

(9889)

William Weiss

vs.

Everett Larsen and

Maxine Larsen

THE STATE OF ALABAMA,
BALDWIN COUNTYIN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,.....

1. The affidavit of non-residence.. 2.. Certificate as to service upon..

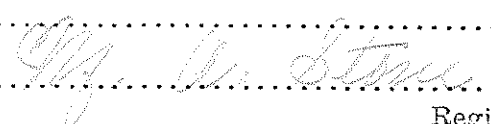
Respondents. 3. Suggestion of the necessity for guardian ad litem..

4.. Consent of guardian ad litem. 5.. Your order appointing guardian ad litem.

6. Answer of guardian ad litem. 7.. Deposition of Elvera Weiss Anacker and

Otto E. Anacker. 8.. Stipulation to submit cause for decree.....

and in behalf of Defendant upon.....


 Register.

RECORDED
RECORDED

No. 2889

THE STATE OF ALABAMA
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

William Weiss

VS

Everett Larsen

Maxine Larsen

NOTE OF TESTIMONY

Filed in Open Court this

day of

192

Register

WILLIAM WEISS,
COMPLAINANT,

-vs-

EVERETT LARSEN and MAXINE
LARSEN,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

DECREE

This cause coming to be heard on pleadings and testimony as noted by the Register, was submitted to the court and from the proof on file the court finds that the service upon the Respondents was in all respects due and regular and in conformity with the laws of the State of Alabama, that the Respondents, being minors, were properly represented by a competent guardian ad litem, duly appointed and qualified, and that the court has jurisdiction of the persons of the parties and of the subject matter of this cause of action.

And after reading the testimony as noted by the register and submitted to the court the court finds:

That the Complainant, William Weiss and one Emma Weiss, who was then the wife of the Complainant, jointly acquired on the 7th day of August, 1914 the land described in the bill of complaint and each became the owner of an undivided one half interest therein. That said land was the homestead of the said Complainant and his wife.

That the Said Emma Weiss died intestate on the 5th day of August, 1929 and left surviving her as her sole and only heirs at law the Complainant and a son, named Conrad Larsen and a daughter named Elvera Weiss Anacker. That by operation of law the title of the said Emma Weiss, in and to her said undivided one half interest in the said land, descended and vested in the said Conrad Larsen and Elvera Anacker, jointly, subject to the life estate of the Complainant.

That thereafter and on December 22nd, 1931 the said Elvera W. Anacker executed a deed to the Complainant, which said deed was joined in and executed by the said Conrad Larsen on December 26th, 1931 and which said deed was filed for record on January 14th, 1932 in the office of the Judge of Probate of Baldwin County, Alabama in deed book #51 N. S. at page 464 and 465 thereof, That in said deed the land was described

s follows:

"Farm lots 2, 3, 4, 6, 7 and 8 in farm five, being the south half of the southwest quarter of the northwest quarter of section twelve, township seven south, range three east of St. Stephens Meridian."

That this description is ambiguous and different from the actual description of the land described in the bill of complaint which is as follows:

"Farm lots two (2), three (3), four (4), five (5), six (6), seven (7) and eight (8) in farm five (5) as per plat on file in the office of the Alabama Tobacco Company, being the northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$) and the south half (S $\frac{1}{2}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$) of section twelve (12) in township seven (7) south of range three (3) east, containing thirty (30) acres, more or less."

That it was the intention of both of said Elvera Anacker and Conrad Larsen to convey to the Complainant the whole of their interest in said land inherited by them from their mother as aforesaid and that it was their intention and purpose to convey the whole thereof by the deed executed by them and recorded in deed book #51 N. E. at pages 464-465 thereof, and that said deed, being ambiguous and not accurately reflecting the intention of the grantors therein, the said deed should be reformed on the public records so as to make it speak the true intention of the grantors and to describe the land thereby conveyed in the same words as the same is described in the bill of complaint.

The court further finds that Conrad Larsen is dead and left surviving him two children who are the Respondents in this action.

The court further finds that ever since he acquired the same in 1914 the Complainant has been in the peaceable and undisputed possession of said land and that the Respondents, and each of them, have no right, title, claim, interest or demand in and to the said land or any part thereof and that said Respondents, and each of them, should be restrained and enjoined, perpetually, from having, claiming or asserting any such right, title or interest.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED, that the deed appearing upon the official records of Baldwin County, Alabama in deed book #51 N. S. at pages 464 and 465 thereof be, and the same hereby is, reformed so that the description of the land thereby conveyed shall read

as follows:

"Farm lots two (2), three (3), four (4), five (5), six (6), seven (7) and eight (8) in farm five (5) as per plat on file in the office of the Alabama Tobacco Company, being the northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{2}$) of the northwest quarter (NW $\frac{1}{2}$) and the south half of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{2}$) of section twelve (12) intownship seven (7) south of range three (3) east, containing thirty (30) acres, more or less."

That the Register of this court file in the office of the Judge of Probate of Baldwin County, Alabama, a copy of this decree and that the same shall operate as and have the legal effect of a correction deed from the said Conrad Larsen and the Respondents, Everett Larsen and Maxine Larsen to the Complainant of the land hereinabove described.

AND BE IT FURTHER ORDERED, ADJUDGED AND DECREED that the Respondents, Everett Larsen and Maxine Larsen, and each of them, have no right, title, or interest in, or encumbrances upon the land hereinbefore described, or any part thereof, and that they and each of them be, and they hereby are, perpetually restrained and enjoined from having, claim or asserting any right, title, or interest in, or encumbrances upon such lands and that the title of the Complainant, William Weiss be, and the same hereby is, quieted and confirmed in him.

That the Complainant pay the costs of this action taxed at
DOLLARS
TWENTY FIVE & 55/100 \$ for which let execution issue.

Dated at Monroeville, Alabama, this 4th day of December, 1933.

F. W. Hare
Judge.

Circuit Court, Baldwin County, Ala., IN EQUITY.

9889

WILLIAM WEISS

PLAINTIFF

VS.

EVERETT LARSEN & MAXINE LARSEN

DEFENDANT

BILL OF COST

		Dollars	Cts.		\$	Cts.
Fees of Register				AMOUNT BROUGHT FORWARD	9	05
Filing each bill and other papers	11	\$ 10	1 10	For receiving, keeping and paying out or distributing money, etc. 1st \$1,000 1 per ct.; all over \$1,000 and not over \$5,000, 3-4 of 1 per ct.; all over \$5,000 and not exceeding \$10,000, 1-2 of 1 per ct.; all over \$10,000, 1-4 of 1 per ct.		
Issuing each Subpoena	2	50	1 00	Receiving, keeping and paying out money paid into court, etc., 1-2 of 1 per ct. of amount received.		
Issuing each copy thereof		30	60	Each Notice Sent by Mail to Creditors	15	
Entering each return thereof		15	30	Filing, Receipting for and Docketing each Claim, etc.	25	
For each Order of Publication		1 00		For all entries on Subpoena Docket, etc.	50	50
Issuing Writ of Injunction		1 50		For all entries on Commission Docket, etc.	50	50
For each Copy thereof		50		Making Final Record, per hundred words	15	50
Entering each return thereof		15		Certified Copy of Decree	1 00	00
Issuing Writ of Attachment		1 00		Report of Divorce to State Health Office, Acts 1915	50	
Entering each return thereof		15		Total Fees of Register	17	55
Docketing each case		1 00	100			
Entering each Appearance	2	25	50	FEEES OF SHERIFF		
Issuing each Decree Pro Confesso on personal service	1 00			Serving and Returning Subpoena on Deft.	\$1 50	
Issuing each Decree Pro Confesso on publication	1 00		1 00	Serving and Returning Subpoena for Witness	65	
Each Order Appointing Guardian		1 00		Levyng Attachment	3 00	
Any other order by Register		50		Entering and Returing same	25	
Issuing Commission to Take Testimony		50	50	Entering and Returning Execution	25	
Receiving and Filing		10	10	Selling Property Attached	25	
Endorsing each package		10	10	Impaneling Jury	75	
Entering Order Submitting Cause		50	50	Executing Writ of Possession	2 50	
Entering any other Order of Court		25	50	Collecting Execution for Costs	1 50	
Noting all Testimony		50		Serving and Returning Sci. Fa., each	65	
Abstract of Cause, etc.	1 00		75	Serving and Returning Notice	65	
Entering each Decree	75		60	Serving and Returning Writ of Injunction	1 50	
For Every Hundred Words Over Five Hundred	15			Serving and Returning Writ of Exeat	1 50	
Taking Account on Reference	3 00			Taking and Approving Bonds, each	1 00	
Taking Testimony, etc.	15			Collecting Money on Execution		
Each Report, Five Hundred Words or less	2 50			Making Deed	2 50	
For every Hundred Words Over Five Hundred	15			Serving and Returning Application	1 00	
Amount Claimed, Less than Five Hundred Dollars, etc.	2 00			Serving Attachment, Contempt of Court	1 50	
Issuing each Subpoena	25			TOTAL FEES OF SHERIFF		
Witness Certificate, each	25			Recapitulation		
Issuing Execution, each	75			Register's Fees		17 55
Entering each Return	15			Sheriff's Fees		
Taking and Approving Bond, each	1 00			Commissioner's Fees	MISS PORTER	8 00
Making Copy of Bill, etc.	15			Solicitor's Fees		
Each notice not otherwise provided for, registered	50		50	Witness Fees		
Each Certificate or Affidavit, with Seal	50			Guardian Ad Litem		
Each Certificate or Affidavit, no Seal	25			Printer's Fees		
Hearing and passing on application for Receiver or Trustee	3 00			Trial Tax	3 00	3 00
Each Settlement with Receiver or Trustee	3 00			Recording Decree in Probate Court		
Examining each Voucher of Receiver or Trustee	10			Total	\$25.55	
Examining each Answer on Exception	3 00					
Recording Resignation or Suggestion of Death of Trustee	75					
Entering each Certificate to Supreme Court	50					
Taking Questions and Answers, etc.	25					
For all other service relating to such proceedings	1 00					
For service in proceeding to relieve minors, etc. same fee as in similar cases.						
Commission on sales, etc.: 1st \$100, 2 percent; all over \$100, and not exceeding \$1000, 1 1/2 per cent; all over \$1,000 and not exceeding \$20,000, 1 per cent; all over \$20,000, 1-4 of 1 per cent.						
Sub Total Carried Forward			9 05			20 55

10/17/33

ck.

20 55

19 55

Received payment this 3 day of Jan. 1934

Register.

NOTE: Unless the above costs in this cause are paid within ten days of the present date, execution will be issued and placed in the hands of Sheriff for collection, creating more costs.

Vol. Book 3 Page 193
Circuit Court, Baldwin County, Ala.
In Equity.

No. 2889

WILLIAM WEISS

VS.

EVERETT LARSEN &

MAXINE LARSEN

Cost Bill

14/14 = 1.00
Paid Jan 3, 1938

W. R. Stone
Register.

WILLIAM WEISS
Complainant,

VS

EVERETT LARSEN and
MAXINE LARSEN
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN CHANCERY.

ORDER APPOINTING GUARDIAN AD LITEM.

In the matter of the application of William Weiss, Complainant, in the above styled cause, to quite title to land.

In said proceeding it being made to appear to the Court that Everett Larsen is a minor thirteen years of age and Maxine Larsen is a minor of eleven years of age; that said minors are heirs at law of said C. Larsen, deceased, and interested in the result of said proceeding to quite title to said land.

It is therefore ordered, adjudged and decreed by the Court that Hon. A. H. Crovatt, who is a suitable person, be, and he is hereby, appointed guardian ad litem to represent said Everett Larsen and Maxine Larsen, minors, upon the hearing of said application. It is further ordered that said A. H. Crovatt be notified of his appointment.

Witness my hand this 21st day of June 1933.

M. A. Stone
M. A. Stone, Register

WILLIAM WEISS
Complainant,

VS

EVERETT LARSEN and
MAXINE LARSEN
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN CHANCERY.

ORDER APPOINTING GUARDIAN AD LITEM.

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It is therefore ordered, adjudged and decreed by the Court that Hon. A. H. Crovatt, who is a suitable person, be, and he is hereby, appointed guardian ad litem to represent said Everett Larsen and Maxine Larsen, minors, upon the hearing of said application. It is further ordered that said A. H. Crovatt be notified of his appointment.

Witness my hand this 21st day of April 1933.

M. A. Stone
M. A. Stone, Register

WILLIAM WEISS,

COMPLAINANT,

-vs-

EVERETT LARSEN and MAXINE
LARSEN,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

CONSENT OF GUARDIAN AD LITEM

Comes now A. H. Grovatt and hereby consents, in writing,
to act as guardian ad litem for the minor Respondents in the
above entitled cause, Everett Larsen and Maxine Larsen.

A. H. Grovatt

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

WILLIAM WEISS,

Complainant,

-vs-

EVERETT LARSEN and MAXINE
LARSEN,

Respondents.

CONSENT OF GUARDIAN AD LITEM

Filed Nov. 27th 1990
M. A. Stone

Lloyd A. Magney,
Attorney, at Law,
Foley, Alabama.

WILLIAM WEISS,

COMPLAINANT,

-vs-

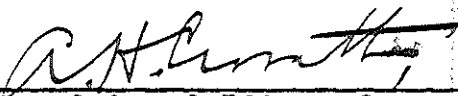
EVERETT LARSEN and MAXINE
LARSEN,

RESPONDENTS.

Comes now A. H. Crovatt the duly appointed and acting
guardian ad litem of the above named minor Respondents, Everett
Larsen and Maxine Larsen, and for answer to the bill of
complaint denies each and every allegation thereof and requires
that strict proof be made.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

ANSWER OF RESPONDENTS
BY GUARDIAN AD LITEM.


Guardain Ad Litem of Everett
Larsen and Maxine Larsen.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

RECORDED

WILLIAM WEISS,
Complainant,

-vs-

Everett Larsen and Maxine
Larsen,
Respondents.

ANSWER OF RESPONDENTS
BY GUARDIAN AD LITEM

Filed Nov 27th 1993
M. A. Stanc
Clerk.

Lloyd A. Magney,
Attorney at law,
Foley, Alabama

WILLIAM WEISS,
COMPLAINANT,

-vs-

EVERETT LARSEN and MAXINE
LARSEN,
RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

STIPULATION

It is hereby agreed by and between A. H. Crovatt, guardian ad litem of the above named Respondents, and Lloyd A. Magney, solicitor for the Complainant, that the testimony in this cause may be noted by the Register and the cause be submitted to the Chancellor for consideration and decree in vacation.

Dated this 1st, day of December, 1933.

A. H. Crovatt
Guardian Ad Litem for Respondents.

Lloyd A. Magney
Solicitor for Complainant.

~~RECORDED~~

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

WILLIAM WEISS,
COMPLAINANT,

-vs-

EVERETT LARSEN and MAXINE
LARSEN,
RESPONDENTS.

STIPULATION

Filed Dec. 4, 1922
Q. S. Stone
Register

Lloyd A. Magney,
Solicitor for Complainant,
Foley, Alabama.

WILLIAM WEISS,
COMPLAINANT,

-VS-

EVERETT LARSEN and MAXINE
LARSEN,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

DEPOSITIONS OF ELVERA WEISS ANACKER AND OTTO E. ANACKER, WITNESSES
IN BEHALF OF THE COMPLAINANT.


APPEARANCES: Mr. L. A. Magney,
for Complainant.


Mr. A. H. Crovatt,
for Respondents.

STIPULATION

It is hereby agreed by and between A. H. Crovatt, guardian ad litem for the above named minor Respondents, Everett Larsen and Maxine Larsen, and Lloyd A. Magney, solicitor for the Complainant, that the depositions of the above named witnesses may be taken, before Lillian Porter, commissioner to take depositions by virtue of the attached commission, at Foley, Alabama, at two o'clock P. M. November 29th, 1933; that the testimony of said witnesses be taken by the commissioner in narrative form and that the signature of the witnesses to the said deposition be and the same hereby are waived.

Dated this 29th day of November, 1933.


Guardian Ad Litem for Respondents.


Solicitor for Complainant.

-ooo000ooo-

Elvera Weiss Anacker being by me first duly sworn on oath did depose and say:

My name is Elvera Weiss Anacker and I am the daughter of William Weiss, the Complainant in this action. My mother was Emma Weiss who, with my father, was the joint owner of the following described real estate in Baldwin County, Alabama, to-wit:-

Farm lots two (2), three (3), five (5), six (6), seven (7) and eight (8) in farm five (5), as per plat on file in the office of the Alabama Tobacco Company, being the northwest quarter ($NW\frac{1}{4}$) of the southwest quarter ($SW\frac{1}{4}$) of the northwest quarter ($NW\frac{1}{4}$) and the south half ($S\frac{1}{2}$) of the southwest quarter ($SW\frac{1}{4}$) of the northwest quarter ($NW\frac{1}{4}$) of section twelve (12) in township seven (7) south, range three (3) east, containing thirty acres, more or less.

My mother, Emma Weiss, died on the 5th day of August, 1929 and left two children, a son, Conrad Larsen and myself. Up to the time of my mother's death and for sometime after neither my brother nor myself knew that the title to the farm on which we lived was in my mother, as well as my father, and it was not until sometime in 1931 that the fact became known to us that my mother did own a one half interest in the farm and that upon her death her interest had descended to my brother and to me, subject to the life estate of my father.

When this situation was made known to me I suggested to my father that I would be glad to deed my interest in the farm to him and that I was sure Conrad would be glad to do the same and so my father had a deed drawn up to be signed by my brother and myself and I did sign the deed and then wrote to my brother, explaining the situation to him, and asking him to sign the deed and send it back to me. At that time, in the month of December, 1931, my brother was living in Chicago.

He received the letter and the deed and on December 26th, 1931 he signed it and sent it back to me.

It was my intention in executing this deed and, I know, my brother's intention also to convey to my father, the Complainant in this case, all of the interest which we inherited in his farm from our mother but it now appears that the deed which my brother and I both signed, intending to deed our interest to the Complainant did not exactly describe the land.

In that deed the land was described as farm lots two (2), three (3), five (5), six (6), seven (7) and eight (8) in farm five (5), being the south half ($S\frac{1}{2}$) of the southwest quarter ($SW\frac{1}{4}$) of the northwest quarter ($NW\frac{1}{4}$) of section twelve (12), township seven (7) south of range three (3) east of St. Stephens Meridian and while the description by farm lots describes the whole thirty acres the description by fractions of the sections only describes twenty acres.

In writing the letter to my brother in which I sent him the deed I explained the whole situation to him and asked him to join with me in deeding the farm back to my father, the Complainant, and I know that in signing and executing the deed it was his intention, as well as mine, to convey the entire thirty acres and that the fact that the deed is ambiguous and might be construed to convey only twenty acres is due to a mistake in preparing the deed and was a matter which neither my brother nor myself intended at all as it was the intention of both of us to deed the whole interest which we had in the farm back to my father, the Complainant.

Since making this deed I have executed a correction deed to rectify this mistake but shortly after signing the deed in December, 1931, my brother died and consequently is unable to make a correction deed but, as I have stated, I know it was his intention to convey all of his interest in the whole thirty acres to my father and not his intention to convey only twenty acres.

My father, William Weiss, the Complainant in this action is in the peaceable possession of his farm, as described above, claiming to own the same in his own right, and has been in such possession ever since he bought the farm in 1914.

CROSS-EXAMINATION BY MR. A. H. CROVATT, GUARDIAN AD LITEM.

At the time the deed made by me and my brother I know that it was the intention of both of us to convey to my father the full thirty acres and before and since that time he has cared for and kept up the thirty acres above mentioned.

TESTIMONY OF OTTO E. ANACKER.

My name is Otto E. Anacker and I am the husband of Elvera Weiss Anacker and the son-in-law of William Weiss, the Complainant. After Mrs. Weiss' death and in December, 1931, My wife learned for the first time that she owned an interest in the farm home as heir of her mother and that her brother, Conrad Larsen, owned a similar interest.

Mr. Weiss was trying to borrow some money on his farm and wanted to get the title straightened up for that reason.

I know that my wife, early in December, 1931 signed a deed which she thought conveyed all of her interest in the farm back to her father and that she wrote a letter to her brother Conrad, who was then in Chicago, explaining to him that he and she had some interest in the title to the farm as heirs of their mother and asking him to join with her in conveying this interest back to their father. In this letter she enclosed a deed which she signed and which she thought and which she stated to her brother did convey all of their interest in the farm back to their father.

I know that he signed the deed and sent it back to her and that he could not have done so, after reading her letter with any other intention except to convey the whole farm and not only a part of it.

I am now informed that the deed which he signed seems to cover only twenty acres instead of thirty but I know that this was not by reason of any intention on the part of Conrad Larsen to convey only twenty acres as my wife explained to him fully that the purpose of the deed was to convey all of their interest in the farm back to their father.

CROSS-EXAMINATION BY MR. A. H. GROVATT.

I read the letter my wife wrote to her brother, Conrad Larsen and therefrom I know the intent was to convey the entire farm.

ELVERA WEISS ANACKER
RE-DIRECT EXAMINATION BY MR. MAGNEY.

When my brother, Conrad Larsen, died he left two children surviving him, a son Everett Larsen who is now thirteen years of age and a daughter Maxine Larsen who is now eleven years of age. Both of these children reside with their mother at 1740 North Artesian Avenue in the city of Chicago, Cook County, Illinois.

CERTIFICATE OF COMMISSIONER

STATE OF ALABAMA)
(
BALDWIN COUNTY)

I, Lilliam Porter, commissioner to take the testimony by virtue of the commission heretofore issued to me and attached hereto, do hereby certify that on the 29th day of November, 1933, at the hour of two o'clock P. M., in my office at Foley, Alabama, I called the witnesses, Elvera Weiss Anacker and Otto E. Anacker before me; that said witnesses were each by me duly and solemnly sworn and, by stipulation of counsel, the testimony of said witnesses was taken down by me in shorthand and later reduced to typewriting and the signatures of the witnesses thereto were waived by stipulation; that I have personal knowledge of the identity of the witnesses and that I am not of counsel or of kin to any of the parties to the cause or in any manner interested in the result thereof.

IN WITNESS WHEREOF I hereunto set my hand this 29th day of November, 1933.

Lilliam Porter
Commissioner.

The State of Alabama, }
Baldwin County

CIRCUIT COURT

To Miss Lillian Porter

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine Otto E. Anacker and Elvera Anacker

as witnesses in behalf of William Weiss, Complainant in a cause pending in our Circuit Court of Baldwin County, of said State, wherein William Weiss

is Complainant

and Everett Larsen and Maxine Larsen, by A. H. Crovatt, Guardian
ad Litem

are Defendant,^s

on oath to be by you administered, upon Otto E. Anacker and Elvera Anacker
to take and certify the deposition s of the witnesses. and return the same to our Court, with all convenient speed, under your hand.

Witness 27th day of November 19 33

My A. Stone

REGISTER

COMMISSIONER'S FEE, \$

WITNESS' FEES, \$

The State of Alabama
BALDWIN COUNTY
CIRCUIT COURT

William Weiss

vs. Complainant

Everett Larsen

and

Maxine Larsen

Defendant

COMMISSION TO TAKE DEPOSITION

COMMISSIONER:

Lillian Porter

WITNESSES:

Otto E. Anacker,

Elvera Anacker,

WILLIAM WEISS,

Complainant,

-vs-

EVERETT LARSEN and MAXINE LARSEN,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY


APPLICATION FOR APPOINTMENT
OF GUARDIAN AD LITEM

TO THE HONORABLE M. A. STONE, REGISTER IN CHANCERY:-

Whereas it appears from the records in this cause that more than thirty days have elapsed since the completion of service upon the minor Respondents, Everett Larsen and Maxine Larsen, and neither said minor Respondents nor any person for them, has suggested the name of any person to act as such guardian ad litem for said minor Respondents.

Now, therefore, comes William Weiss, by his solicitor, and requests that the Register will appoint some suitable person to appear and act and defend this cause for, and as the guardain ad litem of, said minor Respondents. Everett Larsen and Maxine Larsen.

Dated this 20th day of November, 1933.


Solicitor for Complainant.

9886 **RECORDED**
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

WILLIAM WEISS,

Complainant,

-VS-

EVERETT LARSEN and MAXINE
LARSEN,

Respondents.

APPLICATION FOR APPOINTMENT OF
GUARDIAN AD LITEM

Filed Nov. 21st 1993
M. A. Stone
Clerk & Register

Lloyd A. Magney,
Solicitor for Complainant
Foley, Alabama

LLOYD A. MAGNEY
ATTORNEY AND COUNSELLOR AT LAW
FOLEY, ALABAMA

October 12, 1933

Mrs. M. A. Stone,
Register in Chancery,
Bay Minette, Alabama

Dear Mrs. Stone:

I enclose herewith bill of complaint in the matter of William Weiss vs Everett Larsen and Maxine Larsen, a Chancery proceeding for the reformation of a deed.

I also enclose an affidavit showing the non-residence and minority of the defendants.

I desire service made as provided by sections 9445 to 9454 of the Code of 1923. This requires that you issue summons to each of the defendants, attach a copy of the bill of complaint and mail the same, by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed" and "Return receipt demanded". This letter should be addressed to the person named in the affidavit as the parent of the minors, viz: Bertha Larsen, 1740 North Artesian Avenue, Chicago, Illinois.

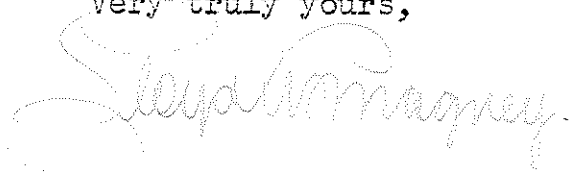
The law also requires that you make and file a certificate of your acts in making service and I have prepared, for your convenience, the necessary certificate which is complete except that the various dates are necessarily left blank. Upon the receipt by you of the return receipt for the registered package I wish you would complete and sign the certificate and file the same and notify me that you have done so.

I enclose all necessary copies and as required by section 9454, my check for \$1.00 which I am sure will be enough to cover the expense of making this service.

Thanking you in advance for your usual prompt cooperation, I am,

Very truly yours,

LAM:LP



WILLIAM WEISS,

Complainant,

-vs-

EVERETT LARSEN and MAXINE LARSEN,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

CERTIFICATE OF REGISTER

STATE OF ALABAMA)"

BALDWIN COUNTY)"

I, M. A. Stone, Register in Chancery, of the Circuit Court of Baldwin County, Alabama, do hereby certify that on the 14 day of October, 1933 I did issue, in the above entitled cause, a summons to each of the above named Everett Larsen and Maxine Larsen, requiring them to answer, plead or demur to the bill of complaint within thirty days from the service thereof and that I did on the 14 day of October, 1933 mail said summons to each of said defendants, together with a copy of the bill of complaint for each of said defendants, by registered mail, addressed to Bertha Larsen, the mother and natural guardian of said minor defendants, at 1740 North Artesian Avenue, Chicago, Cook County, Illinois.

That the said parcel was mailed to the said Bertha Larsen by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," and also marked "Return receipt demanded".

That said parcel was by me mailed as aforesaid on the 14 day of October, 1933 and the return receipt so demanded was by me received and filed in this cause on the 18 day of October, 1933.

IN WITNESS WHEREOF I have hereunto set my hand this 18 day of October, 1933.

M. A. Stone
Register in Chancery.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

WILLIAM WEISS,
Complainant,

RECORDED
11/24

-VS-

EVERETT LARSEN and MAXINE
LARSEN,
Respondents.

CERTIFICATE OF REGISTER

Filed Oct. 14/1933
Mr. C. Stone
Clerk

Lloyd A. Magney
Attorney for Complainant
Foley, Alabama

WILLIAM WEISS,
Complainant,

-vs-

EVERETT LARSEN and MAXINE LARSEN,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

AFFIDAVIT

STATE OF ALABAMA)
BALDWIN COUNTY)

Lloyd A. Magney being first duly sworn on his oath deposes and says that he is attorney for William Weiss, the above named complainant.

That the respondents, Everett Larsen and Maxine Larsen, are non-residents of the state of Alabama and are residents of the state of Illinois.

That the residence and post office address of the defendant, Everett Larsen, is known and is 1740 North Artesian Avenue, Chicago, Cook County, Illinois.

That the place of residence and post office address of the defendant, Maxine Larsen, is known and is 1740 North Artesian Avenue, Chicago, Cook County, Illinois.

That the defendant, Everett Larsen is a minor under the age of fourteen years and of the age of thirteen years.

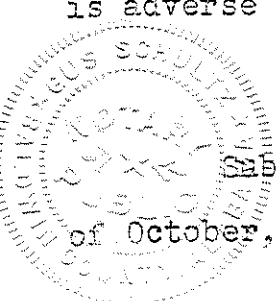
That the defendant, Maxine Larsen is a minor under the age of fourteen years and of the age of eleven years.

That both of said minor defendants reside with their surviving parent, Bertha Larsen, whose place of residence and post office address is 1740 North Artesian Avenue, Chicago, Cook County, Illinois.

That so far as your affiant knows the said minor defendants have no general guardian other than their mother, the said Bertha Larsen, who is their natural guardian.

That said Bertha Larsen, the parent and natural guardian of said minor defendants, has no interest in the subject matter of this cause which is adverse to such minors or either of them.

Subscribed in my presence and sworn to before me this ____ day
of October, 1933.

 Mrs. Schultz
Notary Public.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

WILLIAM WEISS,

Complainant,

RECORDED

-VS-

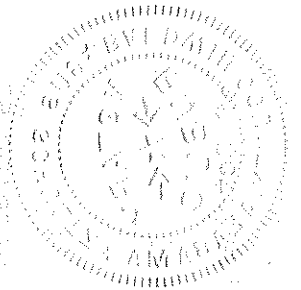
EVERETT LARSEN and MAXINE
LARSEN,

Respondents.

AFFIDAVIT

Filed Oct. 14, 1922
m. a. Stone
Register

Lloyd A. Magney
Attorney for Complainant
Foley, Alabama



C. Larsen to William Weiss, dated December 21st, 1931 and acknowledged by the said C. Larsen on December 26th, 1931 and which said deed is filed for record in the office of the Judge of Probate of Baldwin County, Alabama in Deed Book 51 NS at pages 464 and 465 thereof, be reformed so that the description of the land conveyed by said deed will read as follows:

Farm lots two (2), three (3), five (5), six (6), seven (7) and eight (8) in farm five (5), as per plat on file in the office of the Alabama Tobacco Company, being the northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$), and the south half (S $\frac{1}{2}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$) of section twelve (12) in township seven (7) south, range three (3) east, containing thirty (30) acres, more or less.

And your complainant further prays that Your Honor will consider and determine the title, claim, interest, or encumbrance upon the said lands hereinbefore described, of the said Everett Larsen and Maxine Larsen and upon such consideration and determination, finally adjudge and decree that the defendants, and each of them, have no right, title, or interest in, or encumbrance upon such lands, or any part thereof and that the title of your complainant to said lands be quieted and confirmed in him.

And your complainant further prays that he may have such other, further and different relief in the premises as may be just and equitable.

PRAYER FOR PROCESS

And your complainant further prays that Your Honor will direct that the Register of this court make out and superintend the appropriate notices to the respondents, Everett Larsen and Maxine Larsen, and cause the same to be served upon them and upon their mother and natural guardian, Bertha Larsen, by registered mail, as by law provided, commanding said respondents and each of them to appear before Your Honor in this Honorable Court within thirty days from the service thereof, then and there to answer this bill of complaint and abide such order and decree therein as to this Honorable Court shall seem meet; and your complainant shall ever pray, &c.

Sumner H. Brown
Solicitor for Complainant.

FOOT NOTE

The respondents, Everett Larsen and Maxine Larsen, are required to answer the allegations of part two of this bill of complaint, numbered from one to nine, inclusive, but not under oath, oath to answer being hereby expressly waived.

Sumner H. Brown
Attorney for Complainant

WILLIAM WEISS,

Complainant,

-vs-

EVERETT LARSEN and MAXINE LARSEN,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

BILL OF COMPLAINT

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA, IN CHANCERY SITTING:-

PART ONE

Your complainant, William Weiss, respectfully represents unto
Your Honor that he is over the age of twenty-one years and a resident
of Baldwin County, Alabama, and that the respondent, Everett Larsen is
a minor of the age of thirteen years, and a non-resident of the state
of Alabama, residing with his mother and natural guardian, Bertha
Larsen, at 1740 North Artesian Avenue in the City of Chicago, Cook
County, Illinois; that the respondent Maxine Larsen, is a minor of the
age of eleven years, residing with her mother and natural guardian,
Bertha Larsen, at 1740 North Artesian Avenue in the city of Chicago,
Cook County, Illinois.

PART TWO

For complaint against said respondents your complainant alleges
and shows to the court:

1. That on August 7th, 1914 your complainant and his then wife,
Emma Weiss, became the joint owners, each owning an undivided one half
interest therein, in and to the following land in Baldwin County, Alabama
to-wit:-

Farm lots two (2), three (3), five (5),
six (6), seven (7) and eight (8) in farm
five (5), as per plat on file in the office
of the Alabama Tobacco Company, being the
northwest quarter (NW $\frac{1}{4}$) of the southwest
quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$)
and the south half (S $\frac{1}{2}$) of the southwest
quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$)
of section twelve (12) in township seven (7)
south, range three (3) east, containing thirty
(30) acres, more or less.

2. That thereafter the said Emma Weiss, the wife of your complain-
ant, died intestate and by the law of descent of the State of Alabama her
undivided one half interest in and to the real estate above described

descended to her heirs who were a son, C. Larsen and a daughter, Vera Anacker, subject to the life estate of your complainant, as the husband of said Emma Weiss, in and to the above described land. That the interest of each, the said C. Larsen and the said Vera Anacker in and to said real estate, was an undivided one fourth interest therein subject to the life estate of your complainant.

3. That the said Vera Anacker has conveyed her said interest in said land to your complainant and on December 26th, 1931 the said C. Larsen executed a deed to your complainant, which said deed is recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 51 NS at pages 464 and 465 thereof, by which he intended to convey to your complainant his said undivided one fourth interest in and to said land but that in the preparation of the deed so executed by the said C. Larsen to your complainant, the attorney employed by your complainant to prepare said deed, made a mistake in describing the land to be conveyed thereby and described said land as follows:

Farm lots two (2), three (3), five (5),
~~six (6), seven (7) and eight (8) in farm~~
five (5), being the south one half ($S\frac{1}{2}$) of
the southwest quarter ($SW\frac{1}{4}$) of the north-
west quarter ($NW\frac{1}{4}$) of section twelve (12),
township seven (7) south, range three (3)
east.

4. That said description is faulty in this that the said farm lots two, three, five, six, seven and eight in farm five include not only the land which they are stated in said deed to be, viz:

The south half ($S\frac{1}{2}$) of the southwest
quarter ($SW\frac{1}{4}$) of the northwest quarter
($NW\frac{1}{4}$) of said section twelve (12),

but also the northwest quarter ($NW\frac{1}{4}$) of the southwest quarter ($SW\frac{1}{4}$) of the northwest quarter ($NW\frac{1}{4}$) of said section twelve (12). That it was the intention of the said C. Larsen to deed to your complainant the whole of his interest in all of said land which he, the said C. Larsen, had inherited from his mother and that the deed so executed and delivered by him is ambiguous in that while it describes the whole of the thirty acres by its description as farm lots, it describes only twenty acres according to the Government Survey and that this apparent ambiguity in the deed and this erroneous description was and is wholly due to the mistake made in the preparation of said deed. And your complainant avers that it was the intention of said C. Larsen to deed to him the whole of

said thirty acres and not only twenty acres.

5. That the said C. Larsen is dead and left surviving him, as his only heirs at law, his widow, Bertha Larsen, and his two minor children, the respondents herein. The said Bertha Larsen has by deed conveyed her interest in said land to your complainant but the said respondents, being minors, are unable to make a conveyance of their interest.

6. That the intention of the father of said respondents, the said C. Larsen, should be given effect by the decree of this court and the said deed should be reformed so that the description of the land thereby conveyed, shall read as follows:

Farm lots two (2), three (3), five (5), six (6), seven (7) and eight (8), in farm five (5), as per plat on file in the office of the Alabama Tobacco Company, being the northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$) and the south half (S $\frac{1}{2}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$) of section twelve (12) in township seven (7) south, range three (3) east, containing thirty acres, more or less.

7. Your complainant further avers that he is the owner of and in the actual, peaceful possession of, the following described lands in Baldwin County, Alabama, to-wit:

Farm lots two (2), three (3), five (5), six (6), seven (7) and eight (8), in farm five (5), as per plat on file in the office of the Alabama Tobacco Company, being the northwest quarter (NW $\frac{1}{4}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$) and the south half (S $\frac{1}{2}$) of the southwest quarter (SW $\frac{1}{4}$) of the northwest quarter (NW $\frac{1}{4}$) of section twelve (12) in township seven (7) south, range three (3) east, containing thirty acres, more or less.

8. That the defendants, Everett Larsen and Maxine Larsen, claim or are reputed to claim some right, title, or interest in or encumbrance upon such lands and no suit is pending to enforce or test the validity of such title, claim or encumbrance.

9. Wherefore your complainant calls upon the said Everett Larsen and Maxine Larsen to set forth and specify their title, claim, interest, or encumbrance, in and to said land and how and what instrument the same is derived and created.

PRAYER FOR RELIEF

Wherefore your complainant prays that Your Honor will take jurisdiction of his cause and upon a hearing thereof will order and decree that that certain deed executed and delivered by Elvera Anacker and

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

REGISTERED ARTICLE

No. 181

INSURED PARCEL

No. _____



POSTMARK OF DELIVERING
OFFICE

Return to

Mrs Mary Alice Stone

Street and Number,
or Post Office Box,

Regt + Clerk of C C

(NAME OF SENDER)

Post Office at

Bay Minette, Ala.

Rev. 3-24

© 5-6116

State _____

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

*Filed
Oct. 18, 1933
M. C. Stone
Registered*

Mrs. Bertha Larsen

(Signature or name of addressee)

Deliver to addressee only.

(Signature of addressee's agent)

Date of delivery *10/16*, 19*33*

Form 3811

U. S. GOVERNMENT PRINTING OFFICE

c 5-6116

*Filed Oct 18, 1933
M. C. Stone, Register*

RECEIPT FOR REGISTERED ARTICLE NO.

15 fee paid. class postage paid 10-14, 1933

From Mrs Mary Alice [unclear] (Sender)

Addressed to Mrs Betty Hansen (Street and number) (Post office and State)

Maxine [unclear] who is [unclear] (Address)

Accepting employee will place initials in space below indicating restricted delivery

Return receipt fee 3 in person Special delivery fee Postmaster, per

