

4177

RAYMOND J. SUBEL, as Executor )  
of and under the Last Will and )  
Testament of Charlie R. Subel, )  
deceased, ET AL., )

Complainants and )  
Cross-Respondents, )  
VS. )

MAE HARRISON, ET AL., )  
Respondents and Cross- )  
Complainants. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177

FINAL DECREE

This cause coming on to be heard on this date is submitted on the original bill of complaint, amended bill of complaint filed April 21, 1959, amended bill of complaint filed January 17, 1961, motion to revive cause, order reviving cause dated November 17, 1961, amended bill of complaint filed January 15, 1962, answer and cross bill of respondents filed May 14, 1962, motion for appointment of guardian ad litem, decree appointing guardian ad litem, notice of appointment, acceptance and answer of guardian ad litem, Register's certificate as to service, motion for decree pro confesso against respondents A. J. Denton and Margaret M. Denton, decree pro confesso against A. J. Denton and Margaret M. Denton, and the testimony of Raymond Subel and Forest A. Christian taken in open court on this date but which has been noted by the Register;

Upon consideration of all of which the court finds as follows:

A. On, to-wit, December 29, 1944, Forest A. Christian, an Attorney at Law, was employed by Mrs. A. J. Denton, the same person as Margaret M. Denton, and A. J. Denton and by Charlie Subel and Hazel Fields Subel to draft the deed which bears the said date and which is recorded in Deed Book 87 at page 329, Baldwin County, Alabama Records. At the time of the employment of the said attorney by the said parties he was instructed by them to draw the said deed with a survivorship provision so that the title would be conveyed by the said deed to Charlie Subel and Hazel Fields Subel during the term of their joint lives, and that on the death of either of the said parties the title to the property conveyed by the said deed

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would vest in the survivor; that the said attorney, through his error, incorporated in the granting clause of the said deed the words "their heirs and assigns." The insertion of the said words in the granting clause in the said deed created a conflict between the granting clause and the habendum clause and prevented the title to the property conveyed by the said deed from vesting in the surviving grantee, which was the intention of the said parties, the grantors and the grantees in the said deed.

B. Hazel Fields Subel died intestate on, to-wit, November 20, 1956, leaving as her heirs Charlie Subel, the widower, who was one of the grantees in the said deed from Mrs. A. J. Denton and A. J. Denton, and Mae Harrison, mother of the said decedent, and Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Crady Harrison and Linear Harrison, brothers and sisters of the said decedent.

C. The said Charlie Subel and Hazel Fields Subel remained in possession of the said property up to the time of the death of Hazel Fields Subel. After the death of Hazel Fields Subel the property remained in the possession of Charlie Subel, and since his death it has remained in the possession of Raymond J. Subel, as executor of the Last Will and Testament of Charlie R. Subel, deceased (who is the same person as Charlie Subel), and Carlous Subel, Maurice R. Subel, Walter J. Subel, Raymond J. Subel and Betty Ann Styron, formerly Betty Ann Subel, the devisees and legatees named in the Last Will and Testament of Charlie R. Subel, deceased, during all of which time the said parties claimed to own the said property.

D. No suit is pending to test the title to or right to possession of the property described in the said deed, which is the Southwest Quarter of the Northeast Quarter, and the Northwest Quarter of the Southeast Quarter of Section 24, Township 6 South, Range 3 East, Baldwin County, Alabama.

E. The said complainants and cross-respondents are entitled to the relief prayed for by them in their bill of complaint

as last amended. The said respondents and cross-complainants are not entitled to the relief prayed for by them in their cross bill.

Upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. The deed from Mrs. A. J. Denton (Margaret M. Denton) and A. J. Denton, wife and husband, to Charlie Subel and Hazel Fields Subel, dated December 29, 1944, which is recorded in Deed Book 87 at page 329, Baldwin County, Alabama Records, shall be and it is hereby reformed by striking from the granting clause therein the words "their heirs and assigns" and by changing the granting clause so that the body of the said deed will read as follows:

STATE OF ALABAMA  
BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS: That we, Mrs. A. J. Denton (Margaret M. Denton) and A. J. Denton, wife and husband, of said County and State, for and in consideration of One Dollar (\$1.00) and other valuable consideration to us in hand paid by Charlie Subel and Hazel Fields Subel, husband and wife, the receipt whereof is, upon the delivery of these presents, hereby acknowledged, have Granted, Bargained and Sold and by these presents do hereby GRANT, ~~BARCAIN, SELL AND CONVEY~~ unto the said Charlie Subel and Hazel Fields Subel during their joint lives and upon the death of either of them, then to the survivor of them in fee simple, forever, the following described real property situated in Baldwin County, Alabama, to-wit:

Farm 7, being the Southwest Quarter of the Northeast Quarter, and Farm 10, being the Northwest Quarter of the Southeast Quarter, of Section 24, Township 6 South, Range 3 East.

TO HAVE AND TO HOLD unto the said Charlie Subel and Hazel Fields Subel during their joint lives and upon the death of either of them, then to the survivor of them in fee simple and to the heirs and assigns of such survivor, forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this the 29th day of December, 1944.

(S) MRS. A. J. DENTON (SEAL)

(S) A. J. DENTON (SEAL)

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PAGE 329  
PAGE 465

BOOK 346 PAGE 466

2. The complainants and cross-respondents, Raymond J. Subel, as executor of the Last Will and Testament of Charlie R. Subel, deceased, and Carious Subel, Maurice R. Subel, Walter J. Subel, Raymond J. Subel and Betty Ann Styron, formerly Betty Ann Subel, are the owners of the following described real property situated in Baldwin County, Alabama, to-wit:

Southwest Quarter of Northeast Quarter,  
Northwest Quarter of Southeast Quarter,  
Section 24, Township 6 South, Range 3  
East.

3. The respondents and cross-complainants, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, have no right, title or interest in, lien or encumbrance on the lands described in the preceding paragraph or any part thereof, or any interest therein.

4. The cross bill of the respondents and cross-complainants, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, filed in this cause on the 14th day of May, 1962, shall be and it is hereby dismissed with prejudice.

5. The Register of this court shall promptly file a certified copy of this decree for record in the office of the Judge of Probate of Baldwin County, Alabama, and tax the cost of such recording as a part of the costs of this proceeding.

6. The costs of this proceeding are hereby taxed against the respondents and cross-complainants, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, for which execution may issue.

ORDERED, ADJUDGED AND DECREED on this the 23rd day of June, 1964.

I, Alice J. Duck, Register of the Circuit Court of Baldwin County, (S) HUBERT M. HALL  
Alabama, do hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of the Circuit Court in the above stated cause, which said decree is on file and on record in this office.

WITNESS MY HAND AND SEAL THIS 23rd day of June, 1964

*Alice J. Duck*  
Register of Circuit Court, in Equity


STATE OF ALABAMA, BALDWIN COUNTY  
Filed 7/3/64  
Recorded *Deed*  
Book 346 Page 463-66  
8:00 A.M.  
*L. D. Owens*  
Judge of Probate

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

TO ANY LAW OFFICER OF THE STATE OF ALABAMA:

You are hereby commanded to summon GUS SCHULTZ, as administrator of the Estate of Hazel F. Subel, also known as Hazel Fields Subel, Deceased, MAE HARRISON, FIN HARRISON, MILFORD HARRISON, MARY ALICE COLGAN, ESSIE JUNE SEEGER, LUCILLE SMITH, ORA RASCOE, CLESSIE GRIMES, GRADY HARRISON and LINEAR HARRISON to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, in Equity, at the place of holding same, then and there to plead, answer or demur to the Bill of Complaint filed against them by CHARLIE SUBEL.

WITNESS my hand this 27 day of November, 1957.

  
\_\_\_\_\_  
Register

The above named respondents' addresses are as follows:

Gus Schultz, Foley, Alabama.  
Mae Harrison, Fin Harrison, Milford Harrison,  
Mary Alice Colgan and Essie June Seeger, Summerdale, Alabama.  
Lucille Smith, Loxley, Alabama.  
Ora Rascoe and Clessie Grimes, Opp, Alabama.  
Grady Harrison, 3220 North S Street, Pensacola, Florida.  
Linear Harrison, 1007 Pennway Drive, Lansing, Michigan.

BILL OF COMPLAINT

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

The complainant, Charlie Subel, presents this Bill of Complaint against Gus Schultz, as administrator of the Estate of Hazel F. Subel, also known as Hazel Fields Subel, Deceased, and against Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, and, thereupon, complainant complains and shows unto the court and your Honor as follows:

1. The complainant is over twenty-one years of age and a resident of Baldwin County, Alabama.

The respondent, Gus Schultz, who is over twenty-one years of age and a resident of Baldwin County, Alabama, has been appointed, qualified and is now acting as administrator of the Estate of Hazel F. Subel, Deceased.

Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan and Essie June Seeger are each over twenty-one years of age and residents of Summerdale in Baldwin County, Alabama.

Lucille Smith is over twenty-one years of age and a resident of Loxley in Baldwin County, Alabama.

Ora Rascoe and Clessie Grimes are each over twenty-one years of age and each resides at Opp in Covington County, Alabama.

Grady Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 3220 North 8 Street, Pensacola, Florida.

Linear Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 1007 Pennway Drive, Lansing, Michigan.

2. Complainant claims to own and is in the actual, quiet and peaceable possession of the following described real property situated in Baldwin County, Alabama, to-wit:

Southwest Quarter of Northeast Quarter;  
Northwest Quarter of Southeast Quarter,  
Section 24, Township 6 South, Range 3 East.

3. The respondents claim, or are reputed to claim, some right, title or interest in, lien or encumbrance on, the said land; no suit is pending to enforce or test the validity of such title, interest in, lien or encumbrance on the said lands, and the complainant brings this Bill of Complaint against the said respondents to settle the title to the said lands and to clear up all doubts and disputes concerning the same. The complainant here and now calls upon the said respondents to set forth and specify their right, title or interest in, lien or encumbrance on, the said lands or any part thereof, and how and by what instrument the same is derived and created.

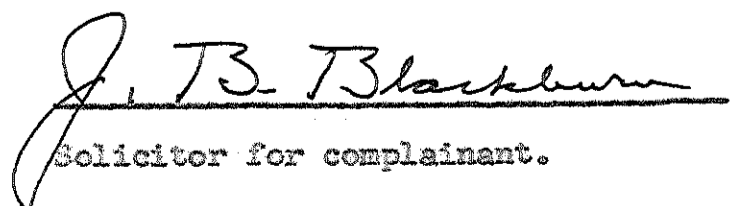
#### PRAYER FOR PROCESS

Complainant prays that the said Gus Schultz, as administrator of the Estate of Hazel F. Subel, Deceased, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison be made parties respondent to this Bill of Complaint and that the usual process of this Honorable Court do forthwith issue to them.

#### PRAYER FOR RELIEF

Complainant further prays that upon a final hearing of this cause that the court will make and enter a decree against the said respondents quieting complainant's title to the said lands, and adjudging and decreeing that the complainant is the owner thereof in his own right; that the title thereto is in him, forever quieting the complainant's title against the said respondents, and adjudging and decreeing that they and each of them are without right, title or interest in the said lands and have and hold no encumbrance thereon.

Complainant further prays for such other, further and general relief as he may be equitably entitled to, the premises considered.

  
Solicitor for complainant.

STATE OF ALABAMA )  
                          \*  
BALDWIN COUNTY    )

Before me, the undersigned authority, within and for said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly and legally sworn, deposes and says: That he is solicitor for the complainant in the above entitled cause; that he has read over the foregoing Bill of Complaint, and that the facts stated therein are true.

J. B. Blackburn

Sworn to and subscribed before me on this the 27 day of November, 1957.

Alice L. Miller  
Notary Public, Baldwin County, Alabama

FILED

NOV 28 1957

WITNESS MY HAND AND SEAL  
AT BALDWIN COUNTY, ALABAMA

*Handwritten notes and signatures in the upper right corner, including the name "J. B. Blackburn" and other illegible text.*





CHARLIE SUBEL, )  
 Complainant, )  
 VS. ) IN THE CIRCUIT COURT OF  
 ) BALDWIN COUNTY, ALABAMA  
 MAE HARRISON, ET AL., ) IN EQUITY NO. 4177  
 Respondents. )

ORDER REVIVING CAUSE

In this cause it has been made to appear to the court that the complainant, Charlie Subel, died on, to-wit, April 10, 1961, leaving a Last Will and Testament which has been admitted to probate and record in and by the Probate Court of Baldwin County, Alabama; that Raymond J. Subel was named as executor in the said will; that he has been appointed, qualified and is now acting as such executor and that Carlous Subel, Raymond J. Subel, Maurice R. Subel, Walter J. Subel and Betty Ann Styron, formerly Betty Ann Subel, are the devisees and legatees named in the Last Will and Testament of Charlie R. Subel, who is the same person as Charlie Subel, Deceased.

Upon consideration of all of which, it is, therefore, ORDERED, ADJUDGED AND DECREED that this cause be and it is hereby revived in the names of Raymond J. Subel, as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased, and Carlous Subel, Raymond J. Subel, Maurice R. Subel, Walter J. Subel and Betty Ann Styron, formerly Betty Ann Subel, as devisees and legatees under the Last Will and Testament of Charlie R. Subel, Deceased, and that the said parties are hereby authorized to proceed as complainants in this cause to a final determination hereof.

ORDERED, ADJUDGED AND DECREED on this the 17 day of November, 1961.

*Raymond J. Subel*  
 Judge

FILED  
 NOV 17 1961  
 ALICE J. DUCK, CLERK REGISTER

*We hereby accept service of copy of within order for all respondents except Margaret M. Newton & as of Newton this April 4-1962*  
*Sharon Stone*  
*5 124 1011 Sharon*

ORDER REVIVING CAUSE

CHARLIE SUBEL,

Complainant,

VS.

MAE HARRISON, ET AL.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177



JAN 14 1961

FILED

HOWARD TERRY, BELLEVILLE COUNTY, MISSOURI

*[Signature]*

this the 13th day of January, 1961.  
Sworn to and subscribed before me on

*[Signature]*  
D. B. [Signature]

sworned pill of complaint was true and correct.

attired came, and that the facts stated in the above and foregoing

says: that he is attorney for the complainant in the above en-

and after being by me first duly and legally sworn, depose and

said County in said State, lawfully appeared J. D. Blackman.

Before me, the undersigned authority, within and for the

BELLEVILLE COUNTY

STATE OF MISSOURI

Attorney for Complainant

*[Signature]*

of address being Belle Lake, Illinois.

of age and are non-residents of the State of Missouri.

The two said respondents are each over and

avered as before respondent Mrs. J. J. Benson and

the pill of complaint heretofore filed in this case

now comes the complainant, Charles Terry, and

BELLEVILLE COUNTY, MISSOURI, SITTING IN SCULLY;  
TO THE HONORABLE HOWARD T. TERRY, JUDGE OF THE CIRCUIT COURT OF

FILED  
JAN 17 1961  
CLERK REGISTER  
ALICE J. DUCK

Respondence.

MRS. HARRISON, ET AL.

IN SCULLY

AS

Complainant,

BELLEVILLE COUNTY, MISSOURI  
IN THE CIRCUIT COURT OF

CHARLES TERRY,

)

CHARLIE SUBEL,	)	
	)	IN THE CIRCUIT COURT OF
VS. Complainant,	)	BALDWIN COUNTY, ALABAMA
	)	IN EQUITY
MAE HARRISON, ET AL.,	)	
Respondents.	)	

AMENDED BILL OF COMPLAINT

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now comes the complainant, Charlie Subel, and amends the bill of complaint heretofore filed in this cause by adding thereto as parties respondent Mrs. A. J. Denton and A. J. Denton.

The two said respondents are each over twenty-one years of age and are non-residents of the State of Alabama, their place of address being Eagle Lake, Florida.

J. B. Blackburn  
Solicitor for Complainant

STATE OF ALABAMA )  
\*  
BALDWIN COUNTY )

Before me, the undersigned authority, within and for the said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly and legally sworn, deposes and says: That he is attorney for the complainant in the above entitled cause, and that the facts stated in the above and foregoing amended bill of complaint are true and correct.

J. B. Blackburn

Sworn to and subscribed before me on this the 12th day of January, 1961.

[Signature]  
Notary Public, Baldwin County, Alabama

FILED

JAN 17 1961

ALICE I. DUCK, CLERK REGISTER

~~110~~

RAYMOND J. SUBEL, as Executor of the Last Will and Testament of Charlie R. Subel, deceased, et al.,	)	IN THE
	)	CIRCUIT COURT OF BALDWIN
VS.	)	COUNTY, ALABAMA. IN
MAE HARRISON,	)	EQUITY.
E T AL.	)	NO. 4177.
	)	June 23, 1964

MR. BLACKBURN FOR THE COMPLAINANTS  
 MR. CHASON FOR THE RESPONDENTS

-----  
 RAYMOND J. SUBEL, ONE OF THE COMPLAINANTS, BEING FIRST DULY  
 SWORN, TESTIFIED:

Examination by Mr. Blackburn.

- Q. Are you Mr. Raymond J. Subel?
- A. Yes sir.
- Q. I will ask you if you have been appointed, qualified and are  
now acting as Executor of the will of Charlie R. Subel, deceased?
- A. Yes sir.
- Q. What was the relationship?
- A. Father and son.
- Q. You are the son and he is the father?
- A. Yes .
- Q. The devisees named in his will are who?
- A. His five children.
- Q. Is that/Carlous, <sup>Carlous,</sup> Raymond J. Maxrice R., Walter J. Subel and Betty  
Ann Styron, formerly Betty Ann Subel?
- A. Yes sir.
- Q. You are familiar, of course, with the property involved in

this suit?

A. Yes sir.

Q. At the time the original suit was filed your father was living?

A. Yes sir.

Q. What use was being made of this 80 acres of land that was involved at the time the suit was filed?

A. Farming.

Q. In otherwords, was all of the land in cultivation then?

A. Yes sir.

Q. Was your father farming it then?

A. Yes sir.

Q. He was cultivating the 80 acres?

A. Yes sir.

Q. Since his death have the devisees and legatees under his will farmed the land?

A. Yes sir.

Q. Now at the time this suit was originally filed, your father was claiming to own this land, was he not?

A. Yes sir.

Q. No suit was pending to test the title to it in any way of your father?

A. No sir.

Q. Now the devisees and legatees in his will are claiming to own it?

A. Yes sir.

Q. Are you and your brothers and sister all over the age of 21 years?

A. Yes sir.

Q. And residents of Baldwin County, Alabama?

A. Yes sir.

Q. Now do you know when your step mother, Hazel Fields Subel



died?

A. In 1956.

Q. I will ask you if she died intestate?

A. Yes sir.

Q. Was the date about November 20th?

A. Yes sir.

Q. Did she leave a will or did she die without one?

A. She died without.

Q. Did she have any children?

A. No.

Q. Are you familiar with her heirs on the date of her death?

A. Yes sir.

Q. I will ask you if those heirs, with your father who was the surviving husband, were: Mae Harrison, mother, Fin Harrison, brother, Milford Harrison, brother, Mary Alice

Colgan, sister, Essie June Seeger, sister,

Lucille Smith, Ora Rasco, sister, Ora Rasco, a sister, Clessie Grimes, a sister, Grady Harrison, a brother and Linear Harrison, a brother?

A. Yes sir.

Q. Were you familiar with the transaction when your father and your step-mother purchased the 80 acres of land involved in this suit from the Dentons? - - - I don't mean were you there, but do you recall the occasion?

A. Yes sir.

Q. The Harrisons that I have mentioned and all of the heirs of Hazel Fields Subel, are over 21 years of age?

A. Yes sir.

MR. BLACKBURN: We offer in evidence as Complainant and Cross Respondent's Exhibit 1, certified copy of the last will and testament of Charlie R. Subel deceased,

We also introduce in evidence a certified copy of the letters testamentary issued by the Probate Court of Baldwin County, Alabama, to Raymond Subel and ask that that be identified as Complainant and Cross Respondents' Exhibit 2.

Q. You have read over this bill of complaint, have you not?

A. Yes sir.

Q. Are all of the facts stated in it true and correct?

A. Yes sir.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED AS FOLLOWS:

Examination by Mr. Chason.

Q. Mr. Blackburn asked you about the deed from Mr. and Mrs.

Denton. Are you referring to the deed dated December 29, 1944, that is attached as Exhibit A. to the bill of complaint? - - -

Is that the time they bought the land you are referring to?

A. Yes sir.

Q. How many acres are involved in that deed?

A. 80.

Q. And it was purchased by Charlie Subel and Hazel Fields Subel, husband and wife?

A. Yes sir.

Q. Was this land farmed by both of them up to the time of her death, which I believe you said occurred in 1956?

A. Yes sir.

Q. Is there any dwelling house on this property?

A. No sir.

Q. Just strictly farm land?

A. Yes sir.

Q. Now up to the date of their death, both had possession and farmed and used it as their own?

A. Yes sir.

Q. Did you ever hear any discussion about this deed being wrong up to the time they died?

A. No sir.

Q. This deed had been delivered and recorded for more than 10 years before the death of Hazel Fields Subel, had it not?

A. Yes sir.

Q. And there had been nothing said about their being a mistake in the deed up to that time to your knowledge?

A. No sir.

Q. After the death of Hazel Fields Subel, you say first your father and then his heirs have continued to farm this land?

A. Yes sir.

Q. Have you ever paid any rent to Hazel Fields Subel or her heirs?

A. No sir.

Q. You were not present when this deed was prepared and don't know anything about the contents of it, do you?

A. No sir.

Q. When were you born?

A. July 2, 1929.

Q. So you were only some 15 years old when this property was purchased?

A. Yes sir.

Q. - - -

HON. FOREST CHRISTIAN, BEING FIRST DULY SWORN, TESTIFIED FOR THE

COMPLAINANTS AS FOLLOWS:

Examination by Mr. Blackburn/

Q. What is your name?

A. I am Forest Christian.

Q. Mr. Christian, what profession are you engaged in?

A. The practice of law, at Foley, Alabama.

Q. How long have you practiced law at Foley?

A. Since October 1, 1944.

Q. After you came to Foley in 1944, I will ask you whether or not you had occasion to draw a deed from the two Dentons to Charlie and Hazel Fields Subel?

A. I did.

Q. Have you examined, and are you now examining a copy of that deed?

A. Yes sir.

Q. I will ask you, Mr. Christian, whether or not you are familiar with that transaction?

A. Yes sir.

Q. Who did you represent in that transaction?

A. All of the parties, both the grantors and the grantees.

Q. First, did they instruct you what kind of deed to draw?

A. Yes sir.

Q. What kind of deed did they instruct you to draw?

A. Survivorship deed; warranty deed with survivorship.

Q. Did you attempt to prepare and did you prepare the original deed, a copy of which you are now testifying?

A. Yes sir.

Q. Give us the date of that deed?

A. 2nd day of November, 1944.

Q. Will you refer to the recording data - - -

A. January 12, 1945, at 8Ar and recorded in Deed Book 87 at page 392, in the Probate Office of Baldwin County, Alabama.

Q. Would you read the granting clause in that deed?

A. The granting clause reads: "Have granted, Bargained and Sold and by these presents do hereby grant, bargain, sell and

convey unto the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, the following described real estate, situated in the County of Baldwin, State of Alabama, to-wit:

Q. Now skip down to the habendum clause and read that?

A. "To have and to Hold, the aforegranted premises to the said Charlie Subel and Hazel Fields Subel, during their joint lives, and upon the death of either of them, then to the survivor of them in fee simple, and to the heirs and assigns - -

Q. Now Mr. Christian, would you explain to the Court how the words: "Their heirs and assigns" happened to be in the granting clause?

A. I drew this will just a month or so after I started practicing law - - -

Q. Will?

A. This deed, and when I came to Foley I was the Attorney for the Farmers & Merchants Bank of Foley and at that time Mr. E. F. Sanders was Executive Vice President and in order to assist me, since I did not have any files or anything, he furnished me with copies of deeds and mortgages, etc, that Mr. Magney, who had been their Attorney and who had died about six months before I came, for my use.

Q. I will ask you whether or not you used the Magney form in preparing the deed that you have testified to?

A. Yes sir.

Q. And is that the way the words: "Their heirs and assigns" happened to be in the granting clause in the deed from the Dentons to the Subels?

A. Yes sir.

MR. BLACKBURN: We offer in evidence certified copy of deed from Mrs. A. J. Denton (Margaret M. Denton) and A. J. Denton, her husband, to Charles Subel and Hazel Fields Subel, dated December 29, 1944, and recorded in Deed Book 87, page 329, office of the Judge of Probate of Baldwin County, Alabama, and ask that it be identified as Exhibit 3 for the Complainants and Cross Respondents.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Chason.

Q. Mr. Christian, you said that you started the practice of Law in Foley in October of 1944?

A. Yes sir.

Q. And this deed is dated December 29, 1944?

A. Yes sir.

Q. I believe you stated that you represented all parties to this conveyance?

A. Yes sir.

Q. Who came in to talk to you first about drafting this deed?

A. Well, it came through the Bank of Foley; they went to the Bank First and then they all came to my office to draw the deed and execute it.

Q. All four parties came in there together, and that is the first you knew that you were to be the Attorney that would draft this deed?

A. Yes sir.

Q. They had no appointment to come in and had not requested you to prepare it?

A. Not until then.

Q. Who furnished you the description?

A. It was from an old deed.

Q. Deed the Dentons had?

A. Yes sir.

Q. Did you know Mr. and Mrs. Denton prior to that date?

A. I don't think so.

Q. Had you ever met Charlie Subel and Hazel Fields  
Subel prior to that date?

A. No sir.

Q. Who did the talking to tell you what they wanted?

A. That has been 20 years ago - - -

Q. I thought you might have some independent recollection.

A. I didn't - - - I discussed it with them.

Q. All four of them?

A. Yes sir.

Q. You don't remember which one you discussed it with?

A. No sir.

Q. Do you remember who said they wanted a survivorship deed?

A. I think the grantees probably and they all agreed to it.

Q. You don't know whether Mr. or Mrs. Subel told you to make it a  
survivorship deed?

A. I don't remember.

Q. You do remember that one of them told you they wanted a survivorshi  
Deed?

A. Yes sir.

Q. And you attempted to draw a survivorship deed?

A. Yes sir.

Q. Did you, at that time, understand the full effect of a  
survivorship deed?

A. Yes sir, I surely did.

Q. This heirs and assigns that you put in here and the fact that you put the survivorship in the habendum clause rather than in the granting clause, you say that was your mistake, because of the form you followed of Mr. Magney's?

A. Yes sir.

Q. Do you know whether you had ever drawn a survivorship deed before this date?

A. I think I had, but just a few; I had just started practicing law.

Q. Was the deed acknowledged in your presence?

A. No sir, I was'nt a Notary at that time; I couldn't be a Notary until I had been here six months or so.

Q. Had you studied law in Alabama?

A. No sir.

Q. Now when was the first time it was ever called to your attention the fact that there was a mistake in this deed?

A. Well later on, I mean five years later, I began to realize - - - Well, there was some discussion that there should not be: "Heirs and Assigns in the deed, but when it was called to my attention was when a ~~case~~ <sup>case</sup> came up, probably in 1952.

Q. Did you attempt to get this deed corrected five years after it was made?

A. No sir.

Q. Did you notify the Dentons and Subels that you thought there was something wrong?

A. I had made hundreds of deeds at that time.

Q. So you just had to ride with what you had done?

A. Yes sir, and hope for the best.

Q. So you did not discuss this deed after the day it was prepared in your office with any of the parties prior to the death of



Hazel Subel - - Hazel Fields Subel?

A. No sir.

Q. So you don't know whether they had ever discovered the error in it or not?

A. No sir.

Q. You do tell the Court that it was your intention, and the intention of the parties that it would be a survivorship deed?

A. Yes sir.

Q. Do you think Hazel Fields Subel understood the meaning of a survivorship deed?

A. Yes sir, I explained it to her at that time.

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C E R T I F I C A T E:

I hereby certify that the foregoing, consisting of pages 1 to 11 both inclusive, correctly sets forth a true and correct transcript of the testimony as taken by me, in open Court, in the captioned case, before Hon. Hubert M. Hall, Judge of said Court, on the 23rd day of June, 1964.

This the 24th day of June, 1964.

Louise Dusenbury  
Court Reporter

LAST WILL AND TESTAMENT OF CHARLIE R. SUBEL  
IN THE NAME OF GOD, AMEN:

I, Charlie R. Subel, being of sound and disposing mind and memory, and imbued with the uncertainty of life and the certainty of death, and not acting under any duress, menace, fraud or influence of any person, circumstance or matter whatever, do freely and voluntarily make, publish and declare this my Last Will and Testament, hereby revoking and cancelling all former wills by me at any time heretofore made.

FIRST:

I direct that my executor hereinafter named, as soon as he shall have sufficient funds applicable thereto, pay my funeral expenses, the expenses of my last sickness, and all of my just debts and obligations of every nature in the order of priority prescribed by the laws of any state where this will may be admitted to probate.

SECOND:

I give, devise and bequeath to my children, Carlous Subel, Raymond J. Subel, Maurice R. Subel, Betty Ann Subel and Walter J. Subel, all of my property of every kind and nature, both real, personal and mixed, which I own or to which I may be entitled at the time of my decease, share and share alike.

THIRD:

I hereby nominate and appoint my son, Raymond J. Subel, to be executor of this, my Last Will and Testament, and direct that no bond for the faithful performance of his duties as such executor be required of him in this state or in any other jurisdiction.

FOURTH:

I hereby authorize and empower my said executor to do all things necessary for the complete administration of my estate, including the power to sell at public or private sale, and without order of court, any real or personal property belonging to my estate and to execute proper conveyance of same, and to compromise, adjust or otherwise settle all claims, charges, debts and demands whatsoever

STATE OF ALABAMA, BALDWIN COUNTY

Filed April 17, 1967

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

W. P. Stewart  
Judge of Probate

Charlie R. Subel (SEAL)

LAST WILL AND TESTAMENT OF CHARLIE R. SUBEL  
IN THE NAME OF GOD, AMEN:

I, Charlie R. Subel, being of sound and disposing mind and memory, and imbued with the uncertainty of life and the certainty of death, and not acting under any duress, menace, fraud or influence of any person, circumstance or matter whatever, do freely and voluntarily make, publish and declare this my Last Will and Testament, hereby revoking and cancelling all former wills by me at any time heretofore made.

FIRST:

I direct that my executor hereinafter named, as soon as he shall have sufficient funds applicable thereto, pay my funeral expenses, the expenses of my last sickness, and all of my just debts and obligations of every nature in the order of priority prescribed by the laws of any state where this will may be admitted to probate.

SECOND:

I give, devise and bequeath to my children, Carlous Subel, Raymond J. Subel, Maurice R. Subel, Betty Ann Subel and Walter J. Subel, all of my property of every kind and nature, both real, personal and mixed, which I own or to which I may be entitled at the time of my decease, share and share alike.

THIRD:

I hereby nominate and appoint my son, Raymond J. Subel, to be executor of this, my Last Will and Testament, and direct that no bond for the faithful performance of his duties as such executor be required of him in this state or in any other jurisdiction.

FOURTH:

I hereby authorize and empower my said executor to do all things necessary for the complete administration of my estate, including the power to sell at public or private sale, and without order of court, any real or personal property belonging to my estate and to execute proper conveyance of same, and to compromise, adjust or otherwise settle all claims, charges, debts and demands whatsoever

STATE OF ALABAMA, BALDWIN COUNTY  
Filed April 17, 1962  
Recorded W. R. ...  
Judge of Probate

Charlie R. Subel (SEAL)

STATE OF ALABAMA  
BALDWIN COUNTY

I, W. R. Stuart, Judge of the Probate Court in and for said state and county, do hereby certify that the within instrument of writing has this day in said Court, and before me as the Judge thereof, been duly proven to be the genuine last will and testament of Charlie R. Subel, deceased, and that the said Will, together with the proof thereof, has been recorded in my office in Book of Wills 6 at page 549.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Court this the 17th day of April, 1961.



W. R. Stuart  
Judge of Probate  
By Henry M. Dolive Chief Clerk

LAST WILL AND TESTAMENT OF  
CHARLIE R. SUBEL

J. B. BLACKBURN  
ATTORNEY AT LAW  
BALDWIN COUNTY, ALABAMA

STATE OF ALABAMA

Baldwin County

PROBATE COURT

I, L. D. OWEN, JR., Judge of Probate Court in and for said State and County, hereby

certify that the within and foregoing three pages

contain a full, true and complete copy of the LAST WILL AND TESTAMENT OF

CHARLIE R. SUBEL, recorded in Will Book # 6, Pages 548-550

as the same appears of record in my office.

Given under my hand and seal of office, this 22nd. day of June, 1964

*L. D. Owen Jr.*

Judge of Probate

By *Ann Chevalier*  
Chief Clerk

THE STATE OF ALABAMA

Baldwin County

COURT OF PROBATE

*Complainant + Respondents  
Exhibit 2*

The will of CHARLIE R. SUBEL, deceased,

having been duly admitted to record in said County, letters testamentary are hereby granted to

RAYMOND J. SUBEL, the executOR named in said will, who haS complied with

the requisitions of the law, and is authorized to take upon himself the execution of said will.

Witness my hand, and dated this 17th. day of April, 1964

s/d/ W. R. STUART

Judge of Probate

THE STATE OF ALABAMA

Baldwin County

I, L.D. OWEN, JR., Judge of Probate in and for said County and State, hereby certify that the within and foregoing is a true, correct, and complete copy of the Letters Testamentary issued to RAYMOND J. SUBEL as Execut or of the will of CHARLIE R. SUBEL, deceased, as the same appears of record in my office, and are still in full force and effect.

Given under my hand and seal of office, this the 22nd. day of June 19 64

L.D. Owen, Jr.  
Judge of Probate  
By Ann Chevalier  
Chief Clerk

THE STATE OF ALABAMA
Baldwin County
PROBATE COURT
Estate of
Deceased
Execut
Letters Testamentary



The State of Alabama  
Baldwin County

Know All Men By These presents: That we, Mrs A.J. Denton, (Margaret M. Denton) and A.J. Denton, wife and husband, of said County and State, for and in consideration of One Dollar (\$1.00) and other valuable consideration, to us in hand paid by Charlie Subel and Hazel Fields Subel, husband and wife, the receipt whereof is, upon the delivery of these presents, hereby acknowledged, have Granted, Bargained, and Sold, and by these presents do hereby warrant, Bargain, all and Convey unto the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, the following described Real Estate, situated in the County of Baldwin and State of Alabama, to-wit:

Farm 7, being the Southwest Quarter of the Northeast quarter (SW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) and Farm 10, being the Northwest quarter of the Southeast quarter (NW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section Twenty-four (24) Township Six (6) South, Range Three (3) East.

To Have And To Hold, the aforegranted premises to the said Charlie Subel and Hazel Fields Subel, during their joint lives, and upon the death of either of them, then to the survivor of them in fee simple, and to the heirs and assigns, that we are lawfully seized in fee simple of the aforementioned premises; that they are free from all encumbrances; that we have a good right to sell and convey the same to the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, and that we will warrant and Defend the premises to the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, forever, against the lawful claims and demands of all persons whatsoever.

In Witness Whereof, we have hereunto set our hands and seals this the 29th day of Dec. 1944.

\$5.50 USIR Stamps Attached  
Cancelled.

Mrs A.J. Denton  
A.J. Denton

Seal  
Seal

The State of Alabama  
Baldwin County

I, Gus Schultz, a Notary Public, in and for said County and in said State, hereby certify that Mrs. A.J. Denton (Margaret M. Denton) and A.J. Denton, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.  
Given under my hand this 29th day of Dec. 1944.

Seal

Gus Schultz  
Notary Public

The State of Alabama  
Baldwin County

I, Gus Schultz, a Notary Public, do hereby certify that on the 29th day of Dec. 1944, came before me the within named Mrs. A.J. Denton (Margaret M. Denton, known to me to be the wife of the within named A.J. Denton, who being examined separate and apart from the husband and touching her signature to the within deed acknowledged that she signed the same of her own free will and accord and without fear, constraints, or threats on the part of the husband.

Given under my hand this 29th day of Dec. 1944.

Seal

Gus Schultz  
Notary Public

State of Alabama  
Baldwin County

Filed January 12, 1945 at 8 A.M. and recorded in Deed Book 87 at page 329, I certify that \$5.00 Deed Tax has been paid as required by law.

W. R. Stuart, Judge of Probate.

-----000000-----

STATE OF ALABAMA }  
Baldwin County }

PROBATE COURT

I, L. D. OWEN, JR., Judge of Probate Court in and for said State and County, hereby

certify that the within and foregoing \_\_\_\_\_ one \_\_\_\_\_ pages

contain a full, true and complete copy of the \_\_\_\_\_ Deed from Mrs. A. J. Denton etal

\_\_\_\_\_ to Charlie and Hazel Fields Subel, recorded in Deed Book 87,

\_\_\_\_\_ page 329

as the same appears of record in my office.

Given under my hand and seal of office, this \_\_\_\_\_ 22 \_\_\_\_\_ day of \_\_\_\_\_ June \_\_\_\_\_, 19 \_\_\_\_\_ 64.

*L. D. Owen Jr.*

By *Ann Kevall* \_\_\_\_\_ Judge of Probate  
Chief Clerk

4177

STATE OF ALABAMA )  
BALDWIN COUNTY )

TO ANY LAW OFFICER OF THE STATE OF ALABAMA:

You are hereby commanded to summon MAE HARRISON, FIN HARRISON, MILFORD HARRISON, MARY ALICE COLGAN, ESSIE JUNE SEEGER, LUCILLE SMITH, ORA RASCOE, CLESSIE GRIMES, GRADY HARRISON, LINEAR HARRISON, MARGARET M. DENTON and A. J. DENTON to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, in Equity, at the place of holding same, then and there to plead, answer or demur to the amended bill of complaint filed against them by RAYMOND J. SUBEL, as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased, who was the same person as the original complainant, Charlie Subel, and CARLOUS SUBEL, RAYMOND J. SUBEL, MAURICE R. SUBEL, WALTER J. SUBEL and BETTY ANN STYRON, formerly Betty Ann Subel.

WITNESS my hand this 15 day of January, 1962.

*Alice J. Cook*  
Register

The above named respondents' addresses are as follows:

Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan and Essie June Seeger, Summerdale, Alabama.

Lucille Smith, Loxley, Alabama.

Ora Rascoe and Clessie Grimes, Opp, Alabama.

Grady Harrison, 3220 North S Street, Pensacola, Florida.

Linear Harrison, 1007 Pennway Drive, Lansing, Michigan.

Margaret M. Denton and A. J. Denton, Eagle Lake, Florida.

FILED  
JAN 15 1962  
ALICE J. COOK, REGISTER

334 We hereby accept service of a copy of Within Summons & Amended Bill of Complaint for all respondents except Margaret M Denton and A. J. Denton this Jan. 14, 1962  
Chas. Stone by [Signature]

CHARLIE SUBEL, )  
 Complainant, )  
 VS. )  
 MAE HARRISON, ET AL., )  
 Respondents. )

IN THE CIRCUIT COURT OF  
 BALDWIN COUNTY, ALABAMA  
 IN EQUITY NO. 4177

AMENDED BILL OF COMPLAINT

The complainant, Charlie Subel, having died on, to-wit, April 10, 1961, and this cause having been on, to-wit, November 17, 1961, revived in the name of Raymond J. Subel, as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased, the same person as the complainant, Charlie Subel, and Carlous Subel, Raymond J. Subel, Maurice R. Subel, Walter J. Subel and Betty Ann Styron, formerly Betty Ann Subel, the devisees named in the Last Will and Testament of the said Charlie R. Subel, Deceased, as complainants, the said complainants have and do hereby further amend the bill of complaint heretofore filed in this cause so that, as amended, it will read as follows:

RAYMOND J. SUBEL, as Executor )  
 of and under the Last Will and )  
 Testament of Charlie R. Subel, )  
 Deceased, ET AL., )  
 Complainants, )  
 VS. )  
 MAE HARRISON, ET AL., )  
 Respondents. )

IN THE CIRCUIT COURT OF  
 BALDWIN COUNTY, ALABAMA  
 IN EQUITY NO. 4177

AMENDED BILL OF COMPLAINT

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Raymond J. Subel, as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased, who was the same person as the original complainant, Charlie Subel, and Carlous Subel, Raymond J. Subel, Maurice R. Subel, Walter J. Subel and Betty Ann Styron, formerly Betty Ann Subel, present this amended bill of complaint against Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith,

Ora Rascoe, Clessie Grimes, Grady Harrison, Linear Harrison, Margaret M. Denton and A. J. Denton, and complain and show unto the court and your Honor as follows:

1. Raymond J. Subel has been appointed, qualified and is now acting as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased. The said Charlie R. Subel was the same person as the original complainant, Charlie Subel.

Carlous Subel, Raymond J. Subel, Maurice R. Subel, Walter J. Subel and Betty Ann Styron, formerly Betty Ann Subel, are the sole devisees and legatees named in the Last Will and Testament of Charlie R. Subel, Deceased, and are each over twenty-one years of age and residents of Baldwin County, Alabama.

Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan and Essie June Seeger are each over twenty-one years of age and residents of Summerdale in Baldwin County, Alabama.

Lucille Smith is over twenty-one years of age and a resident of Loxley in Baldwin County, Alabama.

Ora Rascoe and Clessie Grimes are each over twenty-one years of age and each resides at Opp in Covington County, Alabama.

Grady Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 3220 North S Street, Pensacola, Florida.

Linear Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 1007 Pennway Drive, Lansing, Michigan.

Margaret M. Denton and A. J. Denton are each over twenty-one years of age and are non-residents of the State of Alabama, whose place of residence and post office address is Eagle Lake, Florida.

2. Hazel Fields Subel, wife of the late Charlie R. Subel, died intestate on the 20th day of November, 1956, and an administration of her said estate was had in and by the Probate Court of Baldwin County, Alabama, where the said estate was finally settled on to-wit, the 3rd day of April, 1958.

3. The said Hazel Fields Subel died without issue, leaving as her heirs and all of her heirs on the date of her death the said original complainant, Charlie Subel, who was the same person as Charlie R. Subel, the widower; Mae Harrison, her mother, Fin Harrison, a brother; Milford Harrison, a brother; Mary Alice Colgan, a sister; Essie June Seeger, a sister; Lucille Smith, a sister, Ora Rascoe, a sister; Clessie Grimes, a sister; Grady Harrison, a brother; and Linear Harrison, a brother.

4. The original complainant, Charlie Subel, and his late wife, Hazel Fields Subel, purchased the property involved in this suit, which is the Southwest Quarter of the Northeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 24, Township 6 South, Range 3 East in Baldwin County, Alabama, from Mrs. A. J. Denton, who was also known as Margaret M. Denton, and A. J. Denton, her husband, which said property was conveyed to the original complainant, Charlie Subel, and his late wife, Hazel Fields Subel, by deed dated December 29, 1944, and recorded in Deed Book 87 at page 329, Baldwin County, Alabama Records, a true copy of which is hereto attached, marked "Exhibit A," and by reference made a part hereof as though fully incorporated herein.

When the original complainant, Charlie Subel, and his late wife, Hazel Fields Subel, purchased the said property, Forest A. Christian, Attorney at Law, Foley, Alabama, was employed to draft the deed from the respondents, Mrs. A. J. Denton and A. J. Denton, her husband, to the said Charlie Subel and his wife, Hazel Fields Subel, who instructed the said attorney to so draft the deed to them so that title to the above described property would be vested in the two of them during their joint lives and that on the death of either of them the full, complete and entire title to the said property would vest in the survivor, who, in this instance, was the original complainant, Charlie Subel.

The said attorney made a mistake in drafting the said deed and included in the granting clause the words "their heirs and assigns," contrary to the instructions given to him by the

original complainant, Charlie Subel, and his late wife, Hazel Fields Subel, and the respondents, Mrs. A. J. Denton and A. J. Denton. The inclusion of the words "their heirs and assigns" in the granting clause of the said deed, because of the said mistake of the said attorney (the scrivener who drafted the said deed), prevented the deed from conveying title to the grantees named therein so that title to the property described therein would, on the death of either of the said grantees, be vested in the survivor of them. Because of the said error the heirs of the said Hazel Fields Subel, who are some of the respondents named in this proceeding, are now claiming title to the said property adversely to the late complainant, Charlie Subel, and to the complainants who claim title under his Last Will and Testament.

5. The original complainant, Charlie Subel, and his late wife, Hazel Fields Subel, remained in possession of all of the said property after it was conveyed to them by the said deed and until the death of the said Hazel Fields Subel. After the death of the said Hazel Fields Subel and until the death of the said original complainant, Charlie Subel, he remained in the exclusive and continuous possession of the said property and since the date of his death the complainants have been and are now in the actual, exclusive and continuous possession of it.

6. Complainants claim to own and are in the actual, quiet and peaceable possession of the following described real property situated in Baldwin County, Alabama, to-wit:

Southwest Quarter of Northeast Quarter;  
Northwest Quarter of Southeast Quarter,  
Section 24, Township 6 South, Range 3 East.

7. The respondents claim or are reputed to claim some right, title or interest in, lien or encumbrance on the said land. No suit other than this suit is pending to enforce or test the validity of such title, interest in, lien or encumbrance on the said lands, and the complainants bring this amended bill of complaint against the said respondents to settle the title to the said lands and to clear up all doubts and disputes concerning the

same. The complainants here and now call upon the respondents to set forth and specify their right, title or interest in, lien or encumbrance on the said lands, or any part thereof, and how and by what instrument the same is derived and created.

PRAYER FOR PROCESS

Complainants pray that the said Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison, Linear Harrison, Margaret M. Denton and A. J. Denton be made parties respondent to this amended bill of complaint and that the usual process of this Honorable Court do forthwith issue to them.

PRAYER FOR RELIEF

Complainants pray for the following separate and several relief:

1. That the court will make and enter a decree reforming the above described deed so as to eliminate from the granting clause therein the words "their heirs and assigns" and so that it would vest title therein to the original complainant, Charlie Subel, and his wife, Hazel Fields Subel, during the term of their joint lives and on the death of either of them to the survivor.

2. That this court will make and enter a decree against the respondents quieting complainants' title to the said lands, and adjudging and decreeing that the complainants are the owners thereof in their own right; that the title thereto is in them, forever quieting complainants' title against the said respondents and adjudging and decreeing that they and each of them are without right, title or interest in the said lands and have and hold no encumbrance thereon.

3. Complainants further pray for such other, further and general relief as they may be equitably entitled to, the premises considered.

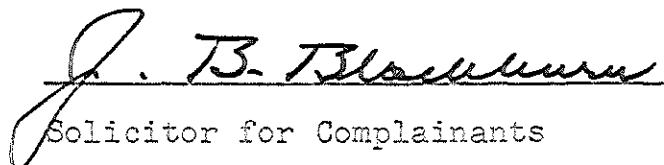
  
Solicitor for Complainants





EXHIBIT "A"

The State of Alabama  
Baldwin County

Know all Men By These Presents: That we, Mrs. A. J. Denton, (Margaret M. Denton) and A. J. Denton, wife and husband, of said County and State, for and in consideration of One Dollar (\$1.00) and other valuable consideration, to us in hand paid by Charlie Subel and Hazel Fields Subel, husband and wife, the receipt whereof is, upon the delivery of these presents, hereby acknowledged, have Granted, Bargained, and Sold, and by these presents do hereby Grant, Bargain, Sell and Convey unto the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, the following described Real Estate, situated in the County of Baldwin and State of Alabama, to-wit:

Farm 7, being the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) and Farm 10, being the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section Twenty-four (24) Township Six (6) South, Range Three (3) East.

To Have and To Hold, the aforegranted premises to the said Charlie Subel and Hazel Fields Subel, during their joint lives, and upon the death of either of them, then to the survivor of them in fee simple, and to the heirs and assigns, that we are lawfully seized in fee simple of the aforementioned premises; that they are free from all encumbrances; that we have a good right to sell and convey the same to the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, and that we will Warrant and Defend the premises to the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, forever, against the lawful claims and demands of all persons whatsoever.

In Witness Whereof, we have hereunto set our hands and seals this the 29th day of Dec. 1944.

\$5.50 USIR Stamps Attached                      Mrs. A. J. Denton                      Seal  
Cancelled.    A. J. Denton                                      Seal

The State of Alabama  
Baldwin County

I, Gus Schultz, a Notary Public, in and for said County and in said State, hereby certify that Mrs. A. J. Denton (Margaret M. Denton) and A. J. Denton, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.  
Given under my hand this 29th day of Dec. 1944.

Seal    Gus Schultz  
Notary Public

The State of Alabama  
Baldwin County

I, Gus Schultz, a Notary Public, do hereby certify that on the 29th day of Dec. 1944, came before me the within named Mrs. A. J. Denton (Margaret M. Denton, known to me to be the wife of the within named A. J. Denton, who being examined separate and apart from the husband touching her signature to the within deed acknowledged that she signed the same of her own free will and accord and without fear, constraints, or threats on the part of the husband.

Given under my hand this 29th day of Dec. 1944.

Seal    Gus Schultz  
Notary Public

State of Alabama  
Baldwin County

Filed January 12, 1945 at 8 A.M. and recorded in Deed Book 87 at  
page 329, I certify that \$5.00 Deed Tax has been paid as required  
by law.

W. R. Stuart, Judge of Probate.

RAYMOND J. SUBEL, As Executor	Y		
of and under the Last Will			
and Testament of Charlie R.	Y		
Subel, Deceased, et al,			
	Y	IN THE CIRCUIT COURT OF	
Complainants,			
vs.	Y	BALDWIN COUNTY, ALABAMA	
	Y		
MAE HARRISON, et al,		IN EQUITY	NO. 4177
	Y		
Respondents.	Y		

Come the Respondents, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, and for answer to the amended Bill of Complaint filed in said cause say:

1. Such Respondents deny the allegations of paragraph "1" of the amended Bill of Complaint and demand strict proof thereof.

2. Such Respondents deny the allegations of paragraph "2" of the amended Bill of Complaint and demand strict proof thereof.

3. Such Respondents admit the allegations of paragraph "3" of the amended Bill of Complaint.

4. Such Respondents deny the allegations of paragraph "4" of the amended Bill of Complaint and demand strict proof thereof.

5. Such Respondents deny the allegations of paragraph "5" of the amended Bill of Complaint and demand strict proof thereof.

6. Such Respondents deny the allegations of paragraph "6" of the amended Bill of Complaint and demand strict proof thereof.

7. Such Respondents admit the allegations of paragraph "7" of the amended Bill of Complaint that they claim some right, title, interest in, lien or encumbrance of the lands described in the amended Bill of Complaint but deny all other allegations of such paragraph and demand strict proof thereof.

8. For further answer to the amended Bill of Complaint and as a cross-bill, such Respondents say:

a. That Hazel Fields Subel, who was the wife of Charlie Subel, at the time of her death which occurred on November 20, 1956, died intestate and Gus Schultz, one of the Respondents in said cause has been duly appointed as Administrator of her estate by the Probate Court of Baldwin County, Alabama. That the Respondent Mae Harrison is the mother of Hazel Fields Subel, Deceased, and Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison are the brothers and sisters of Hazel Fields Subel, Deceased. That Hazel Fields Subel had no children or their descendents living at the time of her death and her father was dead at the time of her death. That such Respondents are all of the heirs at law and next of kin of Hazel Fields Subel.

b. That Hazel Fields Subel, at the time of her death, was the owner of an undivided one-half interest in and to the following described real estate situated in Baldwin County, Alabama, to-wit:

The Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  of NE $\frac{1}{4}$ ) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section Twenty-four (24), Township Six South (6S), Range Three East (3E).

That she acquired such interest in and title to such real estate by a warranty deed from Mrs. A. J. Denton and A. J. Denton, her husband, dated December 29, 1944, which said deed is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 87, at page 329. That a photostatic copy of such deed was attached to their first answer and marked Exhibit "A" and is now a part hereof.

c. That the above described property is jointly owned by the Complainant, and all of the Respondents in this suit, except Gus Shultz. That Charlie Subel was the owner of an undivided one-half interest in and to said real estate, together with his rights of curtesy as provided by the laws of the State of Alabama. That Mae Harrison is the owner of an undivided one-fourth interest in and to the above described property and Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison

are each the owners of an undivided one-thirty-sixth interest in and to the above described property.


d. That the above described property has located thereon buildings and other improvements belonging to the parties of this suit as above set out and because of the nature of the land and the improvements it would be impossible to divide said property between the owners thereof according to their respective interests in and to the same and it is necessary that said land be sold for the purpose of a division of the proceeds thereof among the owners as their interests appear.

e. The Respondents, and Cross-Complainants, who are the owners of an interest in the land above described as hereinabove set out have employed Chason & Stone, Attorneys at Law, Bay Minette, Alabama, as their Solicitors of Record to prosecute this cross-bill and to effect a sale of the property above described for a division among the owners as their interests appear.

WHEREFORE, all of the Respondents named in the Bill of Complaint, except Margaret M. Denton and A. J. Denton, hereby pray that the Court will take jurisdiction of this cross-bill and will order and decree that the Complaint and such Respondents are the joint owners of the property hereinabove described as their interests are above set out and that the Court will order the Register of such Court to sell such property for a division of the proceeds thereof among the joint owners and that the Court will ascertain and fix a reasonable Solicitors fee to be paid Chason & Stone as Solicitors, for such Respondents and Cross-Complainants. Such Respondents and Cross-Complainants pray for such other and further relief to which they may be entitled.

CHASON & STONE

By:

  
Solicitors for all of the Respondents in said cause except Margaret M. Denton and A. J. Denton.

FILED

MAY 14 1962

ALICE J. DUCK, CLERK REGISTER

ANSWER AND CROSS-BILL

\* \* \* \* \*

RAYMOND J. SUBEL, As Executor  
of and under the Last Will  
and Testament of Charlie R.  
Subel, Deceased, et al,

Complainants,

vs.

MAE HARRISON, et al,

Respondents.

\* \* \* \* \*

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177

\* \* \* \* \*

FILED

MAY 14 1962

ALICE J. DUCK, CLERK  
REGISTER

RAYMOND J. SUBEL, as Executor	)	
of and under the Last Will and	)	
Testament of Charlie R. Subel,	)	
deceased, ET AL.,	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
Complainants and	)	
Cross-Respondents,	)	IN EQUITY NO. 4177
VS.	)	
	)	
MAE HARRISON, ET AL.,	)	
	)	
Respondents and	)	
Cross-Complainants.	)	

MOTION FOR APPOINTMENT OF GUARDIAN AD LITEM

Now come the complainants and cross-respondents, by their attorney, and show unto the court that the respondent and cross-complainant, Lucille Smith, since the filing of this suit has become a non compos mentis and was on, to-wit, June 1, 1964, admitted to Bryce Hospital in Tuscaloosa, Alabama, where she is now confined.

WHEREFORE, complainants and cross-respondents move the court to appoint a guardian ad litem to represent the said Lucille Smith and protect her interests in connection with the original and any amended bill of complaint which may be filed in this suit.

Dated this 22nd day of June, 1964.

*J. B. Shackleton*  
 Attorney for complainants and cross-respondents

FILED  
 JUN 23 1964  
 CLERK OF COURT



RAYMOND J. SUBEL, as Executor )  
of and under the Last Will )  
and Testament of Charlie R. )  
Subel, deceased, ET AL., )

Complainants and )  
Cross-Respondents, )

VS. )

MAE HARRISON, ET AL., )

Respondents and )  
Cross-Complainants. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177

NOTICE OF APPOINTMENT OF GUARDIAN AD LITEM

TO JOHN CHASON, ESQUIRE:

You are hereby notified that on this date you have been appointed as guardian ad litem to represent Lucille Smith, who is one of the complainants named in the original bill of complaint filed in this cause.

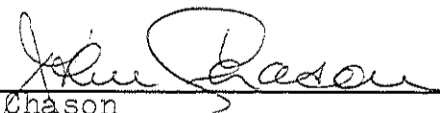
Dated this 22nd day of June, 1964.

  
Register

ACCEPTANCE AND ANSWER OF GUARDIAN AD LITEM

I, the undersigned John Chason, do hereby accept appointment as guardian ad litem for Lucille Smith, one of the complainants in the above entitled cause, and for answer to the original bill of complaint and amended bill of complaint deny each and all of the allegations thereof and demand strict proof of same.

Dated this 22nd day of June, 1964.

  
John Chason

FILED  
JUN 23 1964  
BALDWIN COUNTY, ALABAMA

RAYMOND J. SUBEL, as Executor )  
of and under the Last Will and )  
Testament of Charlie R. Subel, )  
deceased, ET AL., )

Complainants and )  
Cross-Respondents, )

VS. )

MAE HARRISON, ET AL., )

Respondents and Cross- )  
Complainants. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177

REGISTER'S CERTIFICATE AS TO SERVICE

I, Alice J. Duck, as Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that I mailed a copy of the summons and amended bill of complaint in this cause on, to-wit, January 15, 1962, to A. J. Denton and Margaret M. Denton at Eagle Lake, Florida, by certified mail, postage prepaid, marked "For Delivery Only to Person to Whom Addressed" with return receipt requested. I further certify that the articles were delivered to the said A. J. Denton and Margaret M. Denton on January 17, 1962, and that the return cards or receipts signed by the said A. J. Denton and Margaret M. Denton were received and filed by me on January 19, 1962.

Dated this 22nd day of June, 1964.

  
Register

**FILED**

6-22-64

ALICE J. DUCK, REGISTER

RAYMOND J. SUBEL, as Executor	)		
of and under the Last Will and	)		
Testament of Charlie R. Subel,	)		
deceased, ET AL.,	)		
	)	IN THE CIRCUIT COURT OF	
Complainants and Cross-	)		
Respondents,	)	BALDWIN COUNTY, ALABAMA	
VS.	)	IN EQUITY	NO. 4177
MAE HARRISON, ET AL.,	)		
	)		
Respondents and Cross-	)		
Complainants.	)		

MOTION FOR DECREE PRO CONFESSO

Motion is hereby made for a decree pro confesso against the respondents, A. J. Denton and Margaret M. Denton, on the ground that a copy of the summons and amended bill of complaint heretofore filed in this cause was mailed to each of the said parties by certified mail, postage prepaid, marked "For Delivery Only to Person to whom Addressed" with return receipts requested; that the said return receipts signed by the said parties were received and filed by the Register of this court on January 19, 1962, and to date hereof each of the said parties has failed to appear and plead, answer or demur to the said amended bill of complaint:

WHEREFORE, complainants and cross-respondents pray that a decree pro confesso be entered against each of the said parties.

Dated this 22nd day of June, 1964.

*J. T. Blackburn*  
 Attorney for complainants and cross-respondents

FILED  
 JUN 22  
 ALBANY, ALA.

RAYMOND J. SUBEL, as Executor )  
of and under the Last Will and )  
Testament of Charlie R. Subel, )  
deceased, ET AL., )

Complainants and Cross- )  
Respondents, )

VS. )

MAE HARRISON, ET AL., )

Respondents and Cross- )  
Complainants. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177

DECREE PRO CONFESSO

In this cause it appears to the Register that a copy of the summons and amended bill of complaint in this cause was mailed by the Register of this court by certified mail, postage prepaid, to the respondent, A. J. Denton, and to the respondent, Margaret M. Denton, at Eagle Lake, Florida, marked "For Delivery Only to Person to Whom Addressed"; that the said articles were delivered to the said parties on January 17, 1962, and that the return cards or receipts signed by the said parties were received and filed by the Register of this court on January 19, 1962, and that each of the said parties has to date hereof failed to appear and plead, answer or demur to the said amended bill of complaint:

It is, therefore, on motion of the complainants and cross-respondents, ORDERED AND DECREED by the Register that the said amended bill of complaint be and it hereby is in all things taken as confessed against the said A. J. Denton and Margaret M. Denton.

WITNESS my hand this 22nd day of June, 1964.

  
\_\_\_\_\_  
Register

CHARLIE SUBEL, )  
 Complainant, )  
 VS. ) IN THE CIRCUIT COURT OF  
 ) BALDWIN COUNTY, ALABAMA  
 MAE HARRISON, ET AL., )  
 Respondents. ) IN EQUITY NO. 4177

MOTION TO REVIVE CAUSE

Now comes Raymond J. Subel, as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased, who is the same person as Charlie Subel, and shows unto the court that the complainant, Charlie Subel, died on, to-wit, April 10, 1961, leaving a Last Will and Testament which has been admitted to probate and record in and by the Probate Court of Baldwin County, Alabama, in which will petitioner was named as executor and in which Carlous Subel, Raymond J. Subel, Maurice R. Subel, Walter J. Subel and Betty Ann Styron, formerly Betty Ann Subel, were named as devisees and legatees.

Petitioner further shows unto the court that he has been appointed, qualified and is now acting as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased.

WHEREFORE, petitioner, as such executor, moves that this cause be revived as to the complainant, Charlie Subel, by the substitution of Raymond J. Subel, as Executor of and under the Last Will and Testament of Charlie R. Subel, Deceased, and Carlous Subel, Raymond J. Subel, Maurice R. Subel, Walter J. Subel and Betty Ann Styron, formerly Betty Ann Subel, as the devisees and legatees named in the Last Will and Testament of Charlie R. Subel, Deceased, as complainants.

Respectfully submitted,

RAYMOND J. SUBEL  
 As Executor of and under the Last  
 Will and Testament of Charlie R.  
 Subel, Deceased

By J. B. Blackburn  
 As his Attorney

FILED

NOV 17 1961

ALICE I. DUCK, CLERK  
 REGISTER



CHARLIE SUBEL,	⌘	
Complainant,	⌘	IN THE CIRCUIT COURT OF
vs.	⌘	BALDWIN COUNTY, ALABAMA
MAE HARRISON, ET AL.,	⌘	
Respondents.	⌘	IN EQUITY
	⌘	

Come the Respondents in the above styled cause and for answer to the amended Bill of Complaint filed in said cause, say:

1. That they admit the allegations of paragraph "1" of the amended Bill of Complaint.
2. That they deny the allegations of paragraph "2" of the amended Bill of Complaint, and demand strict proof thereof.
3. That they admit the allegations of paragraph "3" of the amended Bill of Complaint.
4. That they deny the allegations of paragraph "4" of the amended Bill of Complaint and demand strict proof thereof.
5. That they deny the allegations of paragraph "5" of the amended Bill of Complaint and demand strict proof thereof.
6. That they deny the allegations of paragraph "6" of the amended Bill of Complaint and demand strict proof thereof.
7. That they admit the allegations of paragraph "7" of the amended Bill of Complaint.

For further answer to the amended Bill of Complaint the Respondents say that the heirs of Hazel Fields Subel are the owners of an undivided one-half interest in the lands described in the amended Bill of Complaint. That the said Hazel Fields Subel acquired such interest by a Warranty Deed from A. J. Denton and wife by deed which is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 87, page 329. That they are entitled to have such land sold for a division among the joint owners thereof. That they have employed Chason & Stone, Attorneys at Law, Bay Minette, Alabama, to represent them in connection with the sale of such property.

CHASON & STONE

By: \_\_\_\_\_

*John Chason*  
Solicitors for Respondents

4177

AMENDED BILL OF COMPLAINT

CHARLIE SUBEL,  
Complainant,

VS.

MAE HARRISON, ET AL.,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

FILED  
JAN 17 1961  
ALICE J. DUCK, CLERK  
REGISTERS

*[Faint, illegible text, likely bleed-through from the reverse side of the page]*



CHARLIE SUBEL,	Y	
Complainant,	Y	IN THE CIRCUIT COURT OF
vs.	Y	
	Y	BALDWIN COUNTY, ALABAMA
MAE HARRISON, ET AL.,	Y	
Respondents.	Y	IN EQUITY

DEMURRER

Come now Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison, Linear Harrison, Respondents in the above styled cause and demur to the amended Bill of Complaint filed in said cause and assign the following separate and several grounds, viz:

As to that aspect of the amended Bill of Complaint as set out in paragraph "4" in which the Complainant claims that a mistake was made in drafting the deed from Mrs. A. J. Denton (Margaret M. Denton) and A. J. Denton, her husband, to Charlie Subel and Hazel Fields Subel, a photostatic copy of said deed is attached to the answer and cross-bill heretofore filed by these Respondents in this cause and stating that such deed was intended to be a deed with survivorship rather than a deed to the Grantees jointly, said Respondents demur and assign the following separate and several grounds, viz:

1. That the Complainant does not allege that he had not discovered the mistake in the deed executed on December 29, 1944, prior to the death of Hazel Fields Subel on November 20, 1956.

2. That it is affirmatively shown that Hazel Fields Subel is now dead and the Complainant seeks to alter, modify or correct a deed under which she had title for approximately the last twelve (12) years of her life, after her death.

3. That the Complainant now seeks to reform a deed under which his heirs would have inherited had he died prior to the death of Hazel Fields Subel.

4. That it is not shown who Forest A. Christian represented when he drafted such deed.

5. That it is not shown that there was a mutual mistake made in the preparation of such deed.


6. That the death of Hazel Fields Subel has caused the rights of other parties to appear and such reformation of the deed would adversely effect their interest in the property.

7. That the Complainant is now barred by lapse of time from seeking the relief which he attempts to have under such allegation.

8. That the Complainant is not entitled to reform such deed so that his interest in the property will be increased after the death of his joint grantee.

CHASON & STONE

By:

  
Solicitors for all Respondents  
except Margaret M. Denton and  
A. J. Denton.

STATE OF ALABAMA )  
                          \*  
BALDWIN COUNTY    )

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon MARGARET M. DENTON and A. J. DENTON to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, in Equity, at the place of holding same, then and there to plead, answer or demur to the amended Bill of Complaint filed against them by CHARLIE SUBEL.

WITNESS my hand this 21st day of April, 1959.

  
Register

The above named respondents reside  
at Eagle Lake, Florida.

CHARLIE SUBEL,	)	
	)	
Complainant,	)	IN THE CIRCUIT COURT OF
VS.	)	BALDWIN COUNTY, ALABAMA
	)	
MAE HARRISON, ET AL.,	)	IN EQUITY
	)	
Respondents.	)	

AMENDED BILL OF COMPLAINT

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now comes the complainant, Charlie Subel, and amends the Bill of Complaint heretofore filed by him in this cause so that, as amended, it will read as follows:

The complainant, Charlie Subel, presents this Bill of Complaint against Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison, Linear Harrison, Margaret M. Denton and A. J. Denton, and, thereupon, complainant complains and shows unto the court and your Honor as follows:

1. The complainant is over twenty-one years of age and a resident of Baldwin County, Alabama.

Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan and Essie June Seeger are each over twenty-one years of age and residents of Summerdale in Baldwin County, Alabama.

Lucille Smith is over twenty-one years of age and a resident of Loxley in Baldwin County, Alabama.

Ora Rascoe and Clessie Grimes are each over twenty-one years of age and each resides at Opp in Covington County, Alabama.

Grady Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 3220 North S Street, Pensacola, Florida.

Linear Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 1007 Pennway Drive, Lansing, Michigan.

Margaret M. Denton and A. J. Denton are each over

twenty-one years of age and are non-residents of the State of Alabama, whose place of residence and post office address is Eagle Lake, Florida.

2. Hazel Fields Subel, wife of the complainant, died intestate on the 20th day of November, 1956, and an administration of her said estate was had in and by the Probate Court of Baldwin County, Alabama, where the said estate was finally settled on, to-wit, the 3rd day of April, 1958.

3. The said Hazel Fields Subel died without issue, leaving as her heirs and all of her heirs on the date of her death and on this date the complainant, the widower; May Harrison, her mother; Fin Harrison, a brother; Milford Harrison, a brother; Mary Alice Colgan, a sister; Essie June Seeger, a sister; Lucille Smith, a sister; Ora Rascoe, a sister; Clessie Grimes, a sister; Grady Harrison, a brother; and Linear Harrison, a brother.

4. The complainant and his late wife, Hazel Fields Subel, purchased the property involved in this suit, which is the Southwest Quarter of the Northeast Quarter, and the Northwest Quarter of the Southeast Quarter of Section 24, Township 6 South, Range 3 East in Baldwin County, Alabama, from Mrs. A. J. Denton, who was also known as Margaret M. Denton, and A. J. Denton, her husband. When the complainant and his late wife purchased the said property, Forest A. Christian, Attorney at Law, Foley, Alabama, was employed to draft the deed from Margaret M. Denton and A. J. Denton to the complainant and his wife, Hazel Fields Subel, who instructed the said attorney to so draft the deed to them so that title to the above described property would be vested in the two of them during their joint lives and that on the death of either of them the full, complete and entire title to the said property would vest in the survivor, who is the complainant. The said attorney made a mistake in drafting the said deed and included in the granting clause the words "their heirs and assigns," contrary to the instructions given to him by the complainant and his late wife, Hazel Fields Subel. The inclusion of the words "their heirs and assigns" in

the granting clause of the said deed because of the said mistake of the said attorney, the scrivener who drafted the said deed, prevented the said deed from conveying title to the grantees named therein, who are the complainant and his late wife, and because of the said mistake the respondents named in this proceeding are now claiming title to the said property adversely to the complainant.

5. Complainant and his late wife, Hazel Fields Subel, remained in possession of all of the said property after it was conveyed to them by the said deed and until the death of the said Hazel Fields Subel, and since her death the complainant has been in the exclusive and continuous possession of the said property.

6. Complainant claims to own and is in the actual, quiet and peaceable possession of the following described real property situated in Baldwin County, Alabama, to-wit:

Southwest Quarter of Northeast Quarter;  
Northwest Quarter of Southeast Quarter,  
Section 24, Township 6 South, Range 3 East.

7. The respondents claim, or are reputed to claim, some right, title or interest in, lien or encumbrance on, the said land; no suit is pending to enforce or test the validity of such title, interest in, lien or encumbrance on the said lands, and the complainant brings this Bill of Complaint against the said respondents to settle the title to the said lands and to clear up all doubts and disputes concerning the same. The complainant here and now calls upon the said respondents to set forth and specify their right, title or interest in, lien or encumbrance on, the said lands or any part thereof, and how and by what instrument the same is derived and created.

PRAYER FOR PROCESS

Complainant prays that the said Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison, Linear Harrison, Margaret M. Denton and A. J. Denton be made parties respondent to this Bill of Complaint and that the usual process of this Honorable Court do forthwith issue to them.



4177  
AMENDED BILL OF COMPLAINT

CHARLIE SUBEL,  
Complainant,  
VS.  
MAE HARRISON, ET AL.,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

FILED  
APR 27 1959  
ALICE J. DUCK, CLERK  
REGISTER



CHARLIE SUBEL,	)	
	)	
Complainant and	)	
Cross Respondent,	)	
VS.	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA
GUS SCHULTZ, as Administrator,	)	
ET AL,	)	IN EQUITY
	)	
Respondents and Cross	)	
Complainants.	)	

DEMURRER TO CROSS BILL

I.

Now comes the complainant and cross respondent and demurs to the cross bill filed in this cause, and as grounds for such demurrer assigns, separately and severally, the following:

1. There is no equity in the cross bill.
2. No facts are alleged on which the relief sought can be granted.
3. The allegations of the cross bill are conclusions of the pleader.
4. The allegations of the cross bill as to the interest owned by the complainant and cross respondent, and the interests owned by the respondents and cross complainants, are conclusions of the pleader and are not supported by the other allegations of fact in the cross bill.
5. The allegations of the cross bill as to the interests owned by the parties to this action are inconsistent with the deed which is made a part of the cross bill.
6. The allegations of the cross bill are conclusions of the pleader and no facts are alleged to show that the respondents and cross complainants own any interest in the property involved in this action.
7. No facts are alleged to show that the respondents and cross complainants own any interest in the property involved in this action.
8. It affirmatively appears that the respondents and cross complainants do not own any interest in the property involved in this action.

9. It affirmatively appears from the deed, which is made a part of the cross bill, that the property involved in this suit and described in the said deed became the property of the complainant and cross respondent on the death of Hazel Fields Subel.

10. It affirmatively appears that the respondents and cross complainants, who are alleged to be the heirs of Hazel Fields Subel, have no interest in the property involved in this suit.

11. No facts are alleged to show any tenancy in common between the complainant and cross respondent and the respondents and cross complainants.

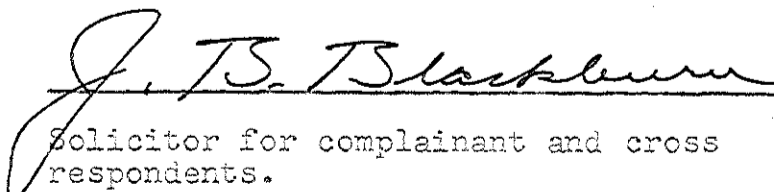
12. It affirmatively appears that there is no tenancy in common between the complainant and cross respondent and the respondents and cross complainants.

13. No facts are alleged to show the relationship of tenants in common between the complainant and cross respondent and the respondents and cross complainants.

14. It affirmatively appears that the relationship of tenants in common does not exist between the complainant and cross respondent and the respondents and cross complainants.

II.

Now comes the complainant and cross respondent and demurs to that aspect of the cross bill that has been filed in this cause by which the respondents and cross complainants are attempting to partition the property involved in this suit, and as grounds of such demurer assigns, separately and severally, grounds Numbered 1 through 14, both inclusive, which are set out above, just as though the same were specifically rewritten here.

  
Solicitor for complainant and cross respondents.

The State of Alabama  
Baldwin County

Know All Men By These presents: That we, Mrs A.J. Denton, (Margaret M. Denton) and A.J. Denton, wife and husband, of said County and State, for and in consideration of One Dollar (\$1.00) and other valuable consideration, to us in hand paid by Charlie Subel and Hazel Fields Subel, husband and wife, the receipt whereof is, upon the delivery of these presents, hereby acknowledged, have Granted, Bargained, and Sold, and by these presents do hereby Grant, Bargain, Sell and Convey unto the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, the following described Real Estate, situated in the County of Baldwin and State of Alabama, to-wit:

Farm 7, being the Southwest Quarter of the Northeast quarter (SW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) and Farm 10, being the Northwest quarter of the Southeast quarter (NW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section Twenty-four (24) Township Six (6) South, Range Three (3) East.

To Have And To Hold, the aforegranted premises to the said Charlie Subel and Hazel Fields Subel, during their joint lives, and upon the death of either of them, then to the survivor of them in fee simple, and to the heirs and assigns, that we are lawfully seized in fee simple of the aforementioned premises; that they are free from all encumbrances; that we have a good right to sell and convey the same to the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, and that we will Warrant and Defend the premises to the said Charlie Subel and Hazel Fields Subel, their heirs and assigns, forever, against the lawful claims and demands of all persons whatsoever.

In Witness Whereof, we have hereunto set our hands and seals this the 29th day of Dec. 1944.

\$5.50 USIR Stamps Attached  
Cancelled.

Mrs A.J. Denton  
A.J. Denton

Seal  
Seal

The State of Alabama  
Baldwin County

I, Gus Schultz, a Notary Public, in and for said County and in said State, hereby certify that Mrs A.J. Denton (Margaret M. Denton) and A.J. Denton, whose names are signed to the before going conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.  
Given under my hand this 29th day of Dec. 1944.

Seal

Gus Schultz  
Notary Public

The State of Alabama  
Baldwin County

I, Gus Schultz, a Notary Public, do hereby certify that on the 29th day of Dec. 1944, came before me the within named Mrs. A.J. Denton (Margaret M. Denton, known to me to be the wife of the within named A.J. Denton, who being examined separate and apart from the husband and touching her signature to the within deed acknowledged that she signed the same of her own free will and accord and without fear, constraints, or threats on the part of the husband.

Given under my hand this 29th day of Dec. 1944.

Seal

Gus Schultz  
Notary Public

State of Alabama  
Baldwin County

Filed January 12, 1945 at 8 A.M. and recorded in Deed Book 87 at page 329, I certify that \$5.00 Deed Tax has been paid as required by law.

W. R. Stuart, Judge of Probate.

-----000000-----

CHARLIE SUBEL,	X	
	X	IN THE CIRCUIT COURT OF
Complainant,	X	
	X	BALDWIN COUNTY, ALABAMA
vs.	X	
	X	
GUS SCHULTZ, As Administrator	X	IN EQUITY
of the Estate of Hazel F. Subel,	X	
also known as Hazel Fields Subel,	X	
Deceased, ET AL.,	X	
	X	
Respondents.	X	

Come the Respondents, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, and for answer to the Bill of Complaint filed in said cause say:

1. The Respondents admit the allegations in the first paragraph of the Bill of Complaint.

2. The Respondents deny the allegations of the second paragraph of the Bill of Complaint and demand strict proof thereof.

3. The Respondents admit the allegation in the third paragraph of the Bill of Complaint that they claim some title or interest in the lands described in the Bill of Complaint but they deny all other allegations of the third paragraph and demand strict proof thereof.

4. For further answer to the Bill of Complaint and as a cross-bill, such Respondents say:

a. That Hazel Fields Subel, who was the wife of Charlie Subel, at the time of her death which occurred on November 20, 1956, died intestate and Gus Schultz, one of the Respondents in said cause has been duly appointed as Administrator of her estate by the Probate Court of Baldwin County, Alabama. That such administration is now pending in said Court. That the Respondent Mae Harrison is the mother of Hazel Fields Subel, Deceased, and Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison are the brothers and sisters of Hazel Fields Subel, Deceased. That Hazel Fields Subel had no children or their descendents living at the time of her death and her father was dead at the time of her death. That such

Respondents are all of the heirs at law and next of kin of Hazel Fields Subel.

b. That Hazel Fields Subel, at the time of her death, was the owner of an undivided one-half interest in and to the following described real estate situated in Baldwin County, Alabama, to-wit:

The Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  of NE $\frac{1}{4}$ ) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  of SE $\frac{1}{4}$ ) of Section Twenty-four (24), Township Six South (6S), Range Three East (3E).

That she acquired such interest in and title to such real estate by a warranty deed from Mrs. A. J. Denton and A. J. Denton, her husband, dated December 29, 1944, which said deed is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 87, at page 329. That a photostatic copy of such deed is attached hereto and marked Exhibit "A" and made a part hereof.

c. That the above described property is jointly owned by the Complainant, and all of the Respondents in this suit, except Gus Shultz. That Charlie Subel is the owner of an undivided one-half interest in and to said real estate, together with his rights of curtesy as provided by the laws of the State of Alabama. That subject to such rights of curtesy, Mae Harrison is the owner of an undivided one-fourth interest in and to the above described property and Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison are each the owners of an undivided one-thirty-sixth interest in and to the above described property.


d. That the above described property has located thereon buildings and other improvements belonging to the parties of this suit as above set out and because of the nature of the land and the improvements it would be impossible to divide said property between the owners thereof according to their respective interests in and to the same and it is necessary that said land be sold for the purpose of a division of the proceeds thereof among the owners as their interests appear.

e. The Respondents, and Cross-Complainants, who are the owners of an interest in the land above described as hereinabove set out have employed Chason & Stone, Attorneys at Law, Bay Minette, Alabama, as their Solicitors of Record to prosecute this cross-bill and to effect a sale of the property above described for a division

among the owners as their interests appear.

WHEREFORE, all of the Respondents named in the Bill of Complaint except Gus Schultz as Administrator, hereby pray that the Court will take jurisdiction of this cross-bill and will order and decree that the Complainant and such Respondents are the joint owners of the property hereinabove described as their interests are above set out and that the Court will order the Register of such Court to sell such property for a division of the proceeds thereof among the joint owners and that the Court will ascertain and fix a reasonable Solicitors fee to be paid Chason & Stone as Solicitors, for such Respondents and Cross-Complainants. Such Respondents and Cross-Complainants pray for such other and further relief to which they may be entitled.

CHASON & STONE

By:   
Solicitors for all of the Respondents in said cause except Gus Schultz

4177

CHARLIE SUBEL,

PLAINTIFF

VS:

GUS SCHULTZ, ET AL.,

RESPONDENTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

Comes the Respondent, Gus Schultz, by his attorney, and for answer to the bill of complaint hereto filed in this cause says:

1. The respondent, Gus Schultz admits that he is over the age of twenty-one years and is a resident of Baldwin County, Alabama, and has been appointed, qualified and is now acting as administrator of the Estate of HAZEL F. SUBEL, Deceased.

2. That said respondent, Gus Schultz, denies each and every other allegation contained in said Bill of Complaint and demands strict proof thereof.

  
\_\_\_\_\_  
Attorney for Respondent





CHARLIE SUBEL,

Complainant,

vs.

GUS SCHULTZ, As Administrator  
of the Estate of Hazel F.  
Subel, Deceased, et al.,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

DEMURRER

Comes Lucille Smith, one of the Respondents in the above styled cause and demurs to the Bill of Complaint filed in said cause and assign the following ground;

1. That said Bill of Complaint does not state a cause of action.

CHASON & STONE


  
Solicitor for Lucille Smith

STATE OF ALABAMA )  
                          \*  
BALDWIN COUNTY    )

TO ANY LAW OFFICER OF THE STATE OF ALABAMA:

You are hereby commanded to summon GUS SCHULTZ, as administrator of the Estate of Hazel F. Subel, also known as Hazel Fields Subel, Deceased, MAE HARRISON, FIN HARRISON, MILFORD HARRISON, MARY ALICE COLGAN, ESSIE JUNE SEEGER, LUCILLE SMITH, ORA RASCOE, CLESSIE GRIMES, GRADY HARRISON and LINEAR HARRISON to appear within thirty days from the service of this writ in the Circuit Court of Baldwin County, Alabama, in Equity, at the place of holding same, then and there to plead, answer or demur to the Bill of Complaint filed against them by CHARLIE SUBEL.

WITNESS my hand this 27 day of November, 1957.

  
\_\_\_\_\_  
Register

The above named respondents' addresses are as follows:

- Gus Schultz, Foley, Alabama.
- Mae Harrison, Fin Harrison, Milford Harrison,
- Mary Alice Colgan and Essie June Seeger, Summerdale, Alabama.
- Lucille Smith, Loxley, Alabama.
- Ora Rascoe and Clessie Grimes, Opp, Alabama.
- Grady Harrison, 3220 North S Street, Pensacola, Florida. -
- Linear Harrison, 1007 Pennway Drive, Lansing, Michigan. <

BILL OF COMPLAINT

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

The complainant, Charlie Subel, presents this Bill of Complaint against Gus Schultz, as administrator of the Estate of Hazel F. Subel, also known as Hazel Fields Subel, Deceased, and against Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, and, thereupon, complainant complains and shows unto the court and your Honor as follows:

1. The complainant is over twenty-one years of age and a resident of Baldwin County, Alabama.

The respondent, Gus Schultz, who is over twenty-one years of age and a resident of Baldwin County, Alabama, has been appointed, qualified and is now acting as administrator of the Estate of Hazel F. Subel, Deceased.

Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan and Essie June Seeger are each over twenty-one years of age and residents of Summerdale in Baldwin County, Alabama.

Lucille Smith is over twenty-one years of age and a resident of Loxley in Baldwin County, Alabama.

Ora Rascoe and Clessie Grimes are each over twenty-one years of age and each resides at Opp in Covington County, Alabama.

Grady Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 3220 North S Street, Pensacola, Florida.

Linear Harrison is over twenty-one years of age and is a non-resident of the State of Alabama, whose residence and post office address is 1007 Pennway Drive, Lansing, Michigan.

2. Complainant claims to own and is in the actual, quiet and peaceable possession of the following described real property situated in Baldwin County, Alabama, to-wit:

Southwest Quarter of Northeast Quarter;  
Northwest Quarter of Southeast Quarter,  
Section 24, Township 6 South, Range 3 East.

3. The respondents claim, or are reputed to claim, some right, title or interest in, lien or encumbrance on, the said land; no suit is pending to enforce or test the validity of such title, interest in, lien or encumbrance on the said lands, and the complainant brings this Bill of Complaint against the said respondents to settle the title to the said lands and to clear up all doubts and disputes concerning the same. The complainant here and now calls upon the said respondents to set forth and specify their right, title or interest in, lien or encumbrance on, the said lands or any part thereof, and how and by what instrument the same is derived and created.

#### PRAYER FOR PROCESS

Complainant prays that the said Gus Schultz, as administrator of the Estate of Hazel F. Subel, Deceased, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison be made parties respondent to this Bill of Complaint and that the usual process of this Honorable Court do forthwith issue to them.

#### PRAYER FOR RELIEF

Complainant further prays that upon a final hearing of this cause that the court will make and enter a decree against the said respondents quieting complainant's title to the said lands, and adjudging and decreeing that the complainant is the owner thereof in his own right; that the title thereto is in him, forever quieting the complainant's title against the said respondents, and adjudging and decreeing that they and each of them are without right, title or interest in the said lands and have and hold no encumbrance thereon.

Complainant further prays for such other, further and general relief as he may be equitably entitled to, the premises considered.

  
Solicitor for complainant.

STATE OF ALABAMA )  
                          \*  
BALDWIN COUNTY    )

Before me, the undersigned authority, within and for said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly and legally sworn, deposes and says: That he is solicitor for the complainant in the above entitled cause; that he has read over the foregoing Bill of Complaint, and that the facts stated therein are true.

J. B. Blackburn

Sworn to and subscribed before me on  
this the 27<sup>th</sup> day of November, 1957.

Oliver L. Miller  
Notary Public, Baldwin County, Alabama

RAYMOND J. SUBEL, as Executor of  
and under the Last Will and Testa-  
ment of Charlie R. Subel, deceased,  
ET AL.,

Complainants and  
Cross-Respondents,

vs.

MAE HARRISON, ET AL.,

Respondents and

Cross-Complainants.

**STATE of ALABAMA**

**Baldwin County**

NO. 4177

**IN EQUITY**

Circuit Court of Baldwin County

Complainants and Cross-Respondents

~~This cause is submitted in behalf of Complainant upon the original Bill of Complaint, amended bill of complaint filed April 21, 1959, amended bill of complaint filed January 17, 1961, motion to revive cause, order reviving cause dated November 17, 1961, amended bill of complaint filed January 15, 1962, motion for appointment of guardian ad litem, decree appointing guardian ad litem, notice of appointment, acceptance and answer of guardian ad litem, Register's certificate as to service, motion for decree pro confesso against respondents A. J. Denton and Margaret M. Denton, decree pro confesso against A. J. Denton and Margaret M. Denton, and the testimony of Raymond Subel against Forest A. Christian taken in open court on this date,~~

~~and in behalf of Defendant upon~~ respondents and cross-complainants upon the  
answer and cross bill.

Dated this the 23rd day of June, 1964.

489

*Archie J. Smith*  
Register.

CHARLIE SUBEL,	)	
	)	IN THE
Complainant,	)	
	)	CIRCUIT COURT OF BALDWIN COUNTY,
VS.	)	
	)	ALABAMA. IN EQUITY.
GUS SCHULTZ, ET AL.,	)	
	)	NO. 4177
Respondents.	)	
	)	

This cause coming on to be heard was submitted upon the demurrer of the Respondents to the original and amended bill of complaint by the Complainants.

The Court, after hearing and considering the matter is of the opinion that the demurrers are not well taken and should be over-ruled.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the demurrer of the Respondents to the original and amended bill of complaint be, and the same are hereby overruled.

IT IS FURTHER ORDERED that the Respondents be, and they are given 20 days to file additional pleadings.

This 8th day of June, 1960.

*Hubert M. Hale*  
 Judge, 28th Judicial Circuit of  
 Alabama.

**FILED**

JUN 8 1960

ALICE J. DUCK, CLERK  
 REGISTER

RAYMOND J. SUBEL, as Executor )  
of and under the Last Will and )  
Testament of Charlie R. Subel, )  
deceased, ET AL., )

Complainants and )  
Cross-Respondents, )  
VS. )

MAE HARRISON, ET AL., )  
Respondents and )  
Cross-Complainants. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177

DECREE APPOINTING GUARDIAN AD LITEM

In this cause it has been made to appear to the court by the motion of the complainants and cross-respondents that Lucille Smith, one of the respondents and cross-complainants, has become a non compos mentis and that it is necessary that a guardian ad litem be appointed to represent her and to protect her interests in connection with the original bill of complaint that has been filed in this cause and also in connection with any amended bill of complaint that may be filed in this cause; upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. John Chason, an Attorney at Law, practicing in Baldwin County, Alabama, and who is in all respects a fit and proper person to be appointed as guardian ad litem for the said Lucille Smith to represent her in this said cause and to protect her interests in connection with the original bill of complaint that has been filed in this cause and in connection with any amendment that may be filed thereto, shall be and he is hereby appointed as such guardian ad litem.

ORDERED, ADJUDGED AND DECREED on this the 22nd day of June, 1964.

*John M. Hare*  
\_\_\_\_\_  
Judge

FILED  
JUN 22 1964  
BALDWIN COUNTY, ALABAMA



RAYMOND J. SUBEL, as Executor )  
of and under the Last Will and )  
Testament of Charlie R. Subel, )  
deceased, ET AL., )

Complainants and )  
Cross-Respondents, )  
VS. )

MAE HARRISON, ET AL., )  
Respondents and Cross- )  
Complainants. )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 4177

FINAL DECREE

This cause coming on to be heard on this date is submitted on the original bill of complaint, amended bill of complaint filed April 21, 1959, amended bill of complaint filed January 17, 1961, motion to revive cause, order reviving cause dated November 17, 1961, amended bill of complaint filed January 15, 1962, answer and cross bill of respondents filed May 14, 1962, motion for appointment of guardian ad litem, decree appointing guardian ad litem, notice of appointment, acceptance and answer of guardian ad litem, Register's certificate as to service, motion for decree pro confesso against respondents A. J. Denton and Margaret M. Denton, decree pro confesso against A. J. Denton and Margaret M. Denton, and the testimony of Raymond Subel and Forest A. Christian taken in open court on this date but which has been noted by the Register;

Upon consideration of all of which the court finds as follows:

A. On, to-wit, December 29, 1944, Forest A. Christian, an Attorney at Law, was employed by Mrs. A. J. Denton, the same person as Margaret M. Denton, and A. J. Denton and by Charlie Subel and Hazel Fields Subel to draft the deed which bears the said date and which is recorded in Deed Book 87 at page 329, Baldwin County, Alabama Records. At the time of the employment of the said attorney by the said parties he was instructed by them to draw the said deed with a survivorship provision so that the title would be conveyed by the said deed to Charlie Subel and Hazel Fields Subel during the term of their joint lives, and that on the death of either of the said parties the title to the property conveyed by the said deed

would vest in the survivor; that the said attorney, through his error, incorporated in the granting clause of the said deed the words "their heirs and assigns." The insertion of the said words in the granting clause in the said deed created a conflict between the granting clause and the habendum clause and prevented the title to the property conveyed by the said deed from vesting in the surviving grantee, which was the intention of the said parties, the grantors and the grantees in the said deed.

B. Hazel Fields Subel died intestate on, to-wit, November 20, 1956, leaving as her heirs Charlie Subel, the widower, who was one of the grantees in the said deed from Mrs. A. J. Denton and A. J. Denton, and Mae Harrison, mother of the said decedent, and Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, brothers and sisters of the said decedent.

C. The said Charlie Subel and Hazel Fields Subel remained in possession of the said property up to the time of the death of Hazel Fields Subel. After the death of Hazel Fields Subel the property remained in the possession of Charlie Subel, and since his death it has remained in the possession of Raymond J. Subel, as executor of the Last Will and Testament of Charlie R. Subel, deceased (who is the same person as Charlie Subel), and Carlous Subel, Maurice R. Subel, Walter J. Subel, Raymond J. Subel and Betty Ann Styron, formerly Betty Ann Subel, the devisees and legatees named in the Last Will and Testament of Charlie R. Subel, deceased, during all of which time the said parties claimed to own the said property.

D. No suit is pending to test the title to or right to possession of the property described in the said deed, which is the Southwest Quarter of the Northeast Quarter, and the Northwest Quarter of the Southeast Quarter of Section 24, Township 6 South, Range 3 East, Baldwin County, Alabama.

E. The said complainants and cross-respondents are entitled to the relief prayed for by them in their bill of complaint

as last amended. The said respondents and cross-complainants are not entitled to the relief prayed for by them in their cross bill.

Upon consideration of all of which it is, therefore, ORDERED, ADJUDGED AND DECREED by the court as follows:

1. The deed from Mrs. A. J. Denton (Margaret M. Denton) and A. J. Denton, wife and husband, to Charlie Subel and Hazel Fields Subel, dated December 29, 1944, which is recorded in Deed Book 87 at page 329, Baldwin County, Alabama Records, shall be and it is hereby reformed by striking from the granting clause therein the words "their heirs and assigns" and by changing the granting clause so that the body of the said deed will read as follows:

STATE OF ALABAMA  
BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS: That we, Mrs. A. J. Denton (Margaret M. Denton) and A. J. Denton, wife and husband, of said County and State, for and in consideration of One Dollar (\$1.00) and other valuable consideration to us in hand paid by Charlie Subel and Hazel Fields Subel, husband and wife, the receipt whereof is, upon the delivery of these presents, hereby acknowledged, have Granted, Bargained and Sold and by these presents do hereby GRANT, BARGAIN, SELL AND CONVEY unto the said Charlie Subel and Hazel Fields Subel during their joint lives and upon the death of either of them, then to the survivor of them in fee simple, forever, the following described real property situated in Baldwin County, Alabama, to-wit:

Farm 7, being the Southwest Quarter of the Northeast Quarter, and Farm 10, being the Northwest Quarter of the Southeast Quarter, of Section 24, Township 6 South, Range 3 East.

TO HAVE AND TO HOLD unto the said Charlie Subel and Hazel Fields Subel during their joint lives and upon the death of either of them, then to the survivor of them in fee simple and to the heirs and assigns of such survivor, forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this the 29th day of December, 1944.

(S) MRS. A. J. DENTON (SEAL)

(S) A. J. DENTON (SEAL)

2. The complainants and cross-respondents, Raymond J. Subel, as executor of the Last Will and Testament of Charlie R. Subel, deceased, and Carlous Subel, Maurice R. Subel, Walter J. Subel, Raymond J. Subel and Betty Ann Styron, formerly Betty Ann Subel, are the owners of the following described real property situated in Baldwin County, Alabama, to-wit:

Southwest Quarter of Northeast Quarter,  
Northwest Quarter of Southeast Quarter,  
Section 24, Township 6 South, Range 3  
East.

3. The respondents and cross-complainants, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, have no right, title or interest in, lien or encumbrance on the lands described in the preceding paragraph or any part thereof, or any interest therein.

4. The cross bill of the respondents and cross-complainants, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, filed in this cause on the 14th day of May, 1962, shall be and it is hereby dismissed with prejudice.

5. The Register of this court shall promptly file a certified copy of this decree for record in the office of the Judge of Probate of Baldwin County, Alabama, and tax the cost of such recording as a part of the costs of this proceeding.

6. The costs of this proceeding are hereby taxed against the respondents and cross-complainants, Mae Harrison, Fin Harrison, Milford Harrison, Mary Alice Colgan, Essie June Seeger, Lucille Smith, Ora Rascoe, Clessie Grimes, Grady Harrison and Linear Harrison, for which execution may issue.

ORDERED, ADJUDGED AND DECREED on this the 23rd day of June, 1964.

FILED  
JUN 23-64  
MAE L. BERRY, CLERK  
REGISTER

*J. Subel III, Jr.*  
Judge

4177

# RETURN RECEIPT

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

FILED  
NOV 30 1957

*[Handwritten Signature]*  
-----  
(Signature or name of addressee)

FILED  
NOV 30 1957  
LIVE OAK, TEXAS  
-----  
Addressee Only  
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery, 19 **NOV 30 1957**

Post Office Department  
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING  
OFFICE

Return to Alice J. Duck

(NAME OF SENDER)

Street and Number,  
or Post Office Box, } P.O.Box 239

REGISTERED ARTICLE

No. 128 Post Office Bay Minette, Alabama

INSURED PARCEL

No. \_\_\_\_\_ State Alabama

10-12421

4177

Form 3811  
Rev. 1-52

# RETURN RECEIPT

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

ANSIN  
1957  
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FIGHT TO  
SUPPORT  
TB ASSOCIATION

FILED  
DEC 5 1957

1 \_\_\_\_\_  
(Signature or name of addressee)

2 *Deliver to Addressee Only*  
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery *11/30*, 19*57*

*Lincoln Harrison*

Post Office Department  
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING  
OFFICE

Return to Alice J. Duck  
(NAME OF SENDER)

Street and Number,  
or Post Office Box, P.O. Box 239

REGISTERED ARTICLE

No. 127 Post Office Bay Minette, Ala.

INSURED PARCEL

No. \_\_\_\_\_ State Alabama

10-12421



4177

INSTRUCTIONS TO DELIVERING EMPLOYEE

- DELIVER ONLY TO ADDRESSEE (20¢ additional)
- SHOW ADDRESS WHERE DELIVERED IN ITEM 4 BELOW (31¢ additional)

RECEIPT

Received from the Postmaster the Registered, Certified, or Insured Article, the number of which appears on the face of this return receipt.

1. SIGNATURE OR NAME OF ADDRESSEE

X Margaret M. Denton

2. SIGNATURE OF ADDRESSEE'S AGENT (Agent should enter addressee's name in item 1 above)

3. DELIVERY DATE

Deliver to Addressee Only

4.

FILED  
 APR 29 1959  
 CLERK REGISTER

PR 77 1959

GPO 71548-3

POST OFFICE DEPARTMENT  
OFFICIAL BUSINESS

INSTRUCTIONS—Show name, address and number of article below. Complete "Instructions to Delivering Employee" on other side, when applicable. Moistening gummed ends and securely attach to back of article. En-dorse front of article RETURN RECEIPT REQUESTED.	
REGISTERED NO.	723
CERTIFIED NO.	
INSURED NO.	
NAME OF SENDER	Alice J. Duck, CI
STREET AND NO. OR P. O. BOX	P. O. Box 239
CITY, ZONE, AND STATE	Bay Minette, Ala

**DELIVERING EMPLOYEE**

Show address where delivered

(required for these services)

**RECEIPT**

Article described on other side.

(must always be filled in)

ANY

DELIVERED (only if requested in item #1)

LAKE, FLA.

C55-16-71548-4 GPO

MAILED  
JAN 19 1962  
U.S. MAIL  
REGISTERED MAIL

POST OFFICE DEPARTMENT  
OFFICIAL BUSINESS

4177

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

POSTMARK OF  
DELIVERING OFFICE

JAN 17 5 PM

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

RETURN  
TO

REGISTERED NO.	NAME OF SENDER Alice J. Duck, Register
CERTIFIED NO. 379408	STREET AND NO. OR P. O. BOX P.O. Box 239
INSURED NO.	CITY, ZONE AND STATE Bay Minette, Alabama

C55-16-71548-4

POD Form 3811 Jan. 1958

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver ONLY to addressee

Show address where delivered

(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Margaret M. Denton

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

1-17-62

ADDRESS WHERE DELIVERED (only if requested in item #1)

EAGLE LAKE, FLA.

C55-16-71548-4 GPO

ALICE J. DUNN, CLERK REGISTER

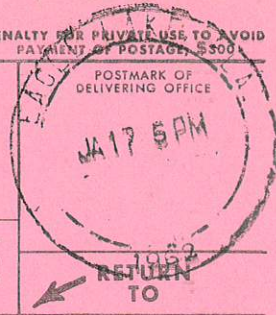
JAN 19 1962

FILED

POST OFFICE DEPARTMENT  
OFFICIAL BUSINESS

4177

POST OFFICE DEPARTMENT  
PENALTY FOR PRIVATE USE TO AVOID  
PAYMENT OF POSTAGE \$300



INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

POD Form 3811 Jan. 1958

REGISTERED NO.	NAME OF SENDER
CERTIFIED NO.	STREET AND NO. OR P. O. BOX
INSURED NO.	CITY, ZONE AND STATE

Alice J. Duck, Register

379409

P.O. Box 239

Bay Minette, Alabama

C55-16-71548-4

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brace  
from  
of R.B.

with  
held

*[Faint, illegible markings]*