

STATE OF ALABAMA,	)	IN THE CIRCUIT COURT OF
PETITIONER,	)	BALDWIN COUNTY, ALABAMA
VS	)	CASE NO. <u>7368</u>
MILLIE A. BENJAMIN,	)	
RESPONDENT.	)	

WITHDRAWAL OF JURY DEMAND

Comes now the Petitioner, State of Alabama, by Kenneth Cooper, its Duly Appointed Special Assistant Attorney General, and withdraws its demand for a trial by jury heretofore made in this cause.

Kenneth Cooper  
ATTORNEY FOR PETITIONER

FILED

MAR 6 1967

ALICE L. MICK, CLERK  
REGISTER

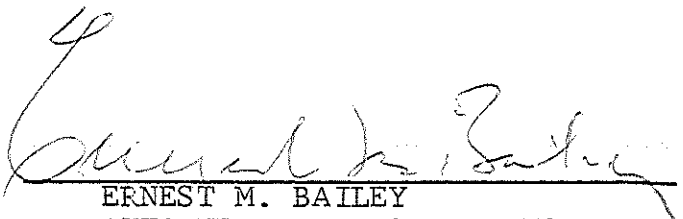
STATE OF ALABAMA,	)	
Petitioner,	)	IN THE PROBATE COURT OF
VS	)	BALDWIN COUNTY, ALABAMA
MILLIE A. BENJAMIN, et al,	)	CASE NO. _____
Respondents	)	

NOTICE OF APPEAL

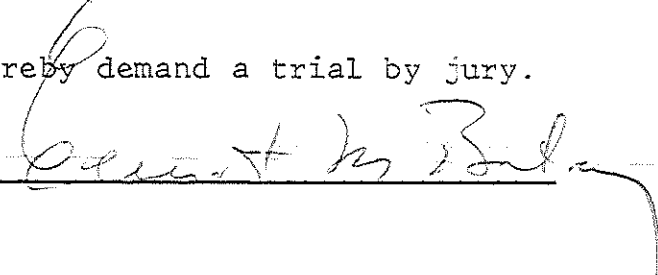
Comes Millie A. Benjamin, et al, Respondents, in the above entitled cause, and prays for and takes an appeal to the Circuit Court of Baldwin County, Alabama, from the order of condemnation entered in said cause on the 23rd day of November, 1966, insofar as said order of condemnation relates to the lands described in Tract Number 0129, Project No. S-635(2).

Millie A. Benjamin, et al, Respondents, do herewith file in the Court of Probate of Baldwin County, Alabama, the court rendering such order of condemnation, this its written notice of said appeal.

This the 21st day of December, 1966.

  
 ERNEST M. BAILEY  
 ATTORNEY FOR RESPONDENTS

Respondents do hereby demand a trial by jury.



STATE OF ALABAMA, BALDWIN COUNTY  
 Filed Dec. 22, 1966  
 Recorded Stamp 10 11  
 Judge of Probate D.H.

No. 5807 In the matter of Walter B. Miller & A. J. Thompson

Administrator, Executor, or Guardian. Residence \_\_\_\_\_

Attorneys D. Cooper Docket          Page          Fee Book          Page         

DATE	FEE	AMOUNT	DATE	FEE	AMOUNT
	WILL—Orders on Presentation, \$1.00 Affidavit in Petition for Probate, 25c Recording Petition, per 100 words, 15c Issuing Citation, entering Sheriff's Returns, 50c Appointing, Notifying Guardian ad Litem, 50c Issuing Subpoena for Witnesses, 50c Affidavit of Witnesses, 25c Examining Witnesses and Order Probating, \$2.00 Issuing Commission to take Deposition, 50c Filing Interrogatories, 10c Copy of same, per hundred words, 15c Recording Will, per hundred words, 15c Recording Testimony, per hundred words, 15c Certificate, without Seal, 25c Certificate, with Seal, 50c Presiding at Trial of Contested Will, per day, \$2.50			BROUGHT FORWARD, SALE OF PERSONAL PROP.—Petition, 25c Recording same, per 100 words, 15c Granting Order of Sale, 50c Issuing Order of Sale, 25c Order to Publish Notice of Sale, 50c Affidavit to Report, 25c Recording, per 100 words, 15c Appointing Com'r to Divide, and Writ, \$2.00 Appointing and Notifying Guardian ad Litem, 50c	
	LETTERS—Affidavit in Petition, 25c Recording Petition, per hundred words, 15c Granting Letters of Administration, 50c Issuing and Recording same, 50c Granting Letters of Guardianship, 75c Issuing, Filing, and Recording same, 50c Taking App., Filing, Rec. Adm. Bond, \$1.50 Taking App., Filing, Rec. Guard. Bond, \$1.00 Affidavit of Justification, 50c Granting Order of Appraisement, 50c Issuing Order of Appraisement, 25c Recording same, per hundred words, 15c Certified Copy Letters, 50c			PARTIAL SETTLEMENT—Affi. in Account, 25c Examining, Stating Acc't, and App. Hearing, \$1.00 Order to Publish Notice of Sale, 50c Appointing and Notifying Guardian ad Litem, 50c Examining Vouchers, 10c Administering Affidavits, 25c Making Decree and Order to Record, \$1.50 Recording same, per 100 words, 15c Filing Claims and Giving Receipt, 15c INSOLVENCY—Affidavit in Report, 25c Recording Report and State., per 100 words, 15c Order Appointing Day for Hearing, 25c Order to Publish Notice of same, 25c Order for Citations, 25c Issuing Notice to Creditors, Day of Hearing, 50c Order Sustaining Report, 25c Order for Settlement, 25c Order to Publish Day of Settlement, 25c Issuing Notice of Day of Settlement, 25c Affidavit to Amount of Claims, 25c Appointing, Notifying Guardian ad Litem, 25c	
12/16/66	Rec'd appeal Rec'd cross-appeal	1.00 1.50 \$2.50		SALE OF REAL ESTATE—Affi. in Petition, 25c Recording Petition, per 100 words, 15c Order App. Day of Hearing and Notice, \$1.00 Order to Publish Notice of same, 50c Issuing Citation, entering Sheriff's Return, 50c Appointing and Notifying Guardian ad Litem, 50c Issuing Commission to take Deposition, 50c Filing Interrogatories, per 100 words, 15c Copy of Interrogatories, per 100 words, 15c Appointing Com'r to Divide and Issue Writ, \$2.00 Affidavit in Report of same, 25c Order Approving Division and Report, \$1.00 Recording same, per 100 words, 15c Hearing Application for Dower, Issuing Writ, \$4.00 Exam. Testimony and Granting Order to Sell, \$2.00 Recording Depositions, per 100 words, 15c Recording Relinquishment of Dower, 100 wds., 15c Recording Report, per 100 words, 15c Rec. Payment Purchase Money, per 100 words, 15c Making Order on Report Sale of Land, 75c	
	HOMESTEAD—Rec. Petition for Com. 100 words, 15c Rec. Order for Applicant, per 100 words, 15c Recording Order for Com., per 100 words, 15c Notice to Commissioners, 50c Recording Report of Com., per 100 words, 15c Rec. Order Setting Apart, per 100 words, 15c INVENTORY—Order to App. and Rec., 50c Affidavit to same, 25c Recording same, per 100 words, 15c Recording Decree, per 100 words, 15c			FINAL SETTLEMENT—Affidavit in Acc's, 25c Examining, Stating, and Reporting Account, \$1.00 Order to Publish Notice of same, 50c Appointing and Notifying Guardian ad Litem, 50c Examining Vouchers, 10c Administering Affidavits, 25c Recording same, per 100 words, 15c Decrees in Final Settlement, 50c	
	APPRAISEMENT—Order Approving Rec., 50c Affidavit to same, 25c Recording same, per 100 words, 15c Issuing Order of Appraisement, 25c Recording Warrant, per 100 words, 15c Order to Approve Appraisement, 50c Affidavit to Appraisement, 25c Recording same, per 100 words, 15c Recording Decree, per 100 words, 15c				
	SALE OF PERISHABLE PROPERTY— Petition, 25c Recording same, per 100 words, 15c Granting Order of Sale, 50c Issuing Order of Sale, 25c Appointing, Notifying Guardian ad Litem, 50c Affidavit to Report, 25c Recording, per 100 words, 15c				
	CARRIED FORWARD:				

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

## COUNTRY

## In the Matter of

# PROBATE FEE BILL

Received of

in payment of the above.

Dollars.

*This* \_\_\_\_\_, 19\_\_\_\_

**Judge of Probate**

Probate Docket Page

Fee Book \_\_\_\_\_ Page.

**Attorneys**

Form 1575—ROBERTS & SON, BIRMINGHAM

DATE	FEEES OF SHERIFF	AMOUNT	DATE	FEEES OF WITNESSES	AMOUNT
			3/17/80		
				I have received the amount opposite my name	
	FEEES OF PRINTER				
	FEEES OF GUARDIAN AD LITEM				
	FEEES OF COMMISSIONERS				

STATE OF ALABAMA,

PETITIONER,

VS

MILLIE A. BENJAMIN,  
Tract 0129,

RESPONDENT.

)  
\*  
)  
\*  
)  
\*  
)  
\*  
)  
\*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
CASE NO. 7368

#### STIPULATION

It is hereby stipulated by and between the Petitioner (appellant), and Millie A. Benjamin, (appellee), parties to the above styled cause, through their respective attorneys of record, each acting with full authority as follows:

1. That the petitioner is authorized to institute and prosecute this proceeding to acquire the property or interest for order of condemnation filed in the Probate Court of Baldwin County, Alabama, on the 7th day of October, 1966, for the public purposes stated in said application or petition.

2. That all proceedings in the Probate Court of Baldwin County, Alabama, in this cause were regular, and an appeal has been duly and properly perfected within the time allowed and entered in said Probate Court in this cause on the 23rd day of November, 1966, in this Court and trial by jury on the issue of valuation has been properly demanded.

3. That the application or petition for order of condemnation correctly sets out the uses and purposes for which the property and rights herein sought is to be devoted, used or applied and the petitioner has the right to obtain said property in this proceeding for the purposes stated.

4. That the respondents herein is the only party known to either petitioner or respondent who has or asserts any right, title, or interest in or to the lands or interest therein sought to be acquired.

5. That the respondent has had due notice of this trial and all proceedings herein and expressly enters her appearance in this court.

6. That the only issue in this proceeding is the damages and compensation, if any, to which the respondent is entitled.

7. That the time of taking in this proceeding is the date on which the application for order of condemnation was filed in the Probate Court, to-wit, the 7th day of October, 1966, and the valuation of said property was constant between that date and the date on which the order of condemnation was entered, to-wit, the 23rd day of November, 1966.

Kenneth Cooper  
ATTORNEY FOR PETITIONER

Edward B. Baily  
ATTORNEY FOR RESPONDENT

FILED  
JUN 6 1967  
MADE L. BUCK, CLERK  
RECEIVED

STATE OF ALABAMA,	)	IN THE CIRCUIT COURT OF
PETITIONER,	)	BALDWIN COUNTY, ALABAMA
VS	)	CASE NO. <u>7368</u>
MILLIE A. BENJAMIN,	)	
RESPONDENT.	)	

WITHDRAWAL OF JURY DEMAND

Comes now the Respondent, Millie A. Benjamin, by her attorney of record, Ernest M. Bailey, and withdraws her demand for a trial by jury heretofore made in this cause.

Ernest M. Bailey  
ATTORNEY FOR RESPONDENT

FILED  
JUN 6 1967  
MADE A. NICK, CLERK  
REGISTER

STATE OF ALABAMA,  
PETITIONER,

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

VS.

CASE NO. \_\_\_\_\_

MILLIE A. BENJAMIN,  
and TRACT NO. 0129,  
and BALDWIN COUNTY, ALA.,  
A POLITICAL SUBD. OF THE  
STATE OF ALABAMA.

RESPONDENTS.

COMMISSIONERS

TO: Jack Gavin, Robert  
Mikkelsen, and W. E. Long

KNOW YE, that having full faith and confidence in your integrity and competency, you have been by order and decree of the Probate Court of Baldwin County, Alabama, designated and appointed as commissioners in the above styled cause, with all the power, authority and duties vested in or which may devolve on you as such commissioners under and by virtue of the provisions of Chapter I of Title 19 of the Code of Alabama of 1940, as amended.

You will be sworn as jurors and you or a majority of you shall assess the damages and compensation to which the owners and interested parties are entitled by virtue of and on account of the condemning of the right of way or easement over the tracts of land described in the application for condemnation filed in this cause, all for the uses and purposes of a public road or highway in and for the State of Alabama. A description of the lands and the names of the owners and the easement sought are specifically set out in the application for condemnation filed in this cause.

You may view the lands to be subjected and you must receive all legal evidence offered by any party touching the amount of damages or compensation the owner of said lands and interested parties will sustain and are entitled to receive. Any person interested in the proceedings may be present in person or by attorney at any of these proceedings which you may have.

BOOK 045 PAGE 25



You must within twenty days from the day of your appointment, which is this date, make a report in writing to the Court stating the amount of damage and compensation ascertained and assessed by you for the owners and parties interested in the tracts of land, and file a certificate along with your award that none of you have been consulted, advised with or approached by any person with reference to the value of the lands or the proceedings to condemn the same prior to the assessment of damages, and that you knew nothing of the same prior to your appointment.

Given under my hand and seal of office this 10 day of Nov. 1966.

Harry D. White  
JUDGE OF PROBATE

BY: \_\_\_\_\_

STATE OF ALABAMA

BALDWIN COUNTY

We, and each of us do solemnly swear that we will well and truly try the cause now pending and submit it to our decision, said case being styled STATE OF ALABAMA vs. Millie A. Benjamin

\_\_\_\_\_, and Baldwin County, a political subdivision of the State of Alabama, and that we are not directly, nor indirectly, interested in the issues to be tried, and that we are not biased or prejudiced against either of said parties, and that we will render such compensation to the defendants as to us shall seem just and proper in the presence, so help us God.

Jack Gavin  
Robert M. Miller  
W. E. Long

Sworn to and subscribed before me this 22 day of Nov 1966.

Harry D. White  
JUDGE OF PROBATE

Received 11 day of Nov. 1966

and on 11 day of Nov. 1966

I served a copy of the within Notice  
on Jack Gamm

By service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff

By J. J. J. J. D. S.

Received 11 day of Nov. 1966

and on 14 day of Nov. 1966

I served a copy of the within Notice  
on W. E. Long

By service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff

By W. A. Tolbert D. S.

Received 11 day of Nov. 1966

and on 14 day of Nov. 1966

I served a copy of the within Notice  
on Robert Mikkelsen

By service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff

By Robert Mikkelsen

Sheriff's claims 50 copies at

Ten Cents per mile Total \$ 5.00

TAYLOR WILKINS, Sheriff

By Carlisle Children

STATE OF ALABAMA,  
PETITIONER,  
VS.

MILLIE A. BENJAMIN,  
and TRACT NO. 0129,  
and BALDWIN COUNTY, ALA.,  
A POLITICAL SUBD. OF THE  
STATE OF ALABAMA.  
RESPONDENTS.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

CASE NO. 5809

4368

BOOK 045 PAGE 18

APPLICATION FOR CONDEMNATION

TO THE HON HARRY M. D'OLIVE, JUDGE OF PROBATE, BALDWIN COUNTY, ALA.

Comes the State of Alabama, Petitioner in the above styled cause and files this its application in the Probate Court of Baldwin County, Alabama, for order of condemnation of a right of way over the lands hereinafter described for a public road or highway and as a basis for the relief sought shows unto the Court as follows:

(1) Petitioner is authorized under the Constitution of Alabama 1901 and under the provisions of Title 19, Section 1, Code of Alabama, 1940, as amended, to institute and prosecute these proceedings in its own name for the purposes of a public road or highway.

(2) That said public highway has been designated by the State Highway Director as a part of the State Highway System and also known as Project No. S-635(2), Baldwin County, Alabama.

(3) That said public highway begins at a point within the city limits of Fairhope, Baldwin County, Alabama, and runs thence northwardly to Spanish Fort, Baldwin County, Alabama.

(4) The right of way over the property and lands hereinafter described as ~~Parcel~~<sup>Tract</sup> Number 0129, and as set out in the right of way map on Project No. S-635(2) on file in the State Highway Department and in the office of the Judge of Probate of Baldwin County, Alabama, has been deemed necessary by the State Highway Director in order to facilitate the flow of traffic and promote public safety.

(5) That said tract of land necessary for use by Petitioner as a right of way for such public highway and in which Petitioner seeks to condemn an easement or right of way is located wholly within Baldwin County, Ala., and is described in Exhibit "A" attached hereto.

(6) That the right of way or easement which Petitioner seeks to condemn for highway purposes is set out and described in the right of way map on Project No. S-635(2), which is on file in the State Highway Department and in the office of the Judge of Probate of Baldwin County, Alabama.

(7) That a diligent search has been made of the records of Baldwin County, Alabama, and diligent inquiry made to ascertain the names and addresses of the parties owning said tract of land and according to the best of Petitioner's information, knowledge and belief the said lands are owned and interest in said lands are claimed by the parties named as respondents in this cause.

(8) That Baldwin County, Alabama, a body corporate under the laws of the State of Alabama with its county seat in the City of Bay Minette, Alabama, may have or claim an interest in said tract by reason of taxes and easements due and chargeable, and is hence made a respondent herein.

WHEREFORE, the premises considered, your Petitioner respectfully prays:

(1) That an order be made appointing a day for the hearing of this application and that notice of the filing thereof and of the day set for the hearing thereof be given to the respondents.

(2) That this Court will appoint commissioners to ascertain and report the compensation and damages occasioned by such taking.

(3) That upon a final hearing of this petition an order and decree be made by this Court condemning the easement for the right of way, as set out in the right of way map on Project No. S-635(2), over the lands as set out in Exhibit "A" of this application, all for the uses and purposes of a public highway for the State of Alabama.

RICHMOND M. FLOWERS  
ATTORNEY GENERAL  
STATE OF ALABAMA

BY: *Kenneth Cooper*

DULY APPOINTED SPECIAL ASSISTANT  
ATTORNEY GENERAL FOR THE  
STATE OF ALABAMA

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STATE OF ALABAMA

BALDWIN COUNTY

Before me, Erin R. White,

personally appeared Kenneth Cooper, Assistant Attorney General of the State of Alabama, who is personally known to me, and who is known to me in his official capacity as an Assistant Attorney General of the State of Alabama, and also being first duly sworn, deposes and says that the allegations of the foregoing application for condemnation are true and correct.

Kenneth Cooper  
AFFIANT

Sworn and subscribed before me on this 6~~th~~ day of October 1966.

Erin R. White  
NOTARY PUBLIC, BALDWIN COUNTY, ALA.

#### ORDER OF PROBATE COURT

The foregoing application for condemnation having been presented to the Probate Court of Baldwin County, Alabama, and considered by the Court,

IT IS ORDERED that the same be and is hereby set for hearing on the 31<sup>st</sup> day of October, 1966, at 1000 A.M. o'clock.

IT IS FURTHER ORDERED that notice of the application for condemnation and of the date set for the hearing thereof be given to respondents at least ten (10) days before the hearing of this application.

Dated this 7<sup>th</sup> day of October, 1966.

Harry D. Oliver  
PROBATE JUDGE

BY: \_\_\_\_\_

STATE OF ALABAMA,

PETITIONER,

VS.

MILLIE A. BENJAMIN, et al.,

RESPONDENTS.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

BOOK 045  
PAGE 21

TO:

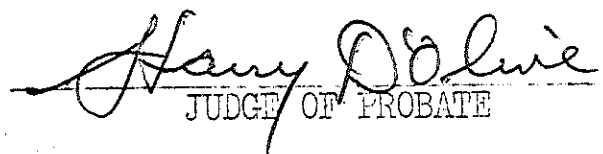
MILLIE A. BENJAMIN, DAPHNE, ALABAMA.

YOU WILL PLEASE TAKE NOTICE that an application was filed in this Court by the State of Alabama, a copy of which said application is attached hereto, alleging that it desires to have condemned an easement or right of way for a public road across lands belonging to above named respondents, which said lands are particularly described in the said application;

And the application prays that a day be appointed for the hearing thereof and for such further, other and different orders and decrees as may be necessary and proper for the acquisition by the Applicant of the easement or right of way over and across the above mentioned property.

THIS IS TO NOTIFY YOU that the Probate Court of Baldwin County, Alabama, has, and by an order this day made and entered, appointed the 31<sup>st</sup> day of October, 1966, at 10:00 A.M. o'clock, as the day and time upon which said application will be heard, at which time you may appear and contest the same, if you choose to do so.

Done this 7<sup>th</sup> day of October, 1966.

  
JUDGE OF PROBATE

BY: \_\_\_\_\_

# EXHIBIT

A

BOOK 045 PAGE 22

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

and as shown on the right of way map of Project No. S-635(2) as recorded in the office of the Judge of Probate of Baldwin County.

Commencing at Station 446 + 78 of Project No. S-635(2); thence south  $89^{\circ} 32'$  west a distance of 6.0 feet to the point of beginning; thence continue south  $89^{\circ} 32'$  west a distance of 96.0 feet to a point; thence southeasterly along the arc of a curve to the left having a radius of 5,829.58 feet a distance of 202.7 feet to a point which is 100 feet westerly of and at right angles to Station 445 + 00; thence westerly along the curve radial line a distance of 25 feet more or less to a spring branch and the south property line; thence southeasterly along the branch a distance of 86.8 feet to the east property line; thence northerly along said east property line a distance of 250 feet more or less to the point of beginning.

Said parcel of land lying in Lot 6 as shown on the Marie Alphonse plat which is recorded in Map Book 4, Page 209 of the Probate Records of Baldwin County, Alabama and containing an area of 0.38 acres, more or less.





STATE OF ALABAMA,  
PETITIONER,

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

VS.

CASE NO. \_\_\_\_\_

MILLIE A. BENJAMIN,  
and TRACT NO. 0129,  
and BALDWIN COUNTY, ALA.,  
A POLITICAL SUBD. OF THE  
STATE OF ALABAMA.

RESPONDENTS.

ORDER OF PROBATE JUDGE GRANTING APPLICATION FOR  
CONDEMNATION AND APPOINTING COMMISSIONERS

This cause having heretofore been set for hearing on the 31  
day of October, 1966, at 10:00 A.M. o'clock, as set forth in  
the application of the State of Alabama to condemn the right of way or  
easement on <sup>Tract</sup> ~~Block~~ Number 0129, Project S-635(2), as specified in  
said application for condemnation over the lands therein described for  
the uses and purposes of a public road or highway for the State of  
Alabama, and it appearing to the Court that notice of the filing of  
said application for condemnation and of the day set for the hearing  
of the same has been given to the owners and interested parties by  
service of a notice upon them for more than ten (10) days prior to  
this date.

WHEREUPON, after examination of said application and after hear-  
ing the evidence in support thereof, the Court is of the opinion that  
the allegations contained in said application are true and that it is  
necessary to condemn the easement or right of way over the lands as  
described in said application, all for the uses and purposes of a  
public road or highway in and for the State of Alabama, and no cause  
having been shown why such application should not be granted;

IT IS THEREFORE ORDERED, ADJUDGED and DECREED by the Court that  
the prayer of said application for condemnation be granted and that  
the easement or right of way over the lands described in said appli-  
cation is hereby condemned for the uses and purposes of a public road  
or highway in Baldwin County, Alabama.

BOOK 045 PAGE 23

IT IS FURTHER ORDERED by the Court that Jack Davis,  
Robert Mickelson, W. E. Long,

who are resident citizens of Baldwin County, Alabama, possessing the qualifications of jurors and who are disinterested in these proceedings (each of these facts being ascertained by the Court) be and they are hereby appointed commissioners to view said property and hear any evidence offered by interested parties and report to the Court within twenty days after their appointment the amount of damages and compensation to which the owners and interested parties are entitled to receive for the condemnation of said right of way.

IT IS FURTHER ORDERED by this Court that a notice of their appointment be at once issued to said commissioners, and that the Sheriff of said County serve notice of said appointment upon each of the commissioners as required by law.

Done this 10 day of Nov, 1966.

Harry D. Oliver  
 JUDGE OF PROBATE

BY: \_\_\_\_\_

STATE OF ALABAMA,	)	IN THE PROBATE COURT OF
PETITIONER,	)	BALDWIN COUNTY, ALABAMA
VS.	)	CASE NO. _____
MILLIE A. BENJAMIN, et al,	)	
RESPONDENTS.	)	

NOTICE OF CROSS-APPEAL

Comes now the State of Alabama, acting by Kenneth Cooper, Duly Appointed Special Assistant Attorney General, State of Alabama, Petitioner in above entitled cause, and prays for and takes a Cross-Appeal to the Circuit Court of Baldwin County, Alabama from the Final Order Of Condemnation entered in this cause on the 23<sup>rd</sup> day of November, 1966, which said Condemnation was against Tract No. 0129 of State Highway Project No. S-635(2).

The said State of Alabama does herewith file in the Probate Court of Baldwin County, Alabama, the Court rendering such Final Order Of Condemnation, this its written Notice Of Cross-Appeal, to the Circuit Court of Baldwin County, Alabama.

Done this 23 day of December, 1966.

STATE OF ALABAMA

RICHMOND M. FLOWERS,  
Attorney General  
State of Alabama

BY: Kenneth Cooper  
Duly Appointed Special  
Assistant Attorney General  
State of Alabama

Cross-Appellant, State of Alabama, hereby demands a trial by jury in this cause.

STATE OF ALABAMA, BALDWIN COUNTY


Filed Dec. 23, 1966

Recorded \_\_\_\_\_ book \_\_\_\_\_ page \_\_\_\_\_

Harry W. Olive  
Judge of Probate

Kenneth Cooper  
Duly Appointed Special  
Assistant Attorney General  
State of Alabama

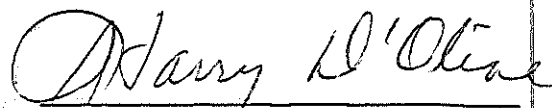
The undersigned hereby acknowledges himself as security for costs in this Cross-Appeal.

  
Duly Appointed Special  
Assistant Attorney General  
State of Alabama

\*\*\*\*\*

TO: Hon. Ernest M. Bailey  
Attorney At Law  
Fairhope, Alabama

You are hereby notified that the above Notice Of Cross-Appeal was filed in this office of Judge of Probate, Baldwin County, Alabama, on this 23 day of December, 1966.

  
Judge of Probate,  
Baldwin County, Alabama

STATE OF ALABAMA,  
PETITIONER,  
VS.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA  
CASE NO. \_\_\_\_\_

MILLIE A BENJAMIN

BOOK 045  
PAGE 27

RESPONDENTS.

REPORT OF THE COMMISSIONERS

TO THE HONORABLE HARRY M. D'OLIVE, JUDGE OF PROBATE, BALDWIN COUNTY, ALA.

Come the undersigned, Jack Davis,  
Robert Mikkelsen, and W. S. Long,

the Commissioners duly appointed to assess the damages to Parcel No. 129 of Project No. S-635(2), to which the owner and other parties interested in the parcel of land set forth and described in the original application for condemnation of lands filed in this cause, are entitled for the condemnation of such lands, and having been duly sworn as jurors, and having viewed the lands described in said application for condemnation, and having set a time and place for the hearing of the evidence to be offered by any party touching the amount of damages the owners of the lands and other parties interested therein will sustain and the amount of compensation they are entitled to receive, and having received all legal evidence offered, do hereby state that the amount of damages and compensation has been ascertained and assessed by the undersigned according to law and that the said owners of said Parcel of land and other parties interested therein are entitled to receive as damages and compensation for the condemnation of their property, the following amount:

Project No. S-635(2), Parcel No. 129, \$ 330<sup>00</sup>

We hereby certify that we have not been consulted with, advised with or approached by any person with reference to the value of the lands other than as to the evidence submitted to and considered by us or the proceedings to condemn the same prior to the assessment of damages, and that we knew nothing of the same prior to our appointment.

Jack Gulian  
COMMISSIONER

Robert M. Miller  
COMMISSIONER

W. C. Long  
COMMISSIONER

Sworn to and subscribed before me  
this 22 day of Nov., 1966.

Harry D. Oline  
JUDGE OF PROBATE

BY: \_\_\_\_\_

STATE OF ALABAMA,  
PETITIONER,  
VS.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA  
CASE NO. \_\_\_\_\_

MILLIE A. BENJAMIN

RESPONDENTS.

FINAL ORDER OF CONDEMNATION

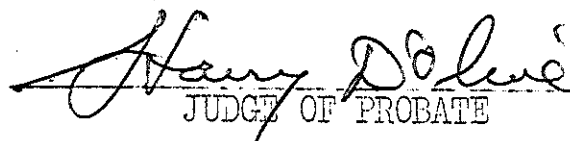
On the 22nd day of November, 1966, came Jack Gavin  
Robert Mikkelsen, and W. E. Long,  
commissioners heretofore appointed by this Court to assess and ascer-  
tain the damages and compensation to which the owners and other parties  
interested in the tract of land set forth in the application for con-  
demnation of lands heretofore filed in this cause are entitled and  
filed their report in writing and under oath setting forth that they  
awarded compensation and damages to the said owners and other parties  
interested in Parcel Number 129, Project No. S-635(2), in the  
amount of \$ 330.00.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED by the Court that  
the said report of commissioners be filed in this Court and recorded.

IT IS FURTHER ORDERED, ADJUDGED and DECREED by the Court that the  
property described in the application for condemnation heretofore  
filed in this cause be and the same is hereby condemned for the pur-  
poses set forth in said application for condemnation upon the payment  
of the damages and compensation so ascertained, assessed and reported  
or the deposit of the same in Court as provided in Section 16 of Title  
19 of the Code of Alabama, 1940.

IT IS FURTHER ORDERED by the Court that said Petitioner pay all  
costs of the proceeding.

Done this 23rd day of November, 1966.

  
JUDGE OF PROBATE

STATE OF ALABAMA,	)	IN THE CIRCUIT COURT OF
	*	
PETITIONER,	)	BALDWIN COUNTY, ALABAMA
	*	
VS	)	CASE NO. _____
	*	
MILLIE A. BENJAMIN, et al,	)	
Tract 0129A,	*	
	)	
RESPONDENTS.	*	

# FINAL JUDGMENT

This cause coming on to be heard by the Court on this the 6 day of March, 1967, now come the parties and their respective attorneys of record and it appearing to the Court from the stipulation of the parties made and entered into on this date and filed for record in this cause, that on the 7th day of October, 1966, an application was filed in the Probate Court of Baldwin County, Alabama, by the State of Alabama, seeking to condemn certain lands therein described for the uses and purposes therein averred, and that subsequent thereto proceedings were had in the Probate Court of Baldwin County, Alabama, and that the necessary action to properly effect the appeal from the Probate Court of Baldwin County, Alabama, in accordance with all the statutes and laws in such cases made and provided, to the Circuit Court of Baldwin County, Alabama, were made, and that said Court did enter an order of condemnation of the lands described in said application and which are hereinafter described, and that on the 21st day of December, 1966, the Respondent landowners, Millie A. Benjamin, et al, appealed from said order of condemnation to this Court and demanded a trial by jury; and that on the 23rd day of December, 1966, the Petitioner, State of Alabama, did file a cross-appeal in said case and demanded a trial by jury; and it appearing to the Court from the stipulation of the parties hereinabove referred to that the only issue in this proceeding is the damages and compensation, if any, to which the Defendant landowners are entitled and that an order of condemnation should here be entered condemning the lands hereinafter described



for the uses and purposes set forth in the application, which is now on file in this Court.

And now comes the parties hereto, by their respective attorneys of record, to-wit, Kenneth Cooper, Esquire, and Ernest M. Bailey, Esquire, both having withdrawn their respective demands for a trial by jury, and agree that the damages and compensation to which the Defendant landowners are entitled is the sum of \$200.00.

And the Court having considered all of the above is of the opinion and judgment that an order or judgment of condemnation should here be entered conditioned upon the payment by the State of Alabama to the Clerk of this Court for the use and benefit of the Defendant landowners the sum aforesaid; it is, therefore

ORDERED, ADJUDGED AND DECREED by the Circuit Court of Baldwin County, Alabama, as follows:

1. That the application of the State of Alabama for the condemnation of the lands, rights and construction hereinafter described be, and the same are hereby granted, and that the property described in Exhibit "A" attached hereto, and by reference made a part thereof as though fully set forth herein, be, and the same is hereby condemned for the use by the State of Alabama as a right-of-way for a public road as set forth in the application aforesaid, and the rights therein are hereby divested out of the landowners and into the State of Alabama, upon the payment by the State of Alabama of the sum hereinafter ordered and decreed to be paid.

2. That the damages and compensation to which the Defendant landowners in this case, Millie A. Benjamin, et al, are entitled is hereby fixed at the sum of \$200.00, which said sum is hereby ordered to be paid by the State of Alabama to the said Defendant landowners; and that upon payment of said amount by the State of Alabama to said landowners the condemnation of the lands hereinabove described shall be, and become effective.

3. That the State of Alabama pay the costs of this proceeding.

Dated this ~~15~~<sup>6</sup> day of March, 1967.

Justin A. Massburn  
CIRCUIT JUDGE

FILED

MAR 6 1967

WILLIAM L. DICK, CLERK  
REGISTER

EXHIBIT "A"

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right of way map of Project No. S-635(2) as recorded in the office of the Judge of Probate of Baldwin County.

Commencing at Station 432 + 15.6 of Project No. S-635(2), the east right of way line of U. S. 98; thence N 10° 33' 57" east along said right of way line a distance of 460.96 feet more or less to the point of curvature of a 1472.40 feet radius curve to the left; thence northeasterly along the arc of said curve 67.8 feet more or less to the south line of Marie Alphonse property for the point of beginning of the property herein described; thence eastwardly along said south line 34.6 feet to a point on the new right of way line of Project No. S-635(2); thence N 00° 02' east along said right of way line 79 feet to a point; thence N 89° 58' west a distance of 20 feet; thence N 00° 02' east a distance of 132.8 feet more or less to a point that is 40 feet east of and at right angles to the centerline of U. S. 98; thence southwardly and parallel to said centerline 203 feet more or less to the point of beginning.

Said parcel of land lying in Lot 2 of the D'Olive Estate Division of a portion of Grant Section 7, Township 5 South, Range 2 East and containing 0.08 acres, more or less.