

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama, }

Baldwin County.

Circuit Court, Baldwin County

No. _____

_____ TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Claude Peteet

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 _____

Claude Peteet, Cartain Lands, et als, Defendant

by Malbis Memorial Foundation, As Trustee Under Item Five of the Last Will and

Testament of Georgr Marinos, Deceased

_____, Plaintiff

Witness my hand this 3rd day of August 1959

W. J. Smith, Clerk

MALBIS MEMORIAL FOUNDATION, AS) IN THE CIRCUIT COURT
 TRUSTEE UNDER ITEM FIVE OF THE)
 LAST WILL AND TESTAMENT OF) OF
 GEORGE MARINOS, DECEASED,)
 Complainant,) BALDWIN COUNTY, ALABAMA

 vs.) IN EQUITY
)
 CLAUDE PETEET, LANDS DESCRIBED) NUMBER _____
 IN THE BILL, and any other)
 persons, firms or corporations)
 claiming any title to or in-)
 terest in the Lands Described)
 in the Bill,)

 Respondents.)

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA, SITTING IN EQUITY:

Comes your Complainant, MALBIS MEMORIAL FOUNDATION,
 As Trustee under Item Five of the Last Will and Testament
 of GEORGE MARINOS, Deceased, by P. E. FRANKOS, its Presi-
 dent, and respectfully shows unto the Court as follows:

ONE

Complainant is a charitable corporation organized
 under the laws of the State of Alabama, with its office
 and principal place of business in Daphne, Baldwin County,
 Alabama.

TWO

Complainant is in the peaceable possession, either actu-
 al or constructive, of the lands hereinafter described and
 in order to establish its right and title to said lands and
 to clear up all doubts and disputes concerning the same,
 files this, its verified Bill of Complaint, against the
 following described lands, located in Baldwin County, Ala-
 bama, viz.:

North half of the Northeast Quarter
 of Section 26, Township 8 South,
 Range 4 East,

and against CLAUDE PETEET, a resident of Foley, Baldwin

County, Alabama, and against any and all unknown parties who claim or are reputed to claim any title to, interest in, lien or encumbrance upon said lands or any part thereof. The said CLAUDE PETEET is over the age of twenty-one (21) years.

THREE

Complainant avers that through its attorney it has made a diligent search in an effort to locate any persons who claim or are reputed to claim any right, title, interest, lien or encumbrance in or upon said land or any part thereof; that in conducting such search, it has caused to be purchased an abstract of title from Baldwin County Abstract Company of Bay Minette, Alabama, and has employed an attorney to examine the same; that, through its attorney, it has made an independent examination of the records in the Office of the Judge of Probate, Baldwin County, Alabama, and in the Tax Assessor's and Tax Collector's office of said County, and that in addition, it has, through its attorney, contacted persons who have owned real property in the neighborhood of the lands for a number of years; and that Complainant does not know of any other person, firm or corporation who claims the land which is the subject of this suit, or any title to, interest in, lien or encumbrance thereon, or any part thereof other than the above named Respondent.

FOUR

Complainant claims in its own right the title in and to the above described real estate, and in support of such claim of title avers that it acquired said title by virtue of the following:

1. Tax Deed by G. W. Humphries, Judge of Probate to A. M. Grimsley, dated May 25, 1928, and recorded in Deed Book 46, page 29.

2. Quitclaim Deed from A. M. Grimsley and wife to J. S. Lowrey, dated April 5, 1940, and recorded in Deed Book 71, page 366.

3. Statutory Warranty Deed from J. S. Lowrey, unmarried, to George Marinos, dated April 12, 1940, and recorded in Deed Book 71, page 373.

4. Last Will and Testament of George Marinos, deceased, recorded in Will Book 2, page 130.

All Deed Book and Will Book references in this Bill of Complaint are to records in the Office of the Judge of Probate of Baldwin County, Alabama.

FIVE

Complainant avers in the alternative, either

(i) that it is now and has been, and its predecessors in title have been, in actual, open, notorious, continuous, peaceable, adverse possession of said land under color of title for a period of ten (10) years prior to the filing of this Bill of Complaint; or

(ii) that it is now and has been, and its predecessors in title have been, in actual, open, notorious, continuous, peaceable, adverse possession of said land for a period of more than three (3) years prior to the filing of this Bill of Complaint, holding said property under the title commencing with the tax deed more particularly described in FOUR above; or

(iii) that it, and those under whom it claims, have held color of title to said property for more than ten (10) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period; or

(iv) that it, and those under whom it claims, have held color of title to said property for more than twenty (20) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period; or

(v) that it, and those under whom it claims, have held color of title to said property for more than ten (10) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period, and no other person, natural or artificial, has paid taxes on said land or any portion thereof during any part of said period; or

(vi) that it, and those under whom it claims, have held color of title to said property for more than twenty (20) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period, and no other person, natural or artificial, has paid taxes on said land or any portion thereof during any part of said period.

SIX

Complainant, in order to fully apprise the Court of the facts involved in this case, avers that someone has illegally and without authority caused to be placed a one-strand barbed wire fence attached to trees on approximately six (6) acres of said property, which said barbed wire for the most part runs along the ground and is unconnected.

Complainant further avers it and its predecessors in title have assessed and paid taxes on said property for over twenty-five (25) years and that no one else has assessed or paid any taxes on said property until 1957 and 1958, when the Respondent Claude Peteet erroneously and illegally also assessed and paid taxes thereon, which said

assessments were double assessments illegally made and therefore invalid and void.

SEVEN

Complainant avers that there is no suit pending to test the title to said real estate or its interest in or right to possession of said land or any part thereof.

EIGHT

Complainant, in filing this Bill of Complaint seeking the aid of the Court of Equity, offers to do such equity on its part as this Court may decree and direct.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, your Complainant prays that it might be allowed to file this, its verified Bill of Complaint, against the lands hereinabove described and the Respondent hereinabove named; and that process as authorized by law be issued and served upon CLAUDE PETEET, Foley, Alabama, and that publication be made to any and all unknown parties claiming any interest in, title to, lien or encumbrance upon said land or any part thereof, if any there be, all in accordance with the rules and practices of this Honorable Court and the laws of the State of Alabama, requiring them to plead, answer or demur to the same within the time required by law; and Complainant further prays that a copy of said notice be certified by the Register of this Court, as correct, and be recorded as a Lis Pendens proceeding in the Office of the Judge of Probate of Baldwin County, Alabama.

Complainant further prays that this Honorable Court will appoint forthwith a Guardian Ad Litem to defend for any unknown parties who are under the age of twenty-one (21) years or who may be incompetent, and an Attorney Ad

Litem to defend for any unknown parties who might be in the Armed Services of the United States of America, or its Allies, within the meaning of the Soldiers and Sailors Civil Relief Act.

PRAYER FOR RELIEF

WHEREFORE, the premises considered, your Complainant prays that Your Honor will establish its right and title to said land and its interest therein, and will clear up all doubts and disputes concerning same, and that the title to said land be in your Complainant, absolutely and in fee simple, and that Your Honor will decree that no person, firm or corporation has any right, title or interest in, or encumbrance upon, said land or any part thereof, except your Complainant.

Your Complainant further prays that the Register of this Court shall be required to file in the Office of the Judge of Probate, Baldwin County, Alabama, a certified copy of said decree.

Your Complainant prays for all such other, further and different relief as it may be entitled to receive, the premises considered.

MALBIS MEMORIAL FOUNDATION

By 
P. E. FRANKOS

Its President

STATE OF ALABAMA,
COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for the State of Alabama at Large, P. E. FRANKOS, who is known to me and who being by me first duly sworn, deposes and says on oath that he is familiar with

the contents of the above Bill of Complaint and that he has signed his name thereto as the President of MALBIS MEMORIAL FOUNDATION and that to the best of his knowledge, information and belief all of the facts in said Bill of Complaint are true and correct.

PE Frankel
Affiant

Subscribed and sworn to before
me, the undersigned Notary Public
in and for the State of Alabama
at Large on this the 27th day of
July, 1959.

Edwin J. Curran
Notary Public, State of Alabama at Large

FILED

AUG 3 1959

ALICE J. DUCK, CLERK
REGISTER

MALBIS MEMORIAL FOUNDATION, AS) IN THE CIRCUIT COURT
TRUSTEE UNDER ITEM FIVE OF THE)
LAST WILL AND TESTAMENT OF) OF
GEORGE MARINOS, DECEASED,)
Complainant,) BALDWIN COUNTY, ALABAMA

vs.

IN EQUITY

CLAUDE PETEET, LANDS DESCRIBED)
IN THE BILL, and any other)
persons, firms or corporations)
claiming any title to or in-)
terest in the Lands Described)
in the Bill,)

NUMBER 4670

Respondents.)

TO THE HONORABLE JUDGE OF THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA, SITTING IN EQUITY:

Comes your Complainant, MALBIS MEMORIAL FOUNDATION,
As Trustee under Item Five of the Last Will and Testament
of GEORGE MARINOS, Deceased, by P. E. FRANKOS, its Presi-
dent, and respectfully shows unto the Court as follows:

ONE

Complainant is a charitable corporation organized
under the laws of the State of Alabama, with its office
and principal place of business in Daphne, Baldwin County,
Alabama.

TWO

Complainant is in the peaceable possession, either actu-
al or constructive, of the lands hereinafter described and
in order to establish its right and title to said lands and
to clear up all doubts and disputes concerning the same,
files this, its verified Bill of Complaint, against the
following described lands, located in Baldwin County, Ala-
bama, viz.:

North half of the Northeast Quarter
of Section 26, Township 8 South,
Range 4 East,

and against CLAUDE PETEET, a resident of Foley, Baldwin

County, Alabama, and against any and all unknown parties who claim or are reputed to claim any title to, interest in, lien or encumbrance upon said lands or any part thereof. The said CLAUDE PETREY is over the age of twenty-one (21) years.

THREE

Complainant avers that through its attorney it has made a diligent search in an effort to locate any persons who claim or are reputed to claim any right, title, interest, lien or encumbrance in or upon said land or any part thereof; that in conducting such search, it has caused to be purchased an abstract of title from Baldwin County Abstract Company of Bay Minette, Alabama, and has employed an attorney to examine the same; that, through its attorney, it has made an independent examination of the records in the Office of the Judge of Probate, Baldwin County, Alabama, and in the Tax Assessor's and Tax Collector's office of said County, and that in addition, it has, through its attorney, contacted persons who have owned real property in the neighborhood of the lands for a number of years; and that Complainant does not know of any other person, firm or corporation who claims the land which is the subject of this suit, or any title to, interest in, lien or encumbrance thereon, or any part thereof other than the above named Respondent.

FOUR

Complainant claims in its own right the title in and to the above described real estate, and in support of such claim of title avers that it acquired said title by virtue of the following:

1. Tax Deed by G. W. Humphries, Judge of Probate to A. M. Grimsley, dated May 25, 1928, and recorded in Deed Book 46, page 29.

2. Quitclaim Deed from A. M. Grimsley and wife to J. S. Lowrey, dated April 5, 1940, and recorded in Deed Book 71, page 366.

3. Statutory Warranty Deed from J. S. Lowrey, unmarried, to George Marinos, dated April 12, 1940, and recorded in Deed Book 71, page 373.

4. Last Will and Testament of George Marinos, deceased, recorded in Will Book 2, page 130.

All Deed Book and Will Book references in this Bill of Complaint are to records in the Office of the Judge of Probate of Baldwin County, Alabama.

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Complainant avers in the alternative, either

(i) that it is now and has been, and its predecessors in title have been, in actual, open, notorious, continuous, peaceable, adverse possession of said land under color of title for a period of ten (10) years prior to the filing of this Bill of Complaint; or

(ii) that it is now and has been, and its predecessors in title have been, in actual, open, notorious, continuous, peaceable, adverse possession of said land for a period of more than three (3) years prior to the filing of this Bill of Complaint, holding said property under the title commencing with the tax deed more particularly described in FOUR above; or

(iii) that it, and those under whom it claims, have held color of title to said property for more than ten (10) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period; or

(iv) that it, and those under whom it claims, have held color of title to said property for more than twenty (20) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period; or

(v) that it, and those under whom it claims, have held color of title to said property for more than ten (10) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period, and no other person, natural or artificial, has paid taxes on said land or any portion thereof during any part of said period; or

(vi) that it, and those under whom it claims, have held color of title to said property for more than twenty (20) years next preceding the filing of this Bill of Complaint and have paid taxes on said property during the whole of such period, and no other person, natural or artificial, has paid taxes on said land or any portion thereof during any part of said period.

SIX

Complainant, in order to fully apprise the Court of the facts involved in this case, avers that someone has illegally and without authority caused to be placed a one-strand barbed wire fence attached to trees on approximately six (6) acres of said property, which said barbed wire for the most part runs along the ground and is unconnected.

Complainant further avers it and its predecessors in title have assessed and paid taxes on said property for over twenty-five (25) years and that no one else has assessed or paid any taxes on said property until 1957 and 1958, when the Respondent Claude Peteet erroneously and illegally also assessed and paid taxes thereon, which said

assessments were double assessments illegally made and therefore invalid and void.

SEVEN

Complainant avers that there is no suit pending to test the title to said real estate or its interest in or right to possession of said land or any part thereof.

EIGHT

Complainant, in filing this Bill of Complaint seeking the aid of the Court of Equity, offers to do such equity on its part as this Court may decree and direct.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, your Complainant prays that it might be allowed to file this, its verified Bill of Complaint, against the lands hereinabove described and the Respondent hereinabove named; and that process as authorized by law be issued and served upon CLAUDE PETEST, Foley, Alabama, and that publication be made to any and all unknown parties claiming any interest in, title to, lien or encumbrance upon said land or any part thereof, if any there be, all in accordance with the rules and practices of this Honorable Court and the laws of the State of Alabama, requiring them to plead, answer or demur to the same within the time required by law; and Complainant further prays that a copy of said notice be certified by the Register of this Court, as correct, and be recorded as a Lis Pendens proceeding in the Office of the Judge of Probate of Baldwin County, Alabama.

Complainant further prays that this Honorable Court will appoint forthwith a Guardian Ad Litem to defend for any unknown parties who are under the age of twenty-one (21) years or who may be incompetent, and an Attorney Ad

Litem to defend for any unknown parties who might be in the Armed Services of the United States of America, or its Allies, within the meaning of the Soldiers and Sailors Civil Relief Act.

PRAYER FOR RELIEF

WHEREFORE, the premises considered, your Complainant prays that Your Honor will establish its right and title to said land and its interest therein, and will clear up all doubts and disputes concerning same, and that the title to said land be in your Complainant, absolutely and in fee simple, and that Your Honor will decree that no person, firm or corporation has any right, title or interest in, or encumbrance upon, said land or any part thereof, except your Complainant.

Your Complainant further prays that the Register of this Court shall be required to file in the Office of the Judge of Probate, Baldwin County, Alabama, a certified copy of said decree.

Your Complainant prays for all such other, further and different relief as it may be entitled to receive, the premises considered.

MALEIS MEMORIAL FOUNDATION

By /s/ P. E. Frankos
P. E. FRANKOS

Its President

STATE OF ALABAMA,
COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for the State of Alabama at Large, P. E. FRANKOS, who is known to me and who being by me first duly sworn, deposes and says on oath that he is familiar with

the contents of the above Bill of Complaint and that he has signed his name thereto as the President of MALBIS MEMORIAL FOUNDATION and that to the best of his knowledge, information and belief all of the facts in said Bill of Complaint are true and correct.

15/ P. E. Franks
Affiant

Subscribed and sworn to before
me, the undersigned Notary Public
in and for the State of Alabama
at Large on this the 21 day of
July, 1959.

15/ Edwin J. Curran
Notary Public, State of Alabama at Large

FILED
JUL 29 1959
NOTARY PUBLIC
STATE OF ALABAMA

FILED
AUG 3 1959
ALICE J. DUCK, CLERK
REGISTER

NOTARY PUBLIC, State of Wisconsin at Large

1959

at Large on this the 27 day of
in and for the State of Wisconsin
me, the undersigned Notary Public
subscribed and sworn to before

WILLIAM

certifying the facts and contents of
information and belief all of the facts in said Bill of
ADMINISTRATIVE CONVICTION and that to the best of his knowledge,
has signed his name thereto in the presence of WITNESSES
the contents of the above Bill of Conviction and that he

MALBIS MEMORIAL FOUNDATION, AS
TRUSTEE UNDER ITEM FIVE OF THE
LAST WILL AND TESTAMENT OF
GEORGE MARINOS, DECEASED,

Complainant,

vs

CLAUDE PETEET, LANDS DESCRIBED
IN THE BILL, and any other
persons, firms or corporations
claiming any title to or in-
terest in the Lands Described
in the Bill,

Respondents.

IN THE CIRCUIT COURT
OF
BALDWIN COUNTY, ALABAMA

IN EQUITY
NUMBER 4670

Comes the respondent, Claude Peteet, in the above styled
cause and demurring to the bill of complaint heretofore filed in
said cause and to each and every part thereof, says:

1. That there is no equity in the bill.

FILED

AUG 27 1959

ALICE J. DUCK, Register

BEEBE & SWEARINGEN

BY *F. B. Swearingen*
Attorneys for respondent

4620

FILED

AUG 27 1959

ALICE J. DUCK, Register

THE BALDWIN TIMES

JIMMY FAULKNER
PUBLISHER

Alabama's Best County's Best Newspaper

BAY MINETTE, ALABAMA

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA.
BALDWIN COUNTY.

E R Morrisette 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

Lis Pendens Notice #4670

COST STATEMENT

462 WORDS @ 6 1/2 cents \$ 30⁰³
I hereby certify this is correct, due and unpaid (paid).

E R Morrisette Jr.
Editor.

was published in said newspaper for 4 consecutive weeks in the following issues:

Date of 1st publication Aug. 6, 1959 Vol. 71 No. 30
Date of 2nd publication Aug 13, 1959 Vol. 71 No. 31
Date of 3rd publication Aug 20, 1959 Vol. 71 No. 32
Date of 4th publication Aug 27, 1959 Vol. 71 No. 33

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

Dorothy Martin
Notary Public, Baldwin County.

E R Morrisette Jr.
Editor.

LIS PENDENS NOTICE
In the Circuit Court of Baldwin County, Alabama in Equity No. 4670. Malbis Memorial Foundation, Trustee under Item Five of the Last Will and Testament of George Marinos, deceased, Complainant, versus Claude Petee, Land Described in the Bill of Complaint, et al. Respondents.
Notice is hereby given to Claude Petee, Foley, Alabama, and also to any and all other persons, firms or corporations claiming any title, or interest in, lien or encumbrance upon the lands described below, or any part thereof, that on the 3rd day of August, 1959, Malbis Memorial Foundation, as Trustee under Item Five of the Last Will and Testament of George Marinos, deceased, filed a verified Bill of Complaint in the Circuit Court of Baldwin County, Alabama, in Equity, claiming to own in its own right, as such Trustee, absolutely and in fee simple, the following described real property situated in the County of Baldwin, State of Alabama, viz:
North half of the Northeast Quarter of Section 26, Township 3 South, Range 4 East.
Complainant alleges in its Bill of Complaint that the title to said lands stands in its name on the records of the Probate Court of Baldwin County, Alabama, by virtue of the following:
1. Tax Deed by G. W. Humphries, Judge of Probate to A. M. Grimsley, dated May 25, 1928, and recorded in Deed Book 46, page 29.
2. Quitclaim Deed from A. M. Grimsley and wife to J. S. Lowrey, dated April 5, 1940, and recorded in Deed Book 71, page 366.
3. Statutory Warranty Deed from J. S. Lowrey, unmarried, to George Marinos, dated April 12, 1940, and recorded in Deed Book 71, page 373.
4. Last Will and Testament of George Marinos, deceased, recorded in Will Book 2, page 130.
All of the above Deed Book and Will Book references in this notice are to records in the Office of the Judge of Probate, Baldwin County, Alabama.
If the said Claude Petee, or any and known parties, or any other persons, firms or corporations claim any title to, interest in, lien or encumbrance upon said hereinabove described real property, or any part thereof, they must be and appear in said Circuit Court of Baldwin County, Alabama, in Equity, and plead, answer or demur to said Bill of Complaint before the expiration of sixty (60) days from the date of the first publication of this notice which said sixty (60) days expire on the 3rd day of October, 1959, or suffer a decree pro confesso to be rendered against them.
Witness my hand this 3rd day of August, 1959:
ALICE I. DUCK, Register of the Circuit Court of Baldwin County, Alabama.
VICKERS EHS, MURRAY AND CURRAN, By EDWIN I. CURRAN, JR., Solicitors for Complainant.
30-4tc

4670

FILED

AUG 26 1959

ALICE J. DUCK, CLERK
REGISTER

VICKERS, RIIS, MURRAY AND CURRAN

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
ERLING RIIS, JR.
J. MANSON MURRAY
EDWIN J. CURRAN, JR.

March 7, 1960

MAILING ADDRESS:
POST OFFICE BOX 990
HEMLOCK 2-8767

Mrs. Alice J. Duck, Clerk
Circuit Court of Baldwin County
In Equity
Bay Minette, Alabama

Re: Malbis Memorial Foundation
as Trustee, etc., v. Claude
Peteet, Case No. 4670

Dear Mrs. Duck:

We have effected a settlement of the captioned case
with Mr. Claude Peteet and we therefore request you
to dismiss said case at the request of Complainant
and forward the bill of costs to us.

Yours very truly,

VICKERS, RIIS, MURRAY AND CURRAN


Edwin J. Curran, Jr.

EJC/vh