

4356

STATE OF ALABAMA

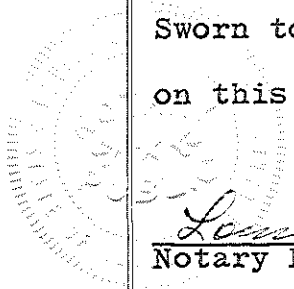
BALDWIN COUNTY

Before me, LOUISE J. DUSENBURY, a Notary Public, in and for said County in said State, personally appeared Norborne C. Stone, Jr. who is known to me and who, after being by me first duly and legally sworn, did depose and say under oath as follows:

That his name is Norborne C. Stone, Jr. and he is one of the attorneys for the Complainants in that certain cause now pending in the Circuit Court of Baldwin County, Alabama, in Equity, wherein Missouri Horace and Annie Robinson are the Complainants and Bertha Ferrell et al., are the Respondents and that his name is signed to the Bill of Complaint in said cause as such attorney. That he is informed and believes and upon such information and belief alleges that Bertha Ferrell, Willie Parker and Sadie Parker Jackson are each over the age of twenty-one years and of sound mind and are non-residents of the State of Alabama. That the address of Bertha Ferrell is 108 West Nervin Avenue, Richmond, California, and the address of Sadie Parker Jackson is 1228 Egbert Avenue, San Francisco, California, but the address of Willie Parker cannot be ascertained after reasonable effort except that it is known that he resides in the State of California near where the said Bertha Ferrell resides.

Norborne C. Stone, Jr.  
Norborne C. Stone, Jr.

Sworn to and subscribed before me  
on this the 11 day of August, 1958.



Louise J. Dusebury  
Notary Public, Baldwin County, Alabama.

MISSOURI HORACE and ANNIE  
ROBINSON,

Complainants,

vs.

GERTRUDE SLADE, COLLINS HORACE,  
WILLIE MAE HENRY, LEONA SIM-  
MONS, BERTHA FERRELL, WILLIE  
PARKER, SADIE PARKER JACKSON  
and JOE JAMES,

Respondents.

Y  
Y  
Y  
Y  
Y  
Y  
Y  
Y

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

ORDER OF PUBLICATION

It having been made to appear to the undersigned, as Register of the Circuit Court of Baldwin County, Alabama, In Equity, from the affidavit of Norborne C. Stone, Jr., one of the attorneys of record for the Complainants in the above styled cause, that Willie Parker, one of the Respondents in the above styled cause is a non-resident of the State of Alabama, over the age of twenty-one years, residing in the State of California, but whose particular address cannot be ascertained after reasonable effort and that service of process should be had by publication in accordance with Equity Rule 6 (A) Alabama Equity Rules; now, therefore,

NOTICE IS HEREBY GIVEN to Willie Parker, a non-resident of the State of Alabama, residing in the State of California, that on the 11<sup>th</sup> day of August, 1958, Missouri Horace and Annie Robinson filed a Bill of Complaint in the Circuit Court of Baldwin County, Alabama, in which you were named as a Respondent along with Gertrude Slade et al. The Bill of Complaint alleges that the Complainants and the Respondents are the joint owners of the following described parcels of land situated in Baldwin County, Alabama, to-wit:

PARCEL A

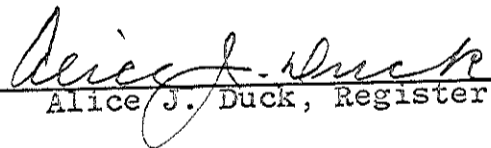
Beginning at the Southeast corner of Section 22, Township 1 North, Range 2 East, run thence West 1,577.6 feet to an iron bolt in Rice Creek for the point of beginning; run thence South 85° 30' West along a fence line 194 feet to a point; run thence North 88° West 880 feet along a fence line to a corner post situated in the East right-of-way line of a public highway; run thence North 2° 39' West 344 feet along said East right-of-way line to a brass pipe; run thence North 64° 10' East 388.2 feet to a one inch iron rod; run thence North 64° 10' East 266.4 feet to an iron bolt located on the edge of Rice Creek; run thence in a Southeasterly direction and following the meanderings of Rice Creek in a general direction of South 37° 45' East 815 feet, more or less, to the point and place of beginning, containing 10.5 acres, more or less.

PARCEL B

Commencing at the Northeast corner of Section 37, Township 1 North, Range 2 East, run thence North 35 feet more or less, to a fence corner post for the point and place of beginning; thence continue North 0° 30' East along a fence line 414 feet to an iron pin; run thence North 76° East 210 feet to a point in the West right-of-way line of a public highway; run thence South 2° 55' East 467 feet along the West right-of-way of said public highway to a point; run thence West 234 feet to the point and place of beginning, containing 2.25 acres, more or less

and that said land cannot be equitably divided without a sale thereof and a division of the proceeds among the joint owners and said Bill of Complaint prays that said land be sold and that the proceeds thereof be distributed among the joint owners after the payment of court costs, attorneys fees and amounts expended by the Complainants in the care and preservation of said property. You are therefore notified that you are required to answer or plead to said Bill of Complaint on or before ~~August~~<sup>September</sup> 18, 1958, or a decree pro confesso will be entered against you.

WITNESS my hand and the seal of the Circuit Court of Baldwin County, Alabama, In Equity, on this the 11 day of ~~July~~<sup>August</sup>, 1958.

  
\_\_\_\_\_  
Alice J. Duck, Register

CHASON & STONE  
Attorneys for Complainants

MISSOURI HORACE, ET AL.,  
Complainants,  
vs.  
SAM WALKER ET AL.,  
Respondents.

Y  
Y  
Y  
Y  
Y  
Y

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY

MOTION TO SET CAUSE DOWN FOR HEARING

Come now the Complainants in the above styled cause, by their Solicitors, and move this Honorable Court to set a date and time to hear this cause and submit the same for final decree.

Respectfully submitted,

CHASON & STONE

By: Malone Stone  
Solicitors for Complainants.

ORDER SETTING DAY FOR HEARING

The above and foregoing motion having been filed in this Court and the same having been called to the attention of the Court and the Court having considered the same, it is, therefore

ORDERED and DECREED by the Court that the 5 day of Nov, 1959, at 9:00 A. M. be, and it is hereby, set as the date and time for the hearing of this cause and submission for final decree.

It is further ordered by the Court that the Respondents Sam Walker and Baldwin County Bank be notified of the above motion and of this order by the Register of this Court mailing to the Respondent Sam walker in Stockton, Alabama, and to the Respondent Baldwin County Bank in Bay Minette, Alabama, a copy of said motion and of this order.

Done this 21 day of ~~August~~ <sup>October</sup>, 1959.

FILED

OCT 28 1959

ALICE J. DUCK, CLERK, REGISTER

Robert W. Stone  
Circuit Judge

MISSOURI HORACE ET AL.,	X	
Complainants,	X	IN THE CIRCUIT COURT OF
vs.	X	BALDWIN COUNTY, ALABAMA
BERTHA FERRELL ET AL.,	X	
Respondents.	X	IN EQUITY

Come now the Complainants in the above styled cause, by their attorneys, and respectfully represent and show unto this Honorable Court as follows:

1. That the Respondent Sam Walker is in the possession of "parcel A" described in the original Bill of Complaint in this cause and there are a number of pecan trees located on said tract or parcel of land which will be bearing within the next month or two.

2. That your Complainant Annie Robinson has discussed the matter of the proceeds of the sale of pecans from said trees and has been informed by the Respondent Sam Walker that he was going to sell the pecans and was not going to account to the Complainants or any of the other Respondents for their prorata share of the proceeds.

3. That said pecan trees constitute a valuable improvement on the property which is the subject matter of this suit and your Complainants and the other Respondents as joint owners and tenants in common of said property are entitled to their prorata share of the proceeds from the sale of said pecans.

WHEREFORE, the premises considered the Complainants respectfully pray that on the filing of this petition that this Honorable Court will cause notice of the filing thereof to be given to the Respondent Sam Walker or to Messrs. Beebe & Swearingen as his solicitors of record and will further appoint a day for the hearing of this petition and give said Respondent or his solicitors notice of the day set therefor. And the Complainants further pray that on the day set for hearing this petition that this Honorable Court will enter an order or decree requiring the Respondent Sam Walker to fully and completely account to the Court for the sale of the pecans located on "parcel A" and will require the said Sam Walker to pay the

proceeds of such sale into this Honorable Court to be distributed to all of the owners of said property as their interest shall appear.

Respectfully submitted

CHASON & STONE

By:

Norborne C. Stone, Jr.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Blanche White, a Notary

Public, in and for said County in said State, personally appeared Norborne C. Stone, Jr., who is known to me and who after being by me first duly and legally sworn, did depose and say under oath as follows:

That his name is Norborne C. Stone, Jr. and that he is one of the solicitors of record for the Complainants in the above styled cause and his name is signed to the foregoing petition as such. That he is informed and believes and upon such information and belief alleges that the facts in the foregoing petition are true.

Norborne C. Stone, Jr.

Sworn to and subscribed before me on this the 14th day of October, 1958.

Blanche White  
Notary Public, Baldwin County, Alabama

MISSOURI HORACE and ANNIE  
ROBINSON,

Complainants,

vs.

BERTHA FERRELL, WILLIE  
PARKER, SADIE PARKER JACK-  
SON, JOE JAMES, SAM WALKER  
and BALDWIN COUNTY BANK, A  
Corporation,

Respondents.

X  
X  
X  
X  
X  
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X  
X  
X  
X  
X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

TO: THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AND TO  
THE HONORABLE HUBERT M. HALL, JUDGE THEREOF:

Come your Complainants Missouri Horace and Annie Robinson,  
by their attorneys, and respectfully represent and show unto Your  
Honor and unto this Honorable Court as follows:

FIRST:

That they are both over the age of twenty-one years and  
are resident citizens of Baldwin County, Alabama, residing in Stock-  
ton, Alabama. That the Respondents are each over the age of twenty-  
one years. The Respondent Bertha Ferrell is a resident citizen of  
the State of California, residing at 108 West Nervin Avenue in Rich-  
mond, California; the Respondent Sadie Parker Jackson is a resident  
citizen of the State of California, residing at 1228 Egbert Avenue,  
San Francisco, California; the Respondent Willie Parker is a resi-  
dent of the State of California, but his address is not known to your  
Complainants and cannot be ascertained but your Complainants know  
that he does live near the Respondent Bertha Ferrell in Richmond,  
California; the Respondent Joe James is a resident citizen of the  
State of Alabama, residing at Prichard, Alabama, but his particular  
address is not now known; the Respondent Sam Walker is a resident  
citizen of the State of Alabama residing in Stockton, Alabama; and  
the Respondent Baldwin County Bank is a corporation organized and  
existing under the laws of the State of Alabama with its principal  
place of business in Bay Minette, Alabama.

SECOND:

That your Complainants, together with the Respondents,  
are the joint owners and tenants in common of the following described  
real property situated in Baldwin County, Alabama, to-wit:

PARCEL A

Beginning at the Southeast corner of Section 22, Township 1 North, Range 2 East, run thence West 1,577.6 feet to an iron bolt in Rice Creek for the point and place of beginning; run thence South 85° 30' West along a fence line 194 feet to a point; run thence North 88° West 880 feet along a fence line to a corner post situated in the East right-of-way line of a public highway; run thence North 2° 39' West 344 feet along said East right-of-way line to a brass pipe; run thence North 64° 10' East 388.2 feet to a one inch iron rod; run thence North 64° 10' East 266.4 feet to an iron bolt located on the edge of Rice Creek; run thence in a Southeasterly direction and following the meanderings of Rice Creek in a general direction of South 37° 45' East 815 feet, more or less, to the point and place of beginning, containing 10.5 acres, more or less.

PARCEL B

Commencing at the Northeast corner of Section 37, Township 1 North, Range 2 East, run thence North 35 feet, more or less, to a fence corner post for the point and place of beginning; thence continue North 0° 30' East along a fence line 414 feet to an iron pin; run thence North 76° East 210 feet to a point in the West right-of-way line of a public highway; run thence South 2° 55' East 467 feet along the West right-of-way of said public highway to a point; run thence West 234 feet to the point and place of beginning, containing 2.25 acres, more or less,

which property is situated near stockton in Baldwin County, Alabama. That said property is divided by a public road and there are improvements on a portion of said property, part of the same being located in a creek bottom and part of the same being located along the highway and said property cannot be equitably divided without a sale of the same and a division of the proceeds of such sale among the joint owners.

THIRD:

That said property was owned during her lifetime by one Phyllis Washington, the grandmother of both of the Complainants and the great grandmother of the Respondents Bertha Ferrell, Willie Parker, Sadie Parker Jackson. That the said Phyllis Washington died about thirty years ago intestate and her husband predeceased her and she left as her heirs at law and next of kin two sons, Hamilton Washington and Charlie Washington. That Hamilton Washington died many years ago, the exact date of his death being unknown to your Complainants and they do not know whether he died before his mother,



Phyllis Washington, or not, but they do know that he died intestate and that his wife, Carrie Washington, died subsequent to his death. That the said Hamilton Washington left surviving him as his heirs at law and next of kin, aside from his wife Carrie Washington, who is now deceased, the following children: Camilla Pope, Bertha Mattox, Viola Young, Eugene Washington, Reuben Washington, Missouri Horace (one of the Complainants) Lenora Parker and Odessa Washington. That Odessa Washington died intestate about fifteen years ago and left no children and was unmarried on the date of her death and her heirs at law and next of kin were the named children of the said Hamilton Washington, who were her brothers and sisters. That Lenora Parker is now dead and her husband is also dead and she left surviving her three children as her heirs at law and next of kin, namely: Bertha Ferrell, Willie Parker and Sadie Parker Jackson, all of whom are named as Respondents to this proceeding. That Charlie Washington, the other son of the said Phyllis Washington, died intestate subsequent to the death of Phyllis Washington and his wife, Anna Washington, had predeceased him. That he left surviving him as his heirs at law and next of kin the following children: Bessie James, Hover Williams, Nellie Stevens, Vandon Washington, Hamilton Washington and Laura James and Annie Robinson (one of the Complainants). That Bessie James died intestate about two years ago and left surviving her, her husband, Joe James (one of the Respondents named herein) and two children, Lucille James and Mary A. Williams, as her heirs at law and next of kin. That Lucille James died on June 26, 1957, leaving as her only heir at law and next of kin, one child, John Edward James.

FOURTH:

That prior to the conveyance by a number of the above named heirs at law and next of kin of the said Hamilton Washington and Charlie Washington which is hereinafter particularly referred to, the title to the above described parcels of land was owned in the following proportions:

Camilla Pope.....	1/14
Bertha Mattox.....	1/14
Viola Young.....	1/14

Eugene Washington.....1/14  
 Reuben Washington.....1/14  
 Missouri Horace.....1/14  
 Bertha Ferrell.....1/42  
 Willie Parker.....1/42  
 Sadie Parker.....1/42  
 John Edward James.....1/24  
 Mary Williams.....1/24  
 Hover Williams.....1/12  
 Nellie Stevens.....1/12  
 Vandon Washington.....1/12  
 Hamilton Washington.....1/12  
 Annie Robinson.....1/12

subject only to a life estate in Joe James in an undivided 1/14th interest in said parcels of land as the surviving husband of Bessie James who owned a 1/14th interest at the time of her death.

FIFTH:

That on April 15, 1950, the said Camilla Pope and her husband Frank Pope executed and delivered to Malcolm Oneal Williams and Helen Williams a Warranty Deed purporting to convey the entire fee simple interest in and to seventeen and one quarter ( $17\frac{1}{4}$ ) acres of land in Section 22, Township 1 North, Range 2 East, which said deed included all of the land which is the subject matter of this suit except a small portion in the Northeast corner of "PARCEL A". Said deed is recorded in Deed Book 162 N. S. at pages 456, Baldwin County Records. On January 12, 1952, Malcolm Oneal Williams and Helen Williams re-conveyed said seventeen and one quarter ( $17\frac{1}{4}$ ) acre parcel to Frank Pope and Camilla Pope, husband and wife, which deed is recorded in Deed Book 194 N. S. at page 51, Baldwin County, Alabama public records. By virtue of the last noted conveyance, and in view of the fact that Camilla Pope was, on April 15, 1950, vested with the title to an undivided one-fourteenth ( $1/14$ ) interest in the land which is the subject matter of this proceeding, she and her husband Frank Pope, were then vested with an undivided one-twenty-eighth ( $1/28$ ) interest each in all of said property except the small portion in the Northeast Corner of "PARCEL A" in which Frank Pope did

not acquire an interest until the death of the said Camilla Pope intestate, at which time he acquired a life estate in the undivided one-fourteenth (1/14) interest with which his wife was seized at the time. On October 31, 1955, Camilla Pope and Frank Pope, her husband, executed and delivered a warranty deed to the Respondent Sam Walker conveying a tract of land which included all of the property which is the subject matter of this proceeding. This deed is recorded in Deed Book 228 N. S. at Page 404, Baldwin County, Alabama, public records. The Complainants allege that although this deed purports to convey the full fee simple title to the property therein described, reference to which deed is hereby made for a particular description, that as a matter of fact Camilla Pope and Frank Pope, her husband, had no more than an undivided 1/14th interest in the property described in said deed. On the same day (October 31, 1955) Sam Walker executed a mortgage to Baldwin County Bank, a corporation, to secure the payment of an indebtedness of the said Sam Walker to said Bank of One Thousand Two Hundred Fifty-nine Dollars and Twenty-eight Cents (\$1,259.28), which mortgage is recorded in Mortgage Record 258 at pages 66-68, Baldwin County, Alabama, public records. Although this mortgage purports to convey the full fee simple title to the property therein described, reference to which is hereby made for a particular description, that, in fact, Sam Walker was vested with only an undivided 1/14th interest in and to said property.

SIXTH:

That on February 14, 1958, all of the above named heirs at law and next of kin of the said Hamilton Washington and Charlie Washington except Bertha Ferrell, Willie Parker, Sadie Parker, Camilla Pope and the said Joe James conveyed all of their right, title and interest in and to said property to Missouri Horace and Annie Robinson (the Complainants) in equal parts, which deed is recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 265 at pages 111-116. That subsequent to said conveyance and the conveyances noted in paragraph "FIFTH", above, the title to said property was vested in the following persons in the

proportions shown opposite their names and is now vested in such persons in accordance with such proportions:

Missouri Horace.....	71/168
Annie Robinson.....	73/168
Sam Walker.....	12/168
Bertha Ferrell.....	4/168
Willie Parker.....	4/168
Sadie Parker.....	4/168

subject only to the life estate in Joe James in an undivided 12/168 or 1/14th, and to the mortgage of Baldwin County Bank covering the undivided 1/14th interest of Sam Walker.

SEVENTH:

That your Complainants, Missouri Horace and Annie Robinson, has expended great sums of money in and about the preservation and maintenance of said property and the payment of the taxes thereon including the cost of a survey made on January 10, 1958, by Claude W. Arnold in the amount of One Hundred Fifty Dollars (\$150.00), and other expenses necessarily incident to the proper preservation and protection of the said property and for the expenditure of which sums the said Complainants do hereby claim a lien in the total amount of said expenditures on said property and the proceeds of any sale thereof as herein prayed for.

EIGHTH:

That in order to properly present this proceeding to this Court and to formulate the respective interests of all of the joint owners of this property and to otherwise render the services required in filing and presenting this Bill of Complaint it has been necessary that your Complainants employ attorneys and to this end they have employed the firm of Chason & Stone of Bay Minette, Alabama, as such attorneys and have incurred attorneys fees with said firm for and on behalf of all said joint owners.

NINTH:

That there is presented herewith an affidavit of Norborne

C. Stone, Jr., one of the attorneys of record for the Complainants relative to the non-residence of five of the above Respondents in accordance with the equity rules in such cases made and provided.

PRAYER FOR PROCESS

The premises considered, your Complainants respectfully pray that this Honorable Court will cause the usual Writ of Process to issue against the named Respondents who are residents of the State of Alabama and whose addresses are shown herein and will cause such writ to be served upon them in accordance with the statutes in such cases made and provided requiring them to plead, answer or demur to this Bill of Complaint within the time allowed by law and under the rules of this Honorable Court. Your Complainants further pray that service of process be had upon the adult non-resident Defendants, Bertha Ferrell and Sadie Parker Jackson, whose addresses are known to the Complainants, in accordance with Equity Rule 5, 2(b), Alabama Equity Rules, by the Register of this Court mailing to said Respondents by registered mail, postage prepaid, a copy of this Bill of Complaint together with a summons to answer the same within thirty days from the receipt thereof, the envelope containing said copy of the Bill of Complaint and Summons to be marked "for delivery only to the person to whom addressed" and a return receipt demanded of the postoffice authority addressed to the Register of this Court. And Your Complainants further pray that service by publication be had on the Respondent Willie Parker, an adult non-resident Respondent whose address is not known and cannot be ascertained after reasonable effort under Equity Rule 6 (A), Alabama Equity Rules, by entering an order of publication requiring said Respondent to answer or plead to the Bill of Complaint before a date to be named therein, not less than thirty days nor more than fifty days from the making thereof, such order of publication to be published in a newspaper to be designated therein, once a week for four consecutive weeks and a copy of which order to be posted at the front door of the courthouse of Baldwin County, Alabama, and will further cause a copy of the Bill of Complaint to be mailed to the said Willie Parker at the address


shown for the Respondent Bertha Ferrell, it having been alleged that he lives near the said Bertha Ferrell in the State of California.

PRAYER FOR RELIEF

The premises considered, the Complainants pray that upon a final hearing of this cause that this Honorable Court will enter an order or decree establishing the joint ownership of the Complainants and the Respondents hereinabove described and will, in and by the terms of said decree, determine that the property hereinabove described cannot be equitable divided or partitioned among the said joint owners and will order a sale thereof for a division of the proceeds of such sale, such order or decree to specify the notices in regard to such sale and the time and place for the same to be held. And your Complainants further pray that in and by the terms of said decree that this Honorable Court will fix and determine a reasonable attorneys fee to be paid to Chason & Stone as attorneys for the Complainants and will order that said fee be paid out of the proceeds of said sale before a division and distribution thereof and will further order and decree that the Complainants Missouri Horace and Annie Robinson are entitled to a lien on said property and the proceeds of such sale in an amount to be fixed and determined by this Court, such amount to be paid to them before a distribution of the proceeds of such sale. And your Complainants pray for such other and different relief as in the premises will be meet and proper and they do hereby offer to do equity.

CHASON & STONE

By:

  
Attorneys for Complainants

STATE OF ALABAMA

IN THE CIRCUIT COURT - IN EQUITY

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Sam Walker, Joe James, and Baldwin County Bank, a corporation, to appear and plead, answer or demur, within thirty days from the service hereof, to the Bill of Complaint filed in the Circuit Court of Baldwin County, Alabama, In Equity, by Missouri Horace and Annie Robinson, as Complainants, against Bertha Ferrell, et al., Respondents.

Witness my hand on this the 11 day of August, 1958.

  
Register