

BILL OF COMPLAINT

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

Edna L. Nickerson, formerly Edna Shenk, as Complainant, presents this Bill of Complaint against Forest Smith, Rose Smith, Ora Mae Palmer, Lela Spears, Randall Ray Shenk and Anne Whatley, and complains and shows unto this Honorable Court as follows:

1. Complainant is over twenty-one years of age and a resident of Vestaburg, Michigan. The Respondents, Forest Smith and Rose Smith are each over twenty-one years of age and are non-residents of the State of Alabama, their Post Office address being R. F. D. Eaton Rapids, Michigan.

✕ The Respondent, Ora Mae Palmer, is over the age of twenty-one years and a resident of Baldwin County, Alabama.

✕ The Respondent, Lela Spears, is a non-resident of the State of Alabama, over twenty-one years of age, her Post Office address being Route I, Box 36, Humble, Texas.

The Respondent, Anne Whatley is over the age of twenty-one years, a non-resident of the State of Alabama, and her address is 1215 Isabella, Houston, Texas.

The Respondent, Randall Ray Shenk, is a minor approximately seventeen years of age, a non-resident of the State of Alabama, who resides with his mother, Anne Whatley, and whose address is 1215 Isabella, Houston, Texas.

2. The Complainant and the Respondents, Forest Smith and Rose Smith, are joint owners or tenants in common of the following described real property situated in Baldwin County, Alabama, to-wit:

Lot 4 in the Resubdivision of Lots 1, 2 and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof, which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records.

3. The Complainant owns an undivided one-half interest in and to the above described property and the Respondents, Forest

Smith and Rose Smith, each own an undivided one-fourth interest therein.

4. The above described property cannot be equitably divided among the joint owners without a sale thereof and a division of the proceeds.

5. It has been necessary for the Complainant to employ a Solicitor for the purpose of filing this suit to effect a sale of the said property for division among the joint owners and she has employed J. B. Blackburn, Bay Minette, Alabama, for this purpose.

6. On June 5, 1950, Asher E. Shenk and Edna Shenk, now Edna L. Nickerson, his wife, executed and delivered to the Respondents, Forest Smith and Rose Smith, a certain deed of conveyance, which said deed is recorded in Deed Book 154 N. S. at page 452, Baldwin County, Alabama Records, and which deed described the following property situated in Baldwin County, Alabama, to-wit:

Lot 4 in the re-subdivision of Lots 1, 2 and 3 in Block 2 of the Gulf Bays Tract in Section 4, Township 9 South, Range 5 East, which said Lot 4 is further described as follows: Beginning at the Northeast corner of the Northwest Quarter of said Section 4, thence West 99.5 feet to the South line of Bay Circle; thence Southwesterly along the Southeast side of Bay Circle 413.6 feet to a corner of said Lot 4; thence South 54 degrees 29 minutes East 387.8 feet to a corner; thence South 138.8 feet to a corner; thence North 48 degrees and 40 minutes West 471.9 feet to a corner; thence in a Northeasterly direction along the Southeast line of Bay Circle 50 feet to the beginning corner of said Lot 4, according to a survey made by J. B. Allen, Surveyor. Together with an easement of way over Lot 6 of the Block located between Bay Circle and Bay LaLaunch.

On June 5, 1950, Forest Smith and Rose Smith, his wife, two of the Respondents named above, conveyed to Edna Shenk, now Edna L. Nickerson, the Complainant, the following described property situated in Baldwin County, Alabama, to-wit:

A one-half undivided interest in the following described lands: Lot 4 in the re-subdivision of Lots 1, 2 and 3 in Block 2 of the Gulf Bays Tract in Section 4, Township 9 South, Range 5 East, which said Lot 4 is further described as follows: Beginning at the Northeast corner of the Northwest Quarter of said Section 4; thence West 99.5 feet to the South line of Bay Circle; thence Southwesterly along the Southeast side of Bay Circle 413.6 feet

to a corner of said Lot 4; thence South 54 degrees 29 minutes East 387.8 feet to a corner; thence South 138.8 feet to a corner; thence North 48 degrees and 40 minutes West 471.9 feet to a corner; thence in a Northeasterly direction along the Southeast line of Bay Circle 50 feet to the beginning corner of said Lot 4, according to a survey made by J. B. Allen, Surveyor. Together with an easement of way over Lot 6 of the Block located between Bay Circle and Bay LaLaunch.

This said deed is recorded in Deed Book 163 at pages 50-1, Baldwin County, Alabama Records.

7. That it was the intention of all of the parties to the two deeds described in Paragraph 6 above that the said description in the said deeds describe the following property situated in Baldwin County, Alabama, to-wit:

Lot 4 in the resubdivision of Lots 1, 2 and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records,

but through a mistake of the scrivener the property was described as shown in Paragraph 6 above and that the said deeds described in Paragraph 6 fail to express the true intent of the parties as the result of and through the mutual mistake of the said parties.

8. That Asher E. Shenk, one of the grantors in the deed described in Paragraph 6 above, died intestate in the year 1950, leaving surviving him as his heirs and all of his heirs, the following:

Edna L. Shenk, now Edna L. Nickerson, his widow;
Ora Mae Palmer, a daughter;
Lela Spears, a daughter;
Earl Ray Shenk, a son, who is now deceased, and who died intestate leaving surviving him as his sole and only heirs, Anne Shenk, now Anne Whatley, his widow, and Randall Ray Shenk, a son.

PRAYER FOR PROCESS:

Complainant prays that this Honorable Court will take jurisdiction of this Bill of Complaint, that due notice thereof in the manner prescribed by law be given to the Respondents, requiring them to appear and plead, answer or demur to this Bill of Complaint

within the time and in the manner prescribed by law.

PRAYER FOR RELIEF:

Complainant prays for the following separate and several relief:

A. That the Court render an order or decree reforming the deeds hereinabove referred to in Paragraph 6, by striking therefrom the description of the tract of land therein conveyed and by substituting in lieu thereof, the description of the tract of land as set out in Paragraph 8 above.

B. That the Court decree that the Complainant owns an undivided one-half interest in and to the property described in Paragraph 2 hereof, and that the Respondents, Forest Smith and Rose Smith, each own an undivided one-fourth interest therein.

C. That the above described property in Paragraph 2 be ordered sold for the purpose of making a division thereof among the joint owners of the said property who are the Complainant and the Respondents, Forest Smith and Rose Smith.

D. That the Court will make and enter a proper order or decree fixing the Solicitor's fee to be paid to the Complainant's Solicitor and make the said fee a common charge against the Complainant and the Respondents, Forest Smith and Rose Smith in proportion to their respective interests in said property.

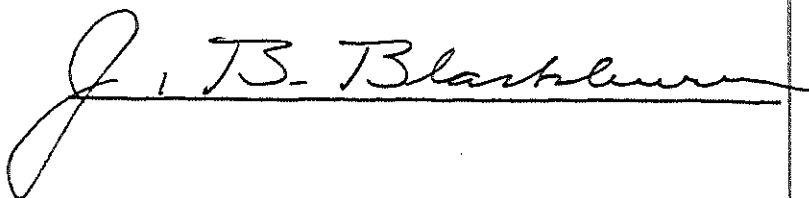
E. That such other orders be made and decrees rendered as may be requisite and proper in the premises.


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 Complainant in the above styled cause;
that he has read over the foregoing Bill of Complaint and that the
facts stated therein are true.



Sworn to and subscribed before
me on this the 23rd day of
February, 1959.



Notary Public, Baldwin County, Alabama.

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,
Baldwin County.

}

Circuit Court, Baldwin County

No. 4515

..... TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon FOREST SMITH, ROSE SMITH, ORA MAE PALMER,

LELA SPEARS, RANDALL RAY SHENK AND ANNE WHEATLEY

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in

the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against FOREST SMITH, ROSE SMITH

LELA SPEARS, RANDALL RAY SHENK AND ANNE WHEATLEY, ORA MAE PALMER....., Defendant.....

by EDNA L. NICKERSON, formerly Edna Shenk

....., Plaintiff.....

Witness my hand this 23 day of February 1959.

Alice J. Duck, Clerk

No. 4515 Page

The State of Alabama
Baldwin County

CIRCUIT COURT

EDNA L. NICKERSON, formerly

Edna Shenk

Plaintiffs

vs.

FOREST SMITH, ROSE SMITH, ORA MAE

PALMER, LELA SPEARS, RANDALL RAY
SHENK AND ANNE WHATLEY

Defendants

Summons and Complaint

Filed February 23, 1959 19

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

19

_____, Sheriff

I have executed this summons

this 19

by leaving a copy with

Sheriff

Deputy Sheriff

EDNA L. NICKERSON,

Complainant,

vs.

FOREST SMITH, ET AL.,

Respondents.

¶

¶

¶

¶

¶

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

ANSWER AND WAIVER:

The undersigned, Lela Spears, does hereby accept service of the Bill of Complaint filed in this cause, waives notice of the date set for hearing the said cause, and consents and agrees that testimony be taken and that a final decree be rendered in said cause in accordance with the prayer for relief in the said Bill of Complaint, all without further notice, which notice is hereby expressly waived.

DATED this 11 day of ^{March}~~February~~, 1959.

Lela Spears
Lela Spears.

4575

FILED

APR 14 1959

ALICE J. DUCK, CLERK
REGISTER

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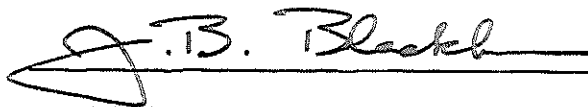
EDNA L. NICKERSON,)	IN THE CIRCUIT COURT OF
Complainant,)	BALDWIN COUNTY, ALABAMA
vs.)	
FOREST SMITH, ET AL.,	)	IN EQUITY.
Respondents.)	

MOTION FOR DECREE PRO CONFESSO:

Now comes the Complainant in the above styled cause and shows unto the Register that a summons directed to the respondents, Forest Smith, Rose Smith, Randall Ray Shenk and Anne Whatley, together with a copy of the Bill of Complaint in this cause, was issued and forwarded by registered mail on February 23, 1959, directed to said respondents at their places of residence as shown by said Bill of Complaint. The postage on said letters was prepaid and the same marked "for delivery only to person to whom addressed", and return receipt demanded, said demanded return receipts bearing the signatures of said respondents were duly received and filed for record in this cause on March 2, 1959, March 4, 1959, March 5, 1959 and March 12, 1959, and the said Respondents have to the date hereof failed to plead, answer or demur to the Bill of Complaint, all of which appears of record in this cause.

WHEREFORE, Complainant moves that a decree pro confesso be entered against said Respondents.

DATED this 14th day of April, 1959.


Solicitor for Complainant.

4510

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APR 15 1950

ALICE J. DICK, CLERK
REGISTER

EDNA L. NICKERSON,)	IN THE CIRCUIT COURT OF
)	
Complainant,	)	BALDWIN COUNTY, ALABAMA
)	
vs.)	
)	
FOREST SMITH, ET AL.,	)	IN EQUITY. NO. 4515.
)	
Respondents.)	

NOTICE OF SALE:

Pursuant to the terms and provisions of a decree rendered in this cause on August 11, 1959, the undersigned, as Commissioner, will sell at public outcry, to the highest bidder for cash, at the front door of the courthouse in Bay Minette, Baldwin County, Alabama, at 11:30 o'clock A. M. on the 11th day of September, 1959, the following described property situated in Baldwin County, Alabama, to-wit:

Lot 4 in the resubdivision of Lots 1, 2, and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records.

Said sale will be made for the purpose of making a division among the joint owners of said property.

Dated this 11th day of August, 1959.

ALICE J. DUCK,
As Commissioner.

J. B. BLACKBURN,
Solicitor for Complainant.

FILED

AUG 11 1959

ALICE J. DUCK, CLERK
REGISTER

EDNA L. NICKERSON,	)	IN THE CIRCUIT COURT OF
Complainant,	)	BALDWIN COUNTY, ALABAMA
vs.)	
FOREST SMITH, ET AL.,	)	IN EQUITY. NO. 4515.
Respondents.)	

REPORT OF SALE:

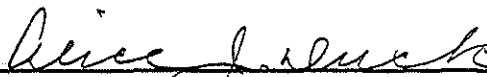
The undersigned, Alice J. Duck, the Commissioner heretofore appointed to sell certain real estate for division and distribution among the joint owners thereof, which said real estate is particularly set forth and described in the decree of sale rendered in this cause and dated August 11, 1959, and also in the commission which was issued in this cause and addressed to the undersigned, which commission is referred to as a part of this report, respectfully represents unto the court and your Honor that in pursuance of, and in strict accordance with the directions of the said commission and the statutes in such cases made and provided, she did, at 11:30 o'clock A. M. on the 11th day of September, 1959, sell at public outcry, in front of the courthouse of this County, the property described in the said commission which sale was to the highest and best bidder of said property and was fairly conducted in all respects. The said property sold to Edna L. Nickerson for the sum of \$500.00. The said property is situated in Baldwin County, Alabama, and is described as follows, to-wit:

Lot 4 in the resubdivision of Lots 1, 2, and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records.

The said property described above was sold for an amount not greatly less and disproportionate to its real value. The said purchaser has complied with the terms of the said sale and has paid the purchase price for the said property so purchased.

The undersigned Commissioner having fully complied with the

directions of the said commission, submits the foregoing as her report of her actions in the premises and asks that such orders be made and decrees rendered as may be requisite and proper in the premises.



Commissioner.

Sworn to and subscribed
before me on this the
11th day of September, 1959.



Notary Public, Baldwin County, Ala.

EDNA L. NICKERSON,	)	IN THE CIRCUIT COURT OF
Complainant,	)	BALDWIN COUNTY, ALABAMA
vs.)	
FOREST SMITH, ET AL.,	)	IN EQUITY.
Respondents.)	

DECREE PRO CONFESSO:

In this cause, it being made to appear to the Court by the allegations of the Bill of Complaint that the respondents, Forest Smith, Rose Smith, Randall Ray Shenk and Anne Whatley, are all non-residents of the State of Alabama and that a copy of the original Bill of Complaint in this cause, together with a summons to answer said Bill of Complaint within thirty days from the service thereof was deposited in the registered mail at the Post Office at Bay Minette, Alabama, by the Register of this Court and addressed to said respondents at their addresses as shown in the Bill of Complaint and the said respondents received the same in person as shown by return receipts received and filed in this cause on March 2, 1959, March 4, 1959, March 5, 1959, and March 12, 1959; and the said respondents having failed to plead, answer or demur to said Bill of Complaint to the date hereof, it is now, therefore, on motion of Complainant's Solicitor, ORDERED AND DECREED that the said Bill of Complaint in this cause be, and it hereby is, in all things, taken as confessed against the said Forest Smith, Rose Smith, Randall Ray Shenk and Anne Whatley.

DATED this 15 day of April, 1959.

J. Luther M. J. [Signature]

Judge.

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4515

FILED
APR 15 1900
ALICE J. DUCK, CLERK
REGISTER

EDNA L. NICKERSON,) IN THE CIRCUIT COURT OF
 Complainant,)
 vs.) BALDWIN COUNTY, ALABAMA
 FOREST SMITH, ET AL.,) IN EQUITY. NO. 4515
 Respondents.)

TO: ALICE J. DUCK, GREETING:

WHEREAS, in and by a decree rendered in this cause on this date, you were appointed as Commissioner to sell the following described real property situated in Baldwin County, Alabama, to-wit:

Lot 4 in the resubdivision of Lots 1, 2, and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records.

NOW, THEREFORE, you are directed in pursuance of the said decree and the statutes in said cause made and provided, to sell the above described property at public outcry, to the highest bidder for cash, at the front door of the courthouse in Bay Minette, Baldwin County, Alabama, on the 11th day of September 1959, at 11:30 o'clock A. M., after first giving notice of the time, place and terms of said sale, and description of the said property by publication once a week for three successive weeks in the Baldwin Times, a newspaper published at Bay Minette, in Baldwin County, Alabama.

You are further directed to make report to this Court in writing and under oath of your proceedings in this behalf within thirty days after said sale and it shall be duly confirmed and subject to the further orders of this court.

ORDERED, ADJUDGED AND DECREED on this the 11th day of August, 1959.

FILED

AUG 12 1959

ALICE J. DUCK, CLERK REGISTER

Hubert M. Isaac

Judge.

M

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FILED

AUG 11 1959

**ALICE L. DUCK, CLERK
REGISTER**

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EDNA L. NICKERSON,)	IN THE CIRCUIT COURT OF
)	
Complainant,)	BALDWIN COUNTY, ALABAMA
)	
vs.)	
)	
FOREST SMITH, ET AL.,	)	IN EQUITY. NO. 4515.
)	
Respondents.)	

DECREE:

This cause coming on to be heard on this date is submitted for a decree upon the original, verified Bill of Complaint; answer and waiver of Ora Mae Palmer; answer and waiver of Lela Spears; motion for decree pro confesso and decree pro confesso, upon consideration of all of which the court is of the opinion that the allegations contained in the Bill of Complaint are true and that the Complainant is entitled to the relief prayed for therein, upon consideration of all of which, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The Complainant and the Respondents, Forest Smith and Rose Smith, are joint tenants or tenants in common of the following described land situated in Baldwin County, Alabama, to-wit:

Lot 4 in the resubdivision of Lots 1, 2 and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records,

and that the Complainant owns an undivided one-half interest in and to the above described property, and the Respondents, Forest Smith and Rose Smith, each own an undivided one-fourth interest therein.

2. The said property cannot be equitably divided among the joint owners thereof without a sale and division of the proceeds and that such sale is to the best interest of all parties interested in this proceeding.

3. The said property is hereby ordered sold for division and for the purpose of perfecting such sale, the Register of the

Circuit Court of Baldwin County, Alabama, in Equity, shall be, and she is hereby appointed Commissioner to make the sale and is hereby ordered and directed to sell the above described property at public outcry, to the highest bidder for cash, at the front door of the Courthouse in Bay Minette, Baldwin County, Alabama, at 11:30 o'clock A. M. on the 11th day of September, 1959, after first giving notice of the time, place and terms of the said sale and a description of the said property, by publication once a week for three successive weeks in the Baldwin Times, a newspaper published in Bay Minette, Baldwin County, Alabama. The said Commissioner shall make a report of the said sale to this Court within thirty days after the said sale is made.

4. The Register of this court shall file a 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.

5. Jurisdiction of this cause is reserved for the purpose of taking testimony relative to an attorney's fee to be paid the Complainant's attorney or solicitor for his services rendered and to be rendered in this cause; for the purpose of taking testimony relative to the amount of taxes paid on said property and by whom the said taxes were paid, and other testimony as may be meet and proper and for the purpose of making such other orders and decrees as may be necessary and proper in the premises.

ORDERED, ADJUDGED AND DECREED on this the 11th day of August, 1959.

J. Hubert M. Stone

Judge.

FILED

AUG 12 1959

ALICE J. DUCK, CLERK
REGISTER

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FILED
AUG 11 1889
ALICE J. DUCK, CLERK
REGISTER

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EDNA L. NICKERSON,)	IN THE CIRCUIT COURT OF
Complainant,)	BALDWIN COUNTY, ALABAMA
vs.)	
FOREST SMITH, ET AL.,	)	IN EQUITY. NO. 4515.
Respondents.)	

ORDER CONFIRMING COMMISSIONER'S SALE:

This day came Alice J. Duck, the commissioner heretofore appointed by the court and moves the court that sale of the property of the joint owners thereof heretofore made by said commissioner in pursuance of the order made on the 11th day of August, 1959, appointed her commissioner to sell certain property of said joint owners and by her duly reported to this court on September 11, 1959, be now confirmed by an order of this court.

And it further appearing to the satisfaction of the court from said report and from the evidence now therewith submitted that said property could not be equitably divided or partitioned without said sale; that the said commissioner had no personal or pecuniary interest in said sale, nor was she directly or indirectly a purchaser at said sale; that said sale was fairly conducted in strict accordance with law, and that said property sold for an amount not greatly less than its real value, and that all of the terms of the said sale, as prescribed by the court have been complied with.

And it further appearing from the report that said property was sold to Edna L. Nickerson, and that she has paid the purchase money in full and that the property described was situated in Baldwin County, Alabama, and is described as follows:

Lot 4 in the resubdivision of Lots 1, 2, and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records.

It further appears to the court that the purchase price for the said property was \$500.00.

It is, therefore, hereby ORDERED by the court that said sale be confirmed and that Alice J. Duck, the Commissioner, make conveyance to the purchaser aforesaid, of all right, title and interest which the said joint owners had in such property which property was particularly described in the preceding paragraph above.

The Court reserves jurisdiction of this cause for such other and further orders and decrees as may be necessary and proper in the premises.

ORDERED, ADJUDGED AND DECREED on this the 25 day of September, 1959.

Hubert M. Stee

Judge.

Filed
9-25-59
Alice J. Duck
J. Gray

EDNA L. NICKERSON,	)	IN THE CIRCUIT COURT OF
Complainant,	)	BALDWIN COUNTY, ALABAMA
vs.)	
FOREST SMITH, ET AL.,	)	IN EQUITY. NO. 4515.
Respondents.)	

NOTE OF TESTIMONY:

This cause coming on to be heard on this date is submitted for a final decree on the part of the complainant upon the following:

1. Original Bill of Complaint.
2. Motion for Decree pro Confesso.
3. Decree pro Confesso.
4. Decree dated August 11, 1959.
5. Notice dated August 11, 1959.
6. Report of Sale.
7. Order confirming Sale.
8. Testimony of _____.

DATED this 14th day of October, 1959.

Alice J. Duck

 Register.

J. B. BLACKBURN,
 Solicitor for Complainant.

FILED

OCT 14 1959

ALICE J. DUCK, CLERK
 REGISTER

EDNA L. NICKERSON,	§	IN THE CIRCUIT COURT OF
Complainant,	§	BALDWIN COUNTY, ALABAMA
vs.	§	
FOREST SMITH, ET AL.,	§	IN EQUITY. NO. 4515.
Respondents.	§	
	§	

FINAL DECREE:

This cause coming on to be heard on this date is submitted for a final decree on the pleadings filed and decrees heretofore rendered in this cause, and the testimony of the witness, all as noted by the Register, from all of which the court finds as follows:

1. (a) The property involved in this suit has been heretofore sold under the authority of the former orders and decrees rendered in this cause, which sale has been confirmed, for the sum of \$500.00.

(b) The interest of each party to this cause in the net proceeds of the said sale is as follows:

Edna L. Nickerson, one-half;
Forest Smith, one-fourth;
Rose Smith, one-fourth.

(c) The Court costs involved in this proceeding, which is a common charge against the parties hereto amount to \$60.61.

(d) The attorney's fee of \$75.00 allowed to J. B. Blackburn, as Solicitor for Complainant for services rendered by him in this cause and fixed as hereinafter provided, is also a common charge against all of the parties to this proceeding.

(e) The sum of \$500.00 which represents the gross proceeds of the said sale, is now in possession of Alice J. Duck, as Register and Commissioner, and this amount shall be distributed in the manner provided for in this decree and this cause finally settled.

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

1. Alice J. Duck, as Register and Commissioner, is hereby authorized, empowered, instructed and directed to pay to herself, as Register, the sum of \$60.61, which amount is all of the court costs incurred in this proceeding.

2. The sum of \$75.00 shall be and it is hereby fixed and allowed J. B. Blackburn, as Solicitor for Complainant, for services rendered by him as Solicitor for the complainant in this cause, and the Register is hereby authorized, empowered, instructed and directed to pay to J. B. Blackburn, the said sum of \$75.00, take his receipt therefor and file it in this cause.

3. After the amounts heretofore ordered to be paid have been so paid by Alice J. Duck, she will have in her possession for distribution to the parties hereto the sum of \$364.39, which shall be distributed as follows:

Edna L. Nickerson-----	\$182.20
Forest Smith-----	91.10
Rose Smith-----	91.09

The said Register is authorized, empowered, instructed and directed to pay the said amounts to the said parties and take a receipt from each of the said parties and file it in this cause.

Upon compliance with all of the terms and provisions of this decree this cause shall be fully and finally settled.

ORDERED, ADJUDGED AND DECREED on this the 14 day
of October, 1959.

FILED

OCT 14 1959

**ALICE J. DUCK, CLERK
REGISTER**

Hubert M. Idaw

Judge.

THE BALDWIN TIMES

BALDWIN COUNTY

Alabama's Best County's Best Newspaper

BAY MINETTE, ALABAMA

JIMMY FAULKNER
PUBLISHER

LEGAL NOTICE

**NOTICE OF SALE
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY.
NO. 4515.**
EDNA L. NICKERSON, Complainant,
vs.
FOREST SMITH, ET AL., Respondents.

Pursuant of the terms and provisions of a decree rendered in this cause on August 11, 1959, the undersigned, as Commissioner, will sell at public outcry, to the highest bidder for cash, at the front door of the courthouse in Bay Minette, Baldwin County, Alabama, at 11:30 o'clock a.m. on the 11th day of September, 1959, the following described property situated in Baldwin County, Alabama to wit:

Lot 4 in the resubdivision of Lots 1, 2, and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records.

Said sale will be made for the purpose of making a division among the joint owners of said property.

Dated this 11th day of August, 1959.
ALICE J. DUCK,
As Commissioner.
J. B. BLACKBURN,
Solicitor for Complainant.

31-3tc

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,
BALDWIN COUNTY.

E. R. Mourslette, Jr. being duly sworn, deposes and says that he is the EDITOR of THE BALDWIN TIMES, a Weekly Newspaper published at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

Nickerson vs. Smith

COST STATEMENT

217 WORDS @ 5 cents \$ 10⁸⁵
I hereby certify this is correct, due and unpaid (paid).

E. R. Mourslette, Jr.
Editor.

was published in said newspaper for 3 consecutive weeks in the following issues:

Date of 1st publication Aug. 13, 1959 Vol. 71 No. 31

Date of 2nd publication Aug. 20, 1959 Vol. 71 No. 32

Date of 3rd publication Aug. 27, 1959 Vol. 71 No. 33

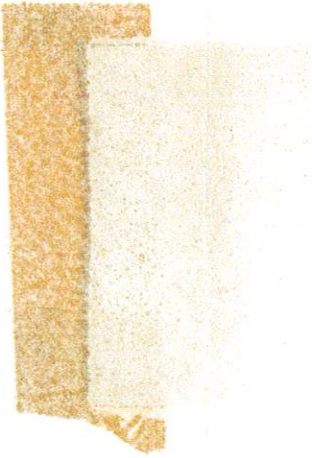
Date of 4th publication _____, 195____ Vol. _____ No. _____

Subscribed and sworn before the undersigned this 27 day of aug, 1959.

Dorothy Martin
Notary Public, Baldwin County.

E. R. Mourslette, Jr.
Editor.

4515



DAM

WITNESSETH OF PUBLICATION

STATE OF GEORGIA
JAMES H. HARRIS



FILED

AUG 28 1959

ALICE J. DUCK, CLERK REGISTER

4515

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 *Jonest Smith*
2. SIGNATURE OF ADDRESSEE'S AGENT (Agent should enter addressee's name in item 1 above)
3. DELIVERY DATE
Feb. 27, 19 *59*
- 4.

FILED
MAR 1 1959
MAR 2 1959
MAR 3 1959
CLERK REGISTER

GPO c16-71548-3

4515

INSTRUCTIONS TO DELIVERING EMPLOYEE

- DELIVER ONLY TO ADDRESSEE (20¢ additional)
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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 *Anne Whatley*
2. SIGNATURE OF ADDRESSEE'S AGENT (Agent should enter addressee's name in item 1 above)
W. M. Arthur
3. DELIVERY DATE
, 19
- 4.

FILED
MAR 2 1959
MAR 3 1959
CLERK REGISTER

408 W.P.U.

GPO c16-71548-3

4515

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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 *Rose O. Smith*
2. SIGNATURE OF ADDRESSEE'S AGENT (Agent should enter addressee's name in item 1 above)
3. DELIVERY DATE
Feb. 27, 19 *59*
- 4.

FILED
MAR 1 1959
MAR 2 1959
MAR 3 1959
CLERK REGISTER

GPO c16-71548-3

4515

INSTRUCTIONS TO DELIVERING EMPLOYEE

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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 *Randuce Ray*
2. SIGNATURE OF ADDRESSEE'S AGENT (Agent should enter addressee's name in item 1 above)
W. M. Arthur
3. DELIVERY DATE
MAR 3 1959, 19
- 4.

FILED
MAR 5 1959
MAR 3 1959
CLERK REGISTER

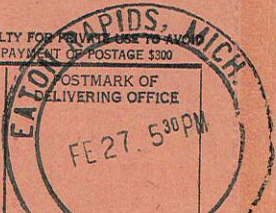
408 W.P.U.

GPO c16-71548-3

POD Form 3811, Dec. 1955

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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



INSTRUCTIONS.—Show name, address and number of article below. Complete "Instructions to Delivering Employee" on other side, when applicable. Moisten gummed ends and securely attach to back of article. Endorse front of article RETURN RECEIPT REQUESTED.

RETURN TO

REGISTERED NO.	NAME OF SENDER
CERTIFIED NO. 696575	Street and No. or P. O. Box Box 239
INSURED NO.	CITY, ZONE, AND STATE Bay Minette, Ala.

010-71648-3

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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



INSTRUCTIONS.—Show name, address and number of article below. Complete "Instructions to Delivering Employee" on other side, when applicable. Moisten gummed ends and securely attach to back of article. Endorse front of article RETURN RECEIPT REQUESTED.

RETURN TO

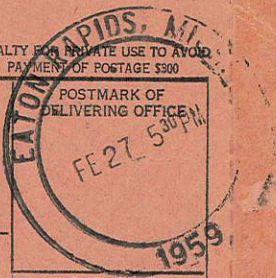
REGISTERED NO.	NAME OF SENDER
CERTIFIED NO.	Street and No. or P. O. Box Box 239
INSURED NO.	CITY, ZONE, AND STATE Bay Minette, Ala.

010-71648-3

POD Form 3811, Dec. 1955

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OFFICIAL BUSINESS

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



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RETURN TO

REGISTERED NO.	NAME OF SENDER
CERTIFIED NO. 696574	Street and No. or P. O. Box Box 239
INSURED NO.	CITY, ZONE, AND STATE Bay Minette, Ala.

010-71648-3

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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



INSTRUCTIONS.—Show name, address and number of article below. Complete "Instructions to Delivering Employee" on other side, when applicable. Moisten gummed ends and securely attach to back of article. Endorse front of article RETURN RECEIPT REQUESTED.

RETURN TO

REGISTERED NO.	NAME OF SENDER
CERTIFIED NO. 696572	Street and No. or P. O. Box Box 239
INSURED NO.	CITY, ZONE, AND STATE Bay Minette, Ala.

010-71648-3

EDNA L. NICKERSON, | IN THE CIRCUIT COURT OF
 | Complainant, | BALDWIN COUNTY, ALABAMA
 | vs. |
FOREST SMITH, ET AL., | IN EQUITY.
 | Respondents. |

ANSWER AND WAIVER:

The undersigned, Ora Mae Palmer, does hereby accept service of the Bill of Complaint filed in this cause, waives notice of the date set for hearing the said cause, and consents and agrees that testimony be taken and that a final decree be rendered in said cause in accordance with the prayer for relief in the said Bill of Complaint, all without further notice, which notice is hereby expressly waived.

DATED this 24 day of February, 1959.

Ora Mae Palmer
Ora Mae Palmer.

4515

FILED

APR 14 1950

ALICE J. DUCK, CLERK
REGISTER

EDNA L. NICKERSON,) IN THE CIRCUIT COURT OF
Complainant,)
vs.) BALDWIN COUNTY, ALABAMA
FOREST SMITH, ET AL.,) IN EQUITY. NO. 4515.
Respondents.)

RECEIPT:

I, Edna L. Nickerson, do hereby acknowledge receipt of the amount of \$ 182.20 in full payment of my distributive share of the proceeds of the sale in the above styled cause.

DATED this 24th day of October, 1959.

Edna L. Nickerson

Edna L. Nickerson

4515

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STATE OF ALABAMA, BALDWIN COUNTY

Filed 12-16-59 11:00 A.M.Recorded Filed book 286 page 599-600W. L. Stuart
Judge of Probate

BOOK 286 PAGE 599

EDNA L. NICKERSON,)
 Complainant,)
 vs.)
 FOREST SMITH, ET AL.,)
 Respondents.)

IN THE CIRCUIT COURT OF
 BALDWIN COUNTY, ALABAMA
 IN EQUITY. NO. 4515.

DECREE:

This cause coming on to be heard on this date is submitted for a decree upon the original, verified Bill of Complaint; answer and waiver of Ora Mae Palmer; answer and waiver of Lela Spears; motion for decree pro confesso and decree pro confesso, upon consideration of all of which the court is of the opinion that the allegations contained in the Bill of Complaint are true and that the Complainant is entitled to the relief prayed for therein, upon consideration of all of which, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. The Complainant and the Respondents, Forest Smith and Rose Smith, are joint tenants or tenants in common of the following described land situated in Baldwin County, Alabama, to-wit:

Lot 4 in the resubdivision of Lots 1, 2 and 3, Block 2, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Map Book 3 at page 138, Baldwin County, Alabama Records, together with a right of way easement over and across Lot 6 in Block 1, Gulf Bays Tract, according to the official map or plat thereof which is recorded in Miscellaneous Book 1 at pages 256-7, Baldwin County, Alabama Records,

and that the Complainant owns an undivided one-half interest in and to the above described property, and the Respondents, Forest Smith and Rose Smith, each own an undivided one-fourth interest therein.

2. The said property cannot be equitably divided among the joint owners thereof without a sale and division of the proceeds and that such sale is to the best interest of all parties interested in this proceeding.

3. The said property is hereby ordered sold for division and for the purpose of perfecting such sale, the Register of the

Circuit Court of Baldwin County, Alabama, in Equity, shall be, and she is hereby appointed Commissioner to make the sale and is hereby ordered and directed to sell the above described property at public outcry, to the highest bidder for cash, at the front door of the Courthouse in Bay Minette, Baldwin County, Alabama, at 11:30 o'clock A. M. on the 11th day of September, 1959, after first giving notice of the time, place and terms of the said sale and a description of the said property, by publication once a week for three successive weeks in the Baldwin Times, a newspaper published in Bay Minette, Baldwin County, Alabama. The said Commissioner shall make a report of the said sale to this Court within thirty days after the said sale is made.

4. The Register of this court shall file a 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.

5. Jurisdiction of this cause is reserved for the purpose of taking testimony relative to an attorney's fee to be paid the Complainant's attorney or solicitor for his services rendered and to be rendered in this cause; for the purpose of taking testimony relative to the amount of taxes paid on said property and by whom the said taxes were paid, and other testimony as may be meet and proper and for the purpose of making such other orders and decrees as may be necessary and proper in the premises.

ORDERED, ADJUDGED AND DECREED on this the 11th day of August, 1959.

Hubert M. Hall

Judge.

I, Alice J. Duck, Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decrees entered by the Judge of the Circuit Court in above stated cause, which said decrees are on file and enrolled in my office.

WITNESS MY HAND AND SEAL THIS THE 11 day of Aug, 1959

Alice J. Duck
Register of Circuit Court, in Equity

