from 2008 until 2013 to position the South Carolina Supreme Court to restore the half of Brown's $5 million annual income and $80 million "I Feel Good" education charity which the Attorney General of South Carolina ("AG") proposed to give to Tommie Rae Hynie ("Hynie") and five former clients of Louis Levenson, Esq., ("Levenson"). [R. 2689; 2881-2883; 157-159; 162-206]

The panel overlooked that from May 29, 2013 Brown's Estate and the lower court were both committed to the May 29 announced plan of Hynie and Levenson to ignore

the Supreme Court's decision in W*ilson* and reinstate the 2008 settlement brokered by the AG which the Supreme Court had rejected that month as a dismemberment of Brown's carefully crafted estate plan. [R. 1312-1444]

The panel overlooked that the lower court, at the urging of Respondent Brown Estate, declined to appoint a neutral special fiduciary to address Appellant's claim which could have settled for $2.1 million in 2017, and for less prior to that time. [R. 2138; 2154; 1259; 1268; 1386; 1392]

Instead, Respondent Brown Estate spent tens of millions of dollars to secure orders which would support Hynie's spousal claims, reinstate the AG's 2008 settlement; and punish anyone who believed that the AG's proposal to give Hynie $1 million of income a year and a quarter of Brown's "I Feel Good" charity was unwise. [R. 1422; 1435]

The panel overlooked the undisputed facts established by the record of this case, including the testimony and opinions of more than thirty witnesses and numerous experts, nearly a dozen of whom (including the then-Lieutenant Governor, the Attorney General, the Solicitor General, Wallace Lightsey, Esq.; and James Hardin, Esq., and spanning over 300 pages) the lower court simply overlooked in its final order. [R. 2164-2577; 1312-1385]

The panel overlooked that Respondent Brown Estate named only three witnesses in this case from 2013 until late 2016, then, jointly with Hynie's counsel, engaged nine experts to try to "prove" that Buchanan and Appellant should not have opposed the AG's 2008 settlement from 2008 until 2013. [R. 326-332; 1425; 1430; 1283-87; 1295-98; 1303-5]

The panel overlooked that the delays in this case were caused because Respondent Brown Estate has refused since 2009 to pay Appellant's $1,473,550, with interest, and even her $47,972, with interest, since 2008. [R. 2820; 2900; 851-2; 859; 944; 959; 1028; 1139-40; 1208-10; 1242; 1244-46; 1258; 1260-1; 1266]

The panel overlooked the undisputed facts of this case which show that before and after May 29, 2013, Respondent Estate of James Brown spent tens of millions of dollars devised to the "I Feel Good" charity to prevent the *Wilson* decision, and then to ignore the Supreme Court's decision and reinstate the AG's 2008 settlement. [R. 1386-87; 1392; 1402; 1421-22; 1435]

The panel overlooked that Brown's Estate, on May 29, 2013, the day counsel for Hynie and Levenson announced to the Honorable Doyet A. Early, III in open court their plan to disregard *Wilson,* served the "Disallowance" which forced Appellant to file this case. [R. 302; 667; 789; 790; 847] Appellant's share of the joint $2 million claim, like Buchanan's share, could have been resolved under *Wilson* without a separate suit.

Background

In May 2009 Buchanan and Appellant ended their 18-month service as PR/Trustees under the Will and Trust of James Brown, and began their 4-year effort to persuade the Supreme Court to void the AG's 2008 settlement which had been proposed just 8 months after Hynie and Levenson had filed multiple suits to set aside Brown's ironclad estate plan. [R. 1299]

They promptly delivered the assets to their successor and filed both an accounting and a claim for the funds they were due under their "time plus costs" agreement with Brown's Estate, as approved by Judge Early on January 8, 2008. [R.

1587; 23-26; 792; 1140-41] The accounting showed $99 million of assets delivered to the successor. It showed the PR/Trustees had earned $7.83 million, more than $5 million a year. [R. 1414; 1422; 1128] And it showed that Brown's TIAA debt, which had been fifteen million when he died, was reduced to under $9.4 million. [R. 1143-44; 1415; 1722]

The claim requested $47,972 of unpaid SA fee for Pope and about $2 million of earned partial PR/Trustee commission, about 70% of which was payable to Appellant. [R. 1768-69; 1770-74; 1786; 2820; 25; 877; 998] Their hourly rates were $350 or less. More than 100 pages of daily timesheets and expert opinions of Steven Johnson and James Hardin accompanied the claim. [R. 2819; 1468; 1926; 433-535]

Buchanan had already received his full SA fee and about $50,000 of PR/Trustee commissions. Appellant had received none. [R. 2850; 671; 1273-74; 538-582]

William Newsome, Esq., the Estate's probate claims attorney whose rate was $440 an hour, did not address either claim for three years, even though the 2008 order provided that interest on the claim was accruing at the legal rate – more than $120,000 a year. [R. 1028; 1108; 1114; 1137; 1139; 1162; 1213; 1215; 1216; 1259-60; 1359; 1388; 1432; 1436; 1784-5; 2479]

In 2012 Buchanan became financially strapped because of having been paid very little for his service to Brown's Estate since 2007. [R. 2131] Buchanan agreed to accept $500,000 without interest, making his total paid partial PR/Trustee commission $550,000. [R. 2131]

As a condition of payment Brown's Estate required Buchanan to release Hynie and certain owners of the "Legacy Trust" the AG had created. [R. 2901] Brown's Estate

also required Buchanan not to file a petition for rehearing in *Wilson*, or to take any further action to protect James Brown's "I Feel Good" charity. [R. 861; 1057; 1427; 1431; 1792]

In a remittitur handed down just five days before the Hynie/Levenson May 29, 2013 announcement, the Supreme Court had pronounced the AG's 2008 settlement to be what it was: a dismemberment of the carefully crafted estate plan of iconic entertainer James Brown. [R. 2198; 2349; 2473; 789; 795; 845; 860]

The Supreme Court's *Wilson* decision recovered for James Brown's Estate the more than half of its $5 million annual income and assets the AG's 2008 settlement had proposed to give to Hynie, five Levenson clients and Terry Brown. [R. 972; 1414; 1422]

The legal fees incurred by Buchanan and Appellant to protect Brown's "I Feel Good" charity from Hynie from December 2007 until May 2013 were modest, due in large measure to the *pro bono publico* service of lead appellate counsel James B. Richardson, Jr., Esq.

Legal fees of James Bailey, Esq., and Tressa Hayes, Esq. for the 7-day hearing opposing the AG's 2008 settlement, other assistance to the Brown Estate, and some minor help by Hayes during the 4-year appeal were about $300,000. [R. 997]

Both Buchanan and Appellant spent numerous hours in protecting Brown's charity during the 5 ½ years. [R. 433-535; 538-582; 998] One expert jointly hired by Hynie and the Estate in 2016, Tiffany Provence, Esq., described Appellant's work for Brown's Estate as "super human." [R. 1926]

Expert Hardin described the non-charged legal work Buchanan and Appellant performed as a benefit to Brown's Estate. [2443; 2444; 2449-2452]

While the outside legal costs were low, the cost to Buchanan's and Appellant's careers and reputations was high. [R. 3093]

In 2010 the AG and Hynie sued Buchanan and Appellant in the "Wingate Suit," a tort suit seeking tens of millions of dollars for Hynie and other owners of the AG's newly-created "Legacy Trust." [R. 2857-59; 2929; 711; 776; 787; 805; 811; 974; 1039; 1110; 1114; 1291; 1367] That suit is still pending 12 years later.

In 2011 the AG, the state's highest legal officer and the protector of charities, had begun to use a claimed $4.7 million value to accuse Buchanan and Pope of being greedy felons, seeking a $5 million commission from what the AG claimed was James Brown's $5 million estate. [R. 2483-84; 2555-6; 701; 739; 759; 765; 767-8; 775-6; 787; 793-4; 801; 814; 842-5; 858; 958; 967-8; 974-5; 978; 1040; 1096; 1102; 1110; 1146; 1319; 1334; 1360; 1401; 1424; 1425; 1427; 1442-43; 2149]

The claim that Brown's worldwide music empire, which five trustees had valued at about $100 million less the $15 million TIAA debt, was instead worth about $4.7 million became central to the plan of Hynie and Brown's Estate to discredit Buchanan and Appellant. [2494; 2552-3; 2897-8; 2496; 2947; 668]

In 2011 Brown's Estate represented to the Supreme Court that Hynie's elective share claim was a "slamdunk;" that James Brown's Estate and Trust had no corpus to speak of; and that, but for the AG's 2008 settlement there would be no assets in the "I Feel Good" Trust in 2023. [R. 668; 1323; 1324; 1428; 726-7]

Brown's Estate also claimed that Hynie and her son controlled the U.S. Copyright Act termination rights to Brown's now-1100+ copyrights. [R. 726-7; 782; 786; 799]

The 2011 article *Private Foundations, Copyright Heirs and Musical Millionaires:*

why the James Brown "I Feel Good" Trust doesn't… , co-authored by Appellant and supported by the testimony of expert Lightsey, confirmed the opinions of five trustees and others that the AG's 2008 settlement was bad for James Brown's charity. [R. 2860-72; 975; 1069; 1076; 1077-80; 1302; 1381-3; 1403; 1425; 2048-9; 2466-7]

Private Foundations made clear that "stipulating" that only half of James Brown's claimed children under the Copyright Act were his heirs, along with Hynie, threatened to leave the "I Feel Good" charity with almost nothing. [2860-2872]

The first *Wilson* decision provided hope for James Brown's charity, but the $4.7 million valuation had created another problem. [R. 1383; 1386; 1429; 2024-29; 2600; 3092; 1267; 1304; 1386; 1393; 1429] Because of the "fractional share" formula in Brown's Trust, Brown's Estate had, with the $79 million devaluation, shifted $1 million a year of income and nearly 1/3 (31%) of the "I Feel Good" charity out of the charity and over to a trust for Mr. Brown's grandson Forlando Brown and five Levenson clients. [*Id.*]

The *Wilson* decision did not return the $1 million a year of income and nearly 1/3 of the charity Brown's Estate had shifted out of the charity with the $4.7 million value. [*Id.*]

In March 2013 Appellant met with AG Alan Wilson and his senior staff to address the damage the alliance of Brown's Estate with Hynie and the claimed $4.7 million value had done to Brown's charity. [R. 776; 1266; 1318-19; 1327; 1335; 1416-17]

A few days later Appellant, joined by counsel Adam Silvernail, Esq., met with Chief Deputy AG John McIntosh and Solicitor General Robert Cook to discuss again the damage to the Brown's "I Feel Good" charity by the alliance with Hynie and the claimed $4.7 million value. [R. 1417]

Under the IRS "Five Percent Rule," the "I Feel Good" Trust, at $80 million, would be required to distribute close to $4 million a year in James Brown "I Feel Good" scholarships to needy students in Georgia and S.C. [R. 1265; 2553; 1263; 972; 1025; 1067]]

With a $4 million value, the required "I Feel Good" scholarships would be $200,000 a year, or less. [R. 1263; 1265; 2553; 972; 1025; 1067]

In addition, the "fractional share" clause, with the claimed $4.7 million value, was taking $1 million or more a year in scholarship funds from needy and deserving students. The problem detailed by Appellant and Silvernail in 2013, was documented by expert Steven Johnson, Esq. [R. 1386]

The Supreme Court's *Wilson* decision strongly indicated that the James Brown "I Feel Good" Trust should be upheld.

On May 10, 2013 Hynie and Levenson secured re-appointment of Bauknight. [R. 1390]

That day, Hynie, Levenson, and Brown's Estate asked the Honorable L. Casey Manning to stay all action in the 2010 Wingate Suit, as well as the two 2011 James Brown FOIA cases which had been moved from Newberry County to Richland County. [R. 1432]

Based on the May 10 request, and subsequent requests by the same parties, there was no hearing on the AG's motion in the Wingate Suit or in either FOIA case until after March 2016.

On May 29, 2013 the lower court held a status conference related to the remand mandate of the Supreme Court's *Wilson* decision. [R. 1432; 1435-6; 1438; 216; 790;

847; 977]

At the status conference Hynie's attorney Alan Medlin, Esq., and Levenson announced to the lower court the plan to disregard the Supreme Court and reinstate the AG's 2008 settlement. [R. 1432; 1435-6; 1438; 216; 790; 847; 977] They also asked the lower court to exclude Buchanan and Pope from all James Brown hearings. [R. 1290-91]

One of the two attorneys representing the Brown Estate at the status hearing joined in the request of Hynie and Levenson to exclude Buchanan and Pope from participation in the James Brown hearings, even as witnesses.

At the conclusion of the May 29 status hearing in which the Hynie/Levenson plan to reinstate the AG's 2008 settlement was announced, a second Brown Estate attorney, William Newsome, Esq., served Pope with the "Disallowance" which required Appellant to file the lawsuit in which the orders on appeal were issued. [R. 1784-85]

The Disallowance said that Appellant would be "forever barred" from being paid her $47,972 unpaid special administrator fee, with interest from March 8, 2008. The Disallowance even suggested that Appellant might have to disgorge under *Wilson,* part of her approximately 70% share of the $317,000 SA fee she and Buchanan had been awarded by the Honorable Doyet A. Early, III in his January 2008 order. [R. 1784-5]

The Disallowance alluded to the false felony claim which had been lodged against Buchanan and Pope since 2011. [R. 731]

Appellant filed this claim case, "Case 1337" in June 2013. [R. 666-736]

In June 2013 the lower court issued administrative orders which, among other things, excluded Buchanan and Pope from any participation in the Hynie spousal

proceeding and the James Brown will contests, even as witnesses. [R. 993-7]

By August 2013 the Brown Estate's commitment to the announced plan of Hynie and Levenson to reinstate the AG's 2008 settlement was clear. [R. 2885-88; 799; 846; 1246] Also clear was the Brown's Estate's plan, with Hynie, to suppress public documents in an effort to show that Hynie was Brown's spouse; that the AG's 2008 settlement was good for Brown's charity; and that Buchanan and Appellant were responsible for the millions of dollars damage Hynie had caused by the AG's settlement. [R. 704-5]

Under oath in August 2013, Bauknight defended the AG's 2008 settlement and claimed that Appellant was dishonest. [R. 789; 1246; 1839; 799; 846] Bauknight even claimed that Pope (and apparently Buchanan, since all of their service was joint) had "raped" James Brown's estate. [R. 1246; 799; 846]

In conjunction with the deposition, Brown's Trust claimed that the AG's Special Counsel Litigation Retention Agreement with Wingate to sue Buchanan and Appellant in 2010 was confidential, even though the Wingate Agreement states on its face that it is a public document subject to FOIA. [R. 849-50; 969-70; 976; 1021-22; 1053]

Brown's Trust also claimed that the $4.7 million valuation, for which Peter Afterman served as the "music industry expert," was confidential. [R. 1100; 1146; 1216]

Grandson Forlando Brown, Buchanan and Pope reviewed the $4.7 million valuation, and Forlando declared it to be "bogus." [R. 719; 720; 757; 764; 774; 834; 844; 861] Using more measured terms, both Buchanan and Pope agreed. [R. 308; 670; 1102; 1143-44; 1969]

In August 2013 Hynie and her son filed public termination notices (the "Tomi Rae

Terminations") seeking to siphon off U.S. royalties from about 200 of James Brown's now-1100+ copyrights between 2015 and 2023. [R. 2365; 2889-90; 1041; 1080; 1214; 1432-34]

In September 2013 a letter protesting the "Tomi Rae Terminations" was sent to the lower court by an attorney for some of Brown's DNA-proven children in September 2013. [R. 2889-90] The letter stated that it was improper for the Brown's Estate's agent to be assisting Hynie, who was not Brown's spouse, take U.S. royalties from Brown's charity. [R. 2889-90]

In October 2013 Bauknight, nominated by several Levenson will contestants, was named Brown's PR/Trustee. [R. 996; 802] Questioned only by the lower court, he was not asked to explain Hynie's claim to be Brown's widow in the Copyright Office filings, or the assistance she was being given by Afterman. [R. 996;802]

In October 2013 the lower court held a brief hearing on Buchanan's share of the approximately $2 million joint claim filed by Buchanan and Pope in 2009 for their "time + costs" through May 26, 2009. [R. 863; 1049; 1108; 1260; 1314]

The lower court praised Buchanan's service, all of which was joint with Pope. The lower court "double approved" Buchanan's full SA fee, which had been paid in 2008, and his $550,000 of PR/Trustee fee for service through May 26, 2009. [R. 853; 1050; 1108; 1171; 1314; 1432; 1435]

The lower court even left open the possibility of Buchanan's re-entry into the Wingate Suit based on a pending 2012 motion. [R. 1435; 2127]

The lower court's praise of Buchanan and finding that no disgorgement was necessary under *Wilson* was based on filings by Buchanan and Pope after the Supreme

Court's decision; Buchanan's testimony; and the 200-page joint claim of Buchanan and Appellant which had been pending since 2009. [R.356-359; 360-416; 430-625] It included:

- Daily Time Records for Buchanan and Appellant. [R. 433-574]
- The 2009 expert opinion of Steven Johnson, Esq., finding work of Buchanan and Appellant extraordinary. [R. 1348; 1272; 1288]
- The Lengthy Expert Opinion of Hardin finding all work appropriate. [R. 1348; 2443]
- Detailed evidence showing the $5 million annual earnings and modest attorneys' fees, of entertainment counsel Ray Gonzalez and others. [R. 1422; 1439]

By the end of 2013 Appellant's request for a special fiduciary who was not aligned with Hynie and committed to reinstating the AG's 2008 settlement had been pending for months. [R. 667-729]

Brown's Estate claimed Appellant had no standing to complain about Bauknight's actions, and the lower court refused to appoint someone other than Bauknight to address her claim. [R. 741-744] Multiple efforts to secure a special fiduciary not committed to Hynie and the plan to reinstate the AG's 2008 settlement were unsuccessful. [R. 1095-1106]

In 2014 and early 2015, the lower court issued a number of orders and directives in cases from which Buchanan and Pope were excluded which advanced the announced plan to reinstate the AG's 2008 settlement [R. 1000; 1002; 1003-1011; 1012-18]

Some of the lower court's orders allowed Hynie and Brown's Estate to attack and blame anyone who did not agree that Hynie was Brown's widow and that she should be

entitled to a quarter of Brown's charity under the AG's 2008 settlement. [R. 1012-18]

Some of the lower court orders and directive were:

- Granting Hynie summary judgment as Brown's spouse while declining to release Hynie's public, handwritten bigamy admissions. [R. 1015-16]

- Excluding some of Brown's DNA-proven heirs from the Hynie spousal proceeding until after the summary judgment hearing. [R. 1012-18]

- Declining to grant Appellant's request for a neutral fiduciary to hear her claim, where Bauknight was clearly committed to the plan to reinstate the AG's 2008 settlement, and had claimed Appellant "raped" Brown's Estate. [R. 219-232]

Appellant made reasonable efforts to seek reconsideration of, or appeal, these rulings. From 2013 until June 10, 2015 Appellant also worked vigorously to try to persuade the Governor, the AG and others not to allow Brown's Estate and Hynie to reinstate the AG's 2008 settlement which would dismember Brown's charity. [R. 238; 1348]

The Lower Court Fails to Report Hynie's May 29 Plan to the Supreme Court

By January 2015 Hynie had become like the infamous Getty Kouros described by Malcolm Gladwell in his 2005 book *Blink.*

Gladwell describes how the beautiful statue had been purchased by the Getty Museum for $10 million. It was claimed to have been carved in 5th Century Greece.

According to Gladwell, some of the Getty trustees fell in love with the idea that the beautiful kouros was authentic. Certain seasoned trustees, however, knew in the blink of an eye that it was a fake.

Only after fabricated back-dated documents were exposed did the Getty trustees who had been blinded by their hope that the kouros was real, accept the fact that the kouros was a fabulous fake.

In January 2015, for the second time, the lower court accepted Hynie's fabricated claims that she was Brown's spouse. Without objection from Brown's Estate, the lower court turned a blind eye to Hynie's own handwritten bigamy admissions. [R. 1007-9]

The lower court excluded from the proceeding, until after the summary judgment hearing, at least four DNA-proven heirs of James Brown who claimed Hynie was not Brown's spouse. [R. 1012-18]

The lower court simply overlooked the testimony of five former Trustees and every known child of James Brown that Hynie was not Brown's spouse. [R. 1012-18; 1003-11]

Appellant spent two years trying to convince the Governor, the AG and others not to allow Hynie and Levenson to reinstate the AG's 2008 settlement, but Brown's Estate, deeply committed to Hynie, was successful in characterizing appellant as an "officious intermeddler." [R. 1171; 1348]

Claiming to speak for the State/AG, Hynie and Brown's Estate, attorney Kenneth B. Wingate, Esq., was successful in preventing any hearing in the 2010 Wingate Suit or the two 2011 FOIA cases. [R. 1432]

Spending millions of Brown's fortune each year, Hynie and Brown's Estate were able to convince the lower court a second time that it was good for Brown's charity to make Hynie the "widow" and reinstate the AG's 2008 settlement. [R. 292-352]

By 2015 the lower court was also helping Brown's Estate and Hynie suppress Hynie's handwritten bigamy admissions. [R. 1004; 1021-22; 1623; 2616; 65] The Supreme Court, however, declined to enforce the lower court's 2008 gag order in which Hynie admitted her bigamy.

When asked by the Supreme Court to submit a status report following the 2015 Hynie spousal ruling, the lower court submitted the Status Report on May 8, 2015. [R. 993-999]

The Status Report praised Bauknight, failing to mention music manager Peter Afterman's service to Hynie's counsel. The Status Report repeated various inaccurate claims Bauknight had made to the Court in the cases from which Buchanan and Appellant were excluded. [R. 993-999]

Of Appellant's $47,972 unpaid SA fee from 2007 the Status Report said:

> I am not sure if my interpretation of her statement is correct, but she appears to claim in excess of $2,000,000.00 for SA fees for service through May 26, 2007. [R. 998]

Of Appellant's PR/Trustee fee claim the Status Report said:

> It appears that she claims approximately $5,000,000.00 in fees. The Richland County suit with her counterclaims is still pending. [R. 998]

The Status Report failed to inform the Supreme Court of the May 29, 2013 announced plan of Hynie's lawyer and Levenson to reinstate the AG's 2008 settlement. Instead, the Status Report said;

> 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. [998]

The panel overlooked that the lower court's Status Report contained numerous inaccuracies, some of which were pointed out by DNA-proven children who had been excluded from the Hynie spousal proceeding until after the summary judgment hearing. [R. 1000-1018] The Status Report suggested that Buchanan "settled the case against

him," when it was the Wingate Suit plaintiffs, with funds advanced by Brown's Estate, who had paid Buchanan. [R. 997].

The Lower court's Status Report said that modest fees of Bailey and Hayes had been approved and paid. In fact, only a portion had been paid. [R. 997; 2001] Brown's Estate (Bauknight) had also refused to pay the modest bill of entertainment counsel Ray Gonzalez which was pending when Buchanan and Appellant were replaced. [R. 2808]

The Supreme Court, not told about the announced plan of Hynie and the Levenson clients to ignore *Wilson* and reinstate the AG's 2008 settlement, and told that Appellant was seeking $7 million in fees -- when she would have settled for $2.1 million or less -- issued a stern warning to Appellant not to become involved in James Brown matters in which she had no standing. [R. 1050]

While arguably Buchanan, Appellant and their *pro bono publico* counsel in the *Wilson* appeal, James Richardson, should have asked the Supreme Court to correct its rulings and consider Hynie's May 29, 2013 announced plan to disregard the Court's ruling and re-instate the AG's 2008 settlement, there is little evidence they would have been found to have standing to complain.

On June 10, 2015 Appellant's lack of standing and the Supreme Court's order abruptly ended Appellant's 2-year effort to convince the courts, the Governor, limited special administrator David Sojourner, Esq., and others not to allow Hynie and Brown's Estate to carry out Hynie's May 29, 2013 announced plan to defy the Court and dismember James Brown's "I Feel Good" charity and estate plan a second time. [R. 1171; 1348]

The panel overlooked that the erroneous Status Report, while clearly incorrect

and hostile to both Buchanan and Appellant, was inadequate for Appellant to ask the Lower court to withdraw from this case.

2016 Rulings Advancing the Plan to Reinstate the AG's 2008 Settlement

The panel overlooked that in 2016 Judge Early took jurisdiction over the 2010 Wingate Suit, two FOIA cases Appellant had filed in 2011, as well as this claims case ("Case 1337") over which he had held jurisdiction since it was filed in 2013. [R. 2947; 265-266; 268-73]

The panel also overlooked that orders and directives of the lower court in 2016 became increasingly supportive of the joint effort of Hynie and Brown's Estate to make Hynie appear to be James Brown's spouse; reinstate the AG's 2008 settlement; and blame the damage the alliance with Hynie had caused on Buchanan and Appellant. [R. 272-273; 268-271; 274-278; 280-284; 285-286; 287-291]

The lower court orders issued in 2016 helped Hynie and Brown's estate conceal public documents which made clear that Hynie was not James Brown's spouse; that the $4.7 million claimed value of the music empire was fabricated; and that it was Hynie and Brown's Estate who were delaying Appellant's claim in order to advance Hynie's position in the Wingate Suit. [R. 1049; 1212-1220; 1221-28; 1386; 1389; 1390; 1400; 1435; 1434; 1442; 2350-51; 2368; 2441-42] Those lower court orders included:

- The lower court's $700,000 litigation award to Hynie's son; [R. 1049]

- The lower court's refusal to unseal public documents, including those showing Buchanan's and Appellant's critical role in the suit to recover from felon David Cannon and Greenberg Traurig some of the $17 million Cannon had stolen. [R. 1212-1220; 1221-28]

- The lower court's dismissal of the FOIA suit seeking the AG's public Special Counsel Litigation Retention Agreement which confirms that every document

used in the unauthorized Wingate Suit is a public document owned by the State of S.C. [R. 1386; 1389; 1390; 1400; 1430; 1434; 1442; 2350-51; 2368; 2441; 2442]

- The lower court's ruling in a FOIA suit that the Legacy Trust, which holds the termination rights proceeds of the Wingate Suit plaintiffs, does not exist, followed by its order granting summary judgment as to the Buchanan/Pope counterclaim in the Wingate Suit to the claimed-nonexistent Legacy Trust. [R. 976; 1104; 1384; 1391; 1434]

- The lower court's dismissal of the FOIA suit seeking the claimed $4.7 million value used since 2011 to falsely accuse Buchanan and Appellant of a federal felony.

- The lower court's failure to consider the sworn testimony of Governor Henry McMaster that he did not authorize Wingate to bring the Wingate Suit in the name of the State/AG, and did not even know he was a Wingate Suit plaintiff until after leaving office as AG in 2011. [R. 1314-16]

- The lower court's dismissing the AG as a party to the Wingate Suit, then granting the AG summary judgment as to Buchanan's and Appellant's counterclaims without hearing a 2012 motion to reinstate Buchanan.

- The lower court's allowing Wingate firm members to participate in Case 1337 depositions of the AG and AG's staff to protect Wingate's claimed "client," the AG, when Governor McMaster was clear that, as AG, he never hired Wingate.

- The lower court's grant of summary judgment to Hynie and her son as to Buchanan's and Appellant's counterclaims without discovery and without hearing the 2012 motion to reinstate Buchanan as a party. R. 1000-18]

The panel also overlooked that by the end of 2016 Levenson, terminated by his dozen clients, joined Hynie and Brown's Estate in their increasing sanctions requests and successful efforts to suppress the fabricated $4.7 million valuation and evidence of Hynie's bigamy.[1] The lower court suppressed these public documents, which make clear the representations to the Supreme Court in 2011 to damage Buchanan and Appellant were inaccurate.

[1] Brown's Estate sought sanctions against Appellant's counsel for seeking the $4.7 million valuation Levenson said under oath he had seen. [R. 1221-1228; 1233-42]. Then Levenson recanted his testimony. [R. 1229-1232]

The panel overlooked that, as a result of the claimed $4.7 million value of Brown's music empire, $1 million a year and nearly 1/3 of the assets of Brown's "I Feel Good" charity was shifted from the charity to the trust for Forlando Brown and five Levenson clients. [R. 1000-18; 1267; 1304; 1383; 1386; 1393; 1429]

Rulings Supporting Respondent's Failure to Settle for $2.1 Million Before Trial

The panel overlooked that by January 2017 Brown's Estate was paying LSA Sojourner, Newsome's law firm and Peter Afterman more than $100,000 a month, while refusing to pay Appellant's total claim of under $1.5 million, with interest. [R. 972; 1079; 1209; 1244; 1381; 2901; 3091]

The panel overlooked that Brown's Estate, solely for the benefit of its alliance with Hynie, refused Appellant's second summary judgment request in 2017 for $47,972 and $1,473,550, with interest. [R. 937-949; 1136-1148; 1208-1211]

In 2017, the lower court ordered that the $47,972 2007 SA fee, with interest, be paid to Appellant, but Brown's Estate has not paid it five years later. *See* S.C. Court of Appeals Case No. 2020-000967 and Supreme Court Case No. 2021-000160. [R. 1242-48] The unpaid $47,972 has grown to over $100,000 and is earning interest at about $9,000 a year. [R. 1311; 2367; 955; 992]

The panel overlooked that the thousands of dollars that have been spent by Brown's Estate to refuse payment of the $47,972 for 13 years is not known because the lower court, during the trial, ordered the expense records of the litigation to be produced; they were produced *ex parte;* then they were discarded by the lower court, with no copy retained for this appeal. [R. 1268; 1902; 1249-58; 1386-87; 1391]

The panel overlooked that the millions spent by Brown's Estate to resist payment

of the $47,972 and $1,473,550 because Appellant had opposed Hynie's spousal claims and the AG's 2008 settlement should be reinstated was material to this case, and that the discarding of those expense records without preserving a copy for this Court's review was highly prejudicial to Appellant and Buchanan, denying them a level playing field. [R. 1386-87]

The panel overlooked that the discarding of the *ex parte* filed tens of millions of dollars of litigation records was intended to, and did, provide Hynie and those aligned with her, including Brown's Estate, an unfair and improper advantage in the unauthorized Wingate Suit. [R. 1386-87] Brown's Estate has claimed to the lower court that the Wingate Suit is a companion case to this claim case, even though its purpose is to punish Buchanan and Appellant for the benefit of Hynie and Legacy Trust owners for appealing the AG's 2008 settlement and securing the *Wilson* ruling. [R. 1088-94]

The panel overlooked that in January 2017 Brown's Estate added a third attorney to handle Appellant's modest fee claim, which she handled *pro se* until trial. [R. 288] The panel overlooked that in January 2017 Bauknight testified under oath, but claimed he had no idea of the value or income of James Brown's music empire, and did not even know about the Ray Charles termination rights litigation. [R. 1319; 1803; 2174-75; 2377; 2040; 2386]

The panel overlooked that in March 2017, after charging more than $1.4 million, LSA Sojourner abandoned his opposition to Hynie's claim to be James Brown's surviving spouse and his opposition to her son's $700,000 litigation fee award. [R. 1079; 1080; 1103; 1209; 1243-44; 1263; 1291-92]

The panel overlooked that by December 2017 Brown's Estate (Bauknight) had

spent tens of millions of dollars of litigation costs from a claimed $4.7 million music empire in its effort to make Hynie the “widow” of James Brown and implement the AG’s 2008 settlement. [R. 1386-87; 1392; 1421-22; 1944; 1402]

The secreting of these litigation records was inconsistent with the mandate of the Supreme Court in *Wilson v. Dallas;* caused irreparable harm to Buchanan and Appellant; and denied Appellant the right to Due Process and a fair trial of her fee claim.

The panel overlooked that the lower court, like Brown’s Estate, refused to consider Appellant’s offer to settle her fee claim for six years of valuable service for $2.1 million made both prior to and at trial, and, instead forced her to go through a multiple-day trial where the lower court had “double approved” the same service of Buchanan in a brief hearing with one witness. [R. 2129]

The panel overlooked that by April 2017 summary judgment as to Appellant’s $47,972 and $1,473, 550 was appropriate, but the Lower court granted summary judgment, with interest, only as to the $47,972. [R. 1208-1211]

The panel overlooked that the Lower court’s 2017 refusal to grant summary judgment as to the $1,473,550 in 2017; consider the $2.1 million offer to end this case because it did not release Hynie and her son; and refusal to consider the 30 depositions which added to the praise of experts James Hardin, Esq., and Steven Johnson, Esq., of the service of Buchanan and Pope, deprived Buchanan and Appellant of Due Process and the level playing field to which they are entitled for an analysis of the value of James Brown’s Estate and the value of their service. [R. 1161-1172]

The panel overlooked that the Lower court’s granting of the eleventh-hour conversion of this case to a non-jury matter without even allowing an advisory jury as to

the value of James Brown's $99 million music empire, was punitive and provided clear support for the plan of Hynie and Brown's Estate to disregard *Wilson v. Dallas* and implement the AG's 2008 settlement a second time. [R. 1161-1172]

The panel overlooked that it was manifestly unjust for the Lower court to grant summary judgment in 2017 only as to the $47,972, with interest from 2008, then decline to hear a motion of Brown's Estate (Bauknight) to pay the funds into the Court until the 2010 Wingate Case to benefit Hynie and other Legacy Trust owners was concluded. [R. 1258] This failure on the part of the Lower court resulted in years of additional delay as to Appellant's still-unpaid fee for her 2007 SA service.

The panel overlooked that it was manifestly unjust for the lower court to force Appellant to trial where Respondent Estate of James Brown presented no material evidence to dispute Hardin, Johnson, and more than 30 depositions confirming that the service of Buchanan and Pope was excellent.

The panel overlooked that the Lower court's refusal to consider the following, and other, sworn support for the immediate payment of $1,473,550 and $47,972, with interest, damaged James Brown's charity, Appellant and Buchanan in an effort to help Hynie secure status as Brown's widow and implement the AG's 2008 settlement which dismembered Brown's estate plan and charity.

The panel overlooked that the following depositions which the Lower court overlooked, with the 2009 opinions of Hardin and Johnson, provided more than enough support for summary judgment:

- Deposition of Governor McMaster conflirming the Wingate Suit was unauthorized; confirming the seriousness of the false felony claim; and confirming that he knew nothing Buchanan and Appellant had done improperly. [R. 2235-2328]

• Deposition of Solicitor General Cook confirming that Appellant was competent, not greedy, and had reported to AG Wilson the damage caused by the claimed $4.7 million value and the Brown's Estate's alliance with Hynie in March 2013. [R. 2164-2234]

• Deposition of expert James Hardin, Esq., confirming his earlier opinion, and that Buchanan and Appellant had used correct factors in their $84 million value of Brown's music empire and $80 million at-death value of the "I Feel Good" charity. Also confirming that Bauknight's fee should be based on the $4.7 million value if he stated that value under oath. [R. 2443-2484]

• Deposition of Judge (retired) Walter Williams confirming that the at-death value of $100 million for the "I Feel Good" charity was low, based on his knowledge of Brown, trustee Bradley and investment bankers, and his IRS service and valuation of hundreds of estates before being appointed to the "I Feel Good" Trust Advisory Board. [R. 2400; 2405]

• Deposition of IP expert Wallace Lightsey affirming the importance of Appellant's probate and termination rights expertise, as shown by *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't…* [R. 2366-2399]

• Deposition of Respondent Brown's Estate's IP expert Roger Miller that "frothy" investors were seeking to buy Brown's "solid gold" music catalogue from his death to 2017 for $15 – $20 times annual royalties, $60 million to $80 million or more; that the termination rights of all heirs under the Copyright Act were worth only $8.8 million ten years after Brown's death; confirming that Buchanan's and Appellant's value of zero for Hynie's termination rights and $5 million or less for the settling parties at death was correct. [R. 1305]

• Deposition of expert Steven Johnson, Esq., confirming his 2009 opinion and the importance of Appellant's estate and fiduciary income tax expertise to Brown's Estate; supporting the joint service of Buchanan and Pope as excellent. [R. 2812-15; 1272-1305]

• Deposition of Respondent Estate's IP expert Jonas Herbsman, Esq., that he was told Hynie was James Brown's spouse and asked to review the AG's 2008 settlement; that he had no opinion (and no criticism of) *Private Foundation, Copyright Heirs…*[R. 1295-1298]

• Deposition of AG Alan Wilson that he knew nothing about the Wingate Suit; nothing that Buchanan and Appellant had done improperly; nothing about the Legacy Trust's actions; and was not told about Governor McMaster's 2016 deposition confirming that he never authorized Wingate to sue Appellant and Buchanan for the AG, and never authorized Bauknight to act "on behalf of" the

AG in the Wingate Suit. [R. 2329-2365]

- Deposition of Sr. Asst. AG Havird "Sonny" Jones confirming he knew nothing about the claimed $4.7 million valuation or the operation of the James Brown music empire controlled by Hynie and the AG from 2009 until 2013, but stating that he shared a "common interest" with Hynie and her lawyers from August 2008 until May 8, 2013. [R. 2527-2570]

- Deposition of Asst. AG Jowers who had worked on the James Brown matter since 2007 that she did not know of anything Buchanan and Appellant had done wrong; knew almost nothing of what happened between 2007 and 2013; knew nothing about termination rights; and wasn't sure what a royalty was. [R. 2510-2526]

- Deposition of Dr. Terry Bradford Cox that he had little memory of the events of 2007 – 2009, including the three attempts by his entity, TJBL, to purchase Brown's music empire for $90 million - $100 million, but relied on his outside investors, who valued Brown's image + likeness (right of publicity) at $45 million or more, and all of the James Brown assets at $100 - $110 million in 2007 [R. 380-381; 1283-1286; 1300-1]

The panel overlooked that by August 2017, as the trial of Case 1337 began, the extreme prejudice of Brown's Estate in favor of Hynie, and the support of that bias was clear, but the Lower court had twice refused to remove Bauknight from her fee claim case despite his outspoken bias in favor of "Mrs. Brown," and against Buchanan and Appellant. [R. 219-232; 262]

The panel overlooked that for Appellant to have to conduct a 2-year-or-more second appeal of her 8-year-old fee claim where the lower court's bias, along with that of Brown's Estate, became unmistakable with the refusal to consider the $2.1 million offer, would be manifestly unjust.

Trial Errors, Including Destruction of Tens of Millions of Dollars of Records

The panel overlooked that prior to trial the Lower court ruled that any Columbia witness could appear at trial by deposition, in lieu of appearance, as well as others who qualified by distance or location, then overlooked the deposition testimony of Governor

McMaster, AG Alan Wilson, Judge (retired) Walter Williams, AG Jones, AG Jowers, IP expert Lightsey, expert Hardin, and others. [R. 2164-2577; 1312-1385]

The panel overlooked that Appellant was the co-author of the 2011 *Private Foundations…,* and was qualified as a trust and estate expert by Judge Early without objection of anyone at the 2009 hearings on the AG's 2008 settlement, but that the Lower court, in 2017, unfairly denied Appellant the right to testify as to her expertise.

The panel overlooked that the ruling was unjust for Appellant, Buchanan and James Brown's charity, allowing Brown's Estate's use of the claimed $4.7 million value to shift $1 million of income a year, and nearly 1/3 of the "I Feel Good" charity out of the charity and over to the trust for Brown family members in defiance of *Wilson.*

The panel overlooked that Appellant's fact and expert testimony about the misuse of the $4.7 million value to take $1 million a year from needy students for as much as two decades was fully supported by the testimony of expert Steven Johnson, which the Lower court also chose to disregard.

The panel overlooked that it was manifestly unjust for the Lower court to refuse to qualify Wm. Jeffrey Smith, an IP Attorney and Georgetown Law Graduate hired by Brown's Estate (Buchanan/Pope) in 2008 to advise on termination rights issues. [R. 1949] The Lower court's reason for the disqualification, that the Court already knew enough about termination rights, was erroneous and unjust. [R. 1905-8]

The panel overlooked that numerous trial rulings, in addition to simply overlooking the testimony of the Governor, Lightsey, Hardin and others, make clear the lower court's prejudice in favor of Hynie and the implementation of the AG's 2008 settlement, deprived Appellant of a level playing field and Due Process. [R. 1312-1444]

The panel overlooked that the 2016 joint hiring by Hynie and Brown's Estate of the 9 new expert witnesses; their being told that Hynie was Brown's spouse; and their not being shown the $4.7 million valuation or told that it was used to shift $1 million of income a year and nearly 1/3 of the charity's assets out of the "I Feel Good" Trust rendered them unable to testify reasonably about the material issue, the service of Buchanan and Appellant. [R. 1312-1444]

The panel overlooked that there was no testimony to support the Afterman/Bauknight $4.7 million valuation; that Afterman had been working to make Hynie appear to be Brown's widow since 2009; and that the $4.7 million valuation was not admitted into evidence because nobody could attest to its validity.

The panel overlooked that the Lower court decision to discard tens of millions of dollars of litigation records filed *ex parte* by the James Brown Estate made abundantly clear that Buchanan's and Appellant's Due Process rights were denied and the lower court favored the plan of Hynie and Brown's Estate to reinstate the AG's 2008 settlement.

The panel overlooked the importance of the fabricated $4.7 million value where James Brown had brought in $80 million between 1999 and his death; had brought in $18 million in road shows between 2003 and 2006; had brought in $5 million a year after his death, until the AG's settlement was approved in May 2009; and the $4.7 million valuation was used to cause severe damage to the "I Feel Good" charity and circumvent the Supreme Court's *Wilson v. Dallas* decision. [R. 3024-3027]

The panel overlooked that the Supreme Court's decision was clear that the lower court was to examine the costs expended in accordance with its *Wilson* decision, but

the lower court failed to do so, advancing the Hynie/Levenson plan.

The only reason that the tens of millions of dollars Brown's Estate (Bauknight) had spent since May 2009 to support Hynie and implement the AG's 2008 settlement was known was that, during the trial, a number of Brown's DNA-proven heirs sued Hynie, Sojourner and Brown's Estate alleging "backroom deals" related to termination rights.

The panel overlooked that Appellant has had no role since June 10, 2015 in matters related to the resolution of James Brown's Estate, but she is entitled to a level playing field to show the value of Buchanan and Appellant's service.

The panel overlooked the importance of the lower court's discarding of the ex parte filing by finding that the lower court decided not to use them.

If, as the panel suggest, the lower court glanced at the bottom line – tens of millions of dollars spent for 9 years trying to make Hynie the widow of James Brown and put her in charge of Brown's assets with the AG – the decision to discard the records without retaining a copy for appeal was nevertheless erroneous, biased and extremely prejudicial to Buchanan and Appellant.

The missing explanation for millions of dollars of litigation costs to implement the AG's 2008 settlement and make Hynie the "widow" materially and adversely affect Appellant's fee claim in this suit and in the suit Hynie and Brown's Estate filed 12 years ago to stop the appeal of the AG's 2008 settlement.

The purpose of the probate code is to efficiently administer estates. The Court's destruction of nine years and tens of millions of dollars of litigation cost records from a claimed $5 million estate, with no sealed copy for review, denied Buchanan and

Appellant their Due Process rights.

The panel also overlooked that the Harlan Howard case, about which none of the four financial experts hired by Hynie and the James Brown Estate knew anything, confirms that the IRS accepted a non-professional valuation by songwriter Howard's fifth wife and manager of his copyrights, based on a formula similar to that proposed by Buchanan and Pope for the estate tax valuation before they became PR/Trustees.

The Howard case also stands for the proposition that the purpose of the valuation is to get the figure right.

The Lower Court's 2019 Orders are Unsupported by the Record and Prejudicial

The panel failed to note that, when coupled with the discarded litigation record and refusal to grant even an advisory jury, the lower court's finding that the only credible evidence at trial was that Brown's music empire was worth only $4.7 million when Brown died is not only without support in the record, and designed to damage Buchanan and Appellant in favor of Hynie and the joint effort of Hynie and the James Brown Estate to disregard the Supreme Court and reinstate the AG's 2008 settlement which dismembered Brown's charity.

In addition to being manifestly unjust to Buchanan and Appellant, the claim that James Brown's "I Feel Good" charity was worth only $4 million when he died on Christmas Day 2006 is manifestly unjust to the memory of James Brown and to the needy students of South Carolina and Georgia.

The $84 million is fully supported by experts including Hardin, Miller, Lightsey, Woolley, Johnson, Alexander and others, as well as the undisputed record that Brown's estate earned more than the claimed $4.7 million value in every year from Brown's

death to May 2009.

The panel overlooked that the lower court's finding that Appellant engaged in personal attacks is unsupported by the record, as is the lower court's suggestion that her testimony was not credible. Appellant was confronted with the difficult task of an undisputed record that the lower court had failed to notify the Supreme Court in 2015 of the commitment of Brown's Estate to Hynie and the announced plan to disregard the Supreme Court's decision and reinstate the AG's 2008 settlement. Appellant did so courteously.

The panel overlooked that the Lower court's ruling that a dozen witnesses and experts, including Governor McMaster, AG Alan Wilson, Solicitor General Cook and LSA David Sojourner did not testify, when the lower court had ruled that all Columbia witnesses could testify by deposition, was highly prejudicial and unjust, depriving Appellant of a fair trial. The lower court failed to correct this material error, even when pointed out in Appellant's post-trial motion. [R. 1312-14; 1380]

CONCLUSION

For the foregoing reasons, Appellant respectfully asks that this Court rehear the matter and/or reconsider the Opinion herein; reverse the lower court's orders; find that Appellant is entitled to payment for her service to the Estate of James Brown and the James Brown 2000 Irrevocable Trust; and bring this thirteen-year-old claim to an end. Appellant suggests that the Court rehear this matter *en banc*.

Respectfully submitted,

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

Counsel for Appellant

June 9, 2022

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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 Doyet A. Early, III Circuit Court Judge

Appellate Case No. 2019-000362

Adele J. Pope, Appellant,

v.

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

PROOF OF SERVICE

The undersigned counsel for Appellant certifies that he has served a copy of the following:

1. Petition for Rehearing and Suggestion for Rehearing *en Banc* and
2. Motion to Supplement Record or for Judicial Notice

on all Respondents on the date shown below, by email, addressed as follows:

J. David Black (Bar No. 68499)
Kirsten E. Small (Bar No. 75681)
NEXSEN PRUET, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
(803) 771-8900
dblack@nexsenpruet.com
ksmall@nexsenpruet.com

Counsel for Respondents

s/Adam T. Silvernail
Adam T. Silvernail

June 9, 2022