

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

Civil Action No.: 1:18-cv-02191-JMC

Deanna Brown-Thomas, *an individual and*)
in her capacity as intestate heir and pending)
Personal Representative of the estate of her)
sister, the deceased Venisha Brown;)
Yamma Brown, *an individual*; Michael D.)
Brown, *an individual*; Nicole C. Brown, *an*)
individual; Jeanette Mitchell Bellinger, *an*)
individual; Sarah LaTonya Fegan, *an*)
individual; Ciara Pettit, *an individual*; and)
Cherquarius Williams, *an individual*,)

Plaintiffs,)

v.)

Tommie Rae Hynie, *an individual also*)
known as Tommie Rae Brown; James J.)
Brown, II, *an individual*; Russell L.)
Bauknight, *as the Personal Representative*)
of the Estate of James Brown and Trustee)
of the James Brown I Feel Good Trust;)
David C. Sojourner, Jr., *as the Limited*)
Special Administrator of the Estate of)
James Brown and Limited Special Trustee)
of the James Brown I Feel Good Trust; and)
Does, *1 through 10, inclusive*,)

Defendants.)

ORDER AND OPINION

This matter is before the court on Defendant Tommie Rae Hynie (“Defendant Hynie”), Defendant James Brown, II (“Defendant Brown”), and Defendant Russell L. Bauknight’s (“Defendant Bauknight”) (collectively, “Defendants”) Motions to Dismiss (ECF Nos. 80-1, 81, 101).¹ Specifically, Defendants move to dismiss Plaintiffs’ Complaint pursuant to a myriad of

¹ The court observes that Defendants’ respective Motions to Dismiss each made substantially similar arguments regarding their Rule 12(b)(6) analysis. In the interest of judicial economy, the court addresses all three Defendants’ Motions (ECF Nos. 80-1, 81, 101) in this order. *Connor v.*

Federal Rules of Civil Procedure including Rules 12(b)(1), 12(b)(2), 12(b)(5), and 12(b)(6). The court has already denied challenges brought forth by Defendants within their Motions to Dismiss on Rule 12(b)(1), 12(b)(2), and 12(b)(5) grounds. *See Brown-Thomas v. Hynie*, 367 F. Supp. 3d 452, 469 (D.S.C. 2019); (*see also* ECF No. 183.) The court now decides Defendants' last remaining ground supporting their Motions to Dismiss—the Rule 12(b)(6) challenge. Defendants assert that the action fails to plead a plausible claim under the Copyright Act and, therefore, Plaintiffs' declaratory judgment action (claim 1) must be dismissed.

After careful consideration of all relevant filings, the court **DENIES** Defendants' Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) (ECF Nos. 80-1, 81, 101) without prejudice.

I. FACTUAL, PROCEDURAL, AND STATUTORY BACKGROUND

A. Relevant Factual Background and State Court Litigation

James J. Brown (“James Brown”) was an American singer. He married Defendant Hynie in December 2001. (ECF No. 1 at 10 ¶ 38.) Through the union of Defendant Hynie and James Brown, Defendant Brown was born in 2001. (ECF No. 81 at 10.) On the morning of December 25, 2006, James Brown died. (ECF No. 1 at 3 ¶ 7.) James Brown's will omitted both Defendant Hynie and Defendant Brown. (*Id.* at 11 ¶ 41.)

In 2007, Defendant Hynie and Defendant Brown brought challenges to James Brown's will and trust in the state courts of South Carolina. (*Id.* at 11 ¶ 42.) Defendant Hynie filed for her spousal rights in South Carolina, which would have entitled her to a statutory elective share and a one-half omitted spouse's share, while Defendant Brown asserted his state statutory child share as

Lifewatch, Inc., No. CIV.A. 2:13-03507, 2014 WL 4198883, at *1 (D.S.C. Aug. 20, 2014) (where several cases are closely related, involving the same parties, the same causes of action, same facts, and same legal issues—a court is able to address identical issues in the interest of judicial economy).

a lawful heir. (ECF No. 80-1 at 3.) James Brown’s adult children also brought challenges to set aside his will. *See Wilson v. Dallas*, 743 S.E.2d 746, 750–51 (S.C. 2013). (*See also* ECF No. 80-1 at 3; ECF No. 80-2 at 29.) As a result of these collective challenges, James Brown’s will was submitted to the Probate Court of Aiken County, South Carolina. (ECF No. 1 at 11 ¶ 42.) Eventually, the Probate Court of Aiken County, South Carolina, transferred the administration of James Brown’s estate to the Aiken County Court of Common Pleas. (ECF No. 1 at 11 ¶ 43; ECF No. 80-1 at 4.)

Following extensive litigation in the Aiken County Court of Common Pleas, in 2013, the South Carolina Supreme Court reversed the trial court’s approval of a family settlement regarding James Brown’s estate, upheld the removal of several fiduciaries, and remanded the case for the appointment of new fiduciaries. (ECF No. 85 at 4 (citing *Wilson*, 743 S.E.2d at 768).) On October 1, 2013, the Aiken County Court of Common Pleas appointed Defendant Bauknight to serve as the personal representative of the estate and trustee of the trust. (ECF No. 85-1 at 27–29.) On October 10, 2013, Defendant Sojourner was appointed as a limited special administrator of James Brown’s estate and tasked with defending the estate against legal challenges. (ECF No. 85-1 at 35–36 ¶¶ 3–4.)

In 2015, the Aiken County Court of Common Pleas determined that Defendant Hynie was the surviving spouse of James Brown. (ECF No. 80-1 at 6.) Currently, Plaintiffs are appealing the spousal status of Defendant Hynie to the South Carolina Supreme Court (ECF No. 151 at 4).²

² During a hearing on January 22, 2019, Plaintiffs and Defendants readily acknowledge that Plaintiffs are seeking review of Defendant Hynie’s spousal status by the South Carolina Supreme Court. Pursuant to the Federal Rules of Evidence, the court takes judicial notice that this issue is currently pending before the South Carolina Supreme Court. *See* Fed. R. Evid. 201(b). *See also City of Amsterdam v. Daniel Goldreyer, Ltd.*, 882 F. Supp. 1273, 1278 (E.D.N.Y. 1995) (“[T]his [c]ourt is required to take judicial notice of the pending state court action.”).

The instant matter does not concern the probate issues before the South Carolina Supreme Court. Instead, this matter focuses exclusively on Defendants’ Motions to Dismiss Plaintiffs’ declaratory judgment action. (ECF No. 80-1 at 31-33; ECF No. 81 at 20-22; ECF No. 101 at 12-13.)

Plaintiffs’ Allegations and the Current Action

Plaintiffs originally filed their Complaint on January 12, 2018, in the United States District Court for the Central District of California. (ECF No. 1.) The United States District Court for the Central District of California transferred the matter to this court. (ECF No. 70.)

In the Complaint, Plaintiffs assert that Defendants have wrongfully deprived them of their termination interests pursuant to a Settlement Agreement and Concealed Terms and failed to comply with the appropriate procedures of the Copyright Act. (ECF No. 1 at 17, 20–21 ¶¶ 60–62, 75–76.) Specifically, Plaintiffs allege that Defendants have “conspired...to usurp [their] rights and interests in [James] Brown’s [c]ompositions.” (*Id.* at 4 ¶ 13.) Accordingly, Plaintiffs seek relief from the court under the Copyright Act and the Declaratory Judgment Act. (*Id.* at 20–22 ¶¶ 74–77.) Plaintiffs seek a declaration establishing, *inter alia*,³ that a “Settlement Agreement” or any

³ Plaintiffs request the following declarations:

This declaration should establish that Hynie’s Purported Settlement Agreement to sell a majority of the proceeds from the termination interests is void and unenforceable as a matter of law and public policy. 17 U.S.C. §§ 304(c)(5), (c)(6)(D) and 203(a)(5), (b)(4). The declaration should further establish that any agreement by Hynie and/or James II, in the Concealed Terms or otherwise, *not* to exercise the termination right(s) as to any Composition(s) is void, unenforceable and prohibited as a matter of law and public policy. *Id.* The declaration should further establish that any agreement by Hynie, in the Concealed Terms or otherwise, (i) to transfer to anyone the future copyright interests to be recaptured via statutory termination before exercising the respective termination right in any Composition, or (ii) to transfer to anyone that is not an original grantee or its successor-grantee the future copyright interests in any Composition to be recaptured via statutory termination, after service of the applicable termination notice, but before its termination date, is void, unenforceable and prohibited as a

“Concealed Terms” amongst Defendants is unenforceable and void as a matter of law. (*Id.* at 21 ¶ 76.)

Secondly, Plaintiffs maintain that they are “entitled to a preliminary injunction during the pendency of this action, and thereafter to a permanent injunction...” (*Id.* at 22 ¶ 77.) Finally, Plaintiffs bring a range of claims arising under South Carolina law. (*Id.* at 22–31 ¶¶ 78–114.)⁴

Defendant Bauknight filed his Motion to Dismiss on September 10, 2018, while Defendant Hynie filed her Motion to Dismiss on September 11, 2018. (ECF Nos. 80, 81.) Defendant Brown filed his Motion to Dismiss on October 10, 2018. (ECF No. 101.) On October 4, 2018 Plaintiffs filed their response (ECF No. 96) to Defendant Hynie’s Motion to Dismiss (ECF No. 81). On October 8, 2018, Plaintiffs filed their response (ECF No. 97) to Defendant Bauknight’s Motion to Dismiss (ECF No. 80), and on October 24, 2018, Plaintiffs filed their response to Defendant Brown’s Motion to Dismiss (ECF No. 101). As mentioned, the court has already denied challenges brought forth by Defendants within their Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(2), and 12(b)(5). *See Brown-Thomas v. Hynie*, 367 F. Supp. 3d 452, 469 (D.S.C. 2019); (*see also* ECF No. 183.) The court now decides Defendants’ last remaining ground brought forth in

matter of law and public policy. 17 U.S.C. §§ 304(c)(6)(D) and 203(b)(4). The declaration should further establish that any agreement by any Defendant that directly or indirectly diverts and/or converts Plaintiffs’ share of the financial proceeds as a co-owner of the termination interests in the Compositions is void, unenforceable and prohibited as a matter of law and public policy under the Act and state common law.

(ECF No. 1 at 21 ¶ 76.)

⁴ Plaintiffs allege the following state law claims: (1) accounting; (2) conversion; (3) unjust enrichment; (4) intentional interference with prospective economic advantage; (5) intentional interference with prospective economic advantage; (6) negligent interference with prospective economic advantage; and (7) common law unfair competition. (*Id.* at 22–23, 27–28, 30 ¶¶ 79, 84, 97, 102, 109.) Defendants assert that, “if the First Claim is dismissed, the seven supplemental state law claims must be dismissed as well.” (ECF No. 80-1 at 33; ECF No. 81 at 22; ECF No. 101 at 12.) The court will, therefore, only address Plaintiffs’ first claim for declaratory judgment.

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