4606

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEOR GE MARINOS, DECEASED. Complainant, VS. OSCAR BERGSTEIN, if living, or, if deceased, the heirs or devisees of OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, and any other persons, firms or corporations claiming any title to or interest in the lands described in the bill, Respondents.	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY. No. 4606

HON. HARRY J. WILTERS, GUARDIAN AD LITEM.

EDWIN J. CURREN, JR., SOLICITOR FOR THE COMPLAINANT, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

My name is Edwin J. Curren, Jr.; I have been retained by Malbis Memorial Foundation, as Trustee under Item Five of the last will and testament of George Marinos, deceased, to research the title to those certain timber lands in Baldwin County, Alabama, which were bequeathed to the Foundation under Mr. Marinos' will, to determine the status of the title to said property and to take such steps as nedessary to clear the title. In each case there were a number of things which I did to determine the status of the title. In the first place I was furnished an abstract of title ffom Baldwin County Abstract Company, Bay Minette, Alabama, and upon receipt of that abstract I examined same to determine where the record title is presently lying.

In addition, I checked the directories in Bay Minette, Alabama, Mobile, Alabama, and in other places where I had reason to believe that former owners might reside. I have checked the Tax Assessor's records in Baldwin County, Alabama, and talked personally with Mr. Tunstall, Tax Assessor, to determine if he knew of the whereabouts of any of the former record owners of the property. In a few instances he gave me possible addresses of such persons and in those cases I made efforts to locate the people. I have checked the will books in the Office of the Probate Judge of Baldwin County, Alabama, and I have visited the property and in certain cases talked with persons who live in the neighborhood of the property to determine if they knew the identity or whereabouts of the former record owners. Through such research I was unable to locate any of such owners, or to determine if they were dead or alive or to determine if they had any heirs at law or next of kin who claimed any interest in the various parcels of property. I also conducted a search to determine if there were any suits pending to test the title or the right of possession to the various parcels of property and found that no suits had been filed prior to the filing of these law suits.

As to case No. 4606, which involves the Southeast Quarter of the Southwest Quarter of Section 35, Township 8, South, Range 4 East, I would like at this time to get the record title into the record.

Complainant's Exhibit 1, Certified Copy of Patent from the United States of America, Swamp Land Patent, to State of Alabama, dated July 11, 1870.

Complainant's Exhibit 2, Patent, State of Alabama, to Perdido Bay Lumber Company, dated May 9, 1905, and recorded in Deed Book 8, pages 662-63.

Complainant's Exhibit 3, Tax Deed to A. M. Grimsley, dated May 25, 1928, recorded in deed Book 46 at pages 19-20.

Complainant's Exhibit 4, Deed A. M. Grimsley - Quitclaim deed - and wife, to J. S. Lowrey, dated April 5, 1940 and recorded in Deed Book 71 N. S. at page 366.

Complainant's Exhibit 5, Statutory Warranty deed from J. S. Lowrey, unmarried, to George Marinos, dated April 12, 1940, recorded in Deed Book 71 at page 373. (This instrument can be found with the exhibits in case No. 4601.

Complainant's Exhibit 6, Last will and testament of George Marinos, deceased. (This will is attached to case No. 4600 as an Exhibit.

I would like to testify that the records indicate that Oscar Bergstein, respondent in case No. 4606, lived at one time in Winnebago, County, Ill, and I wrote to the Tax Assessor of Winnebago County, Ill. to determine if they had any present address for said respondent, but found that none is available.

PAUL E. TETER, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

Direct examination by Mr. Curren.

Q. Will you state your name?

A. Paul E. Teter.

Q. Your occupation?

A. I am in the abstract business.

Q. Are you the owner of the Baldwin County Abstract Company?

A. I am.

Q. At my request, on behalf of the Malbis Memorial Foundation, did you prepare an abstract of title, in some cases a continuation of the abstract to lands belonging to Malbis Memorial Foundation?

A. I did.

Q. Also at my request, did you examine the records in the Tax Assessor's office to detemine how the taxes were assessed and whether or not the taxes were paid on these particular parcels of land for a period of 10 years?

A. I did.

Q. Did you prepare a certificate setting forth your findings from this search?

A. I did.

Q. In making this search did you look for any double assessments that might be on record?

A. Any shown on the plat books.

Q. If there were any, did you indicate that on your certificate?

A. I did.

Q. As to the Southeast Quarter of Southwest Quarter, of Section 35, Township 8 South, Range 4 East,, what did your investigation show as to the assessment and payment of taxes for the past 10 years?

A. This tract of land was assessed for the years 1948, through 1956 by George Marinos, and taxes paid; for 1957 and 1958, the property was assessed by Malbis Memorial Foundation as Trustee and taxes paid

P. E. FRANKOS, A WITNESS FOR THE COMPLAINANTS, BEINGFIRST DULY SWORN, TESTIFIED:

Examination by Mr. Curren.

Q. What is your name, please?

A. P. E. Frankos.

Q. Are you President of Malbis Memorial Foumdation?

A. Yes sir.

Q. That is a charitable corporation, founded under the Laws of the State of Alabama?

A. Yes sir.

Q. Is that the same Malbis Memorial Foundation as set out in Item 5 of the Will of George Marinos, deceased?

A. Yes sir.

Q. Under the terms of that will is it not true that the Foundation was left all of the timber lands which Mr. Marinos owned in Baldwin County, Alabama, with the obligation to sell the timbered lands within five years from the date of his death?

A. That is what the will said.

Q. What, if anything, did the Foundation do after the death of George Marinos, with the property that was bequeathed to them?

A. As soon as we found out that he had made the will for us to sell that property like he specified in his will, we had our woodsman to locate the property and then look after it and we told Mr. Lyles if he found anything wrong to notify us, because he was out in the woods most of the time.

Q. Your woodsman, is he an employee of the Malbis Foundation, who looks after this and other property which you have title to?

A. That is right.

Q. Is his function to go around from time to time and check on the property and see the condition?

A. Yes sir.

Q. Has Malbis Memorial Foundation, since it got title to this property, cut or sold any of this property?

A. Not one bit.

Q. Is there any reason why they have not sold the timber?

A. Because we wanted to sell it all together and give 3/4 of the proceeds to the Merchants National Bank like the will said.

Q. The will does not give you the right to sell the timber?

A. No.

Q. Has Malbis Memorial Foundation paid taxes on this property since it received this property?

A. Yes, for 1957 and 1958?

Q. Any other evidence of ownership that Malbis Memorial Foundation has exercised in connection with this property?

A. Well we had several calls from people that wanted to buy pieces of the land and they come in and ask us to sell it.

Q. What about fire protection?

A. We have the County or State Fire Control; we pay them six cents an acre for watching it.

Q. You have paid them with respect to the property you received

from George Marinos?

A. Yes sir.

Q. Does your land man visit this property from time to time?

A. Yes sir.

Q. To determine if it is in good condition?

A. Yes sir.

O. W. LYLES, BEING FIRST DULY SWORN, TESTIFIED FOR THE COMPLAINANT AS FOLLOWS:

Examination by Mr. Curren.

Q. What is your name, please?

A O. W. Lyles.

Q. Who do you work for?

A. S. M. Adams, Inc.

Q. What is the business of S. M. Adams, Inc?

A. Timber.

Q. How long have you been working for S. M. Adams, Inc?

A. A little over 13 years.

Q. Do you know George Marinos?

A/ I do.

Q. What was your association with Mr. Marinos?

A. I cut a lot of timber for him at various times; in fact, I cut over all of his land between '46 and the time of his death, excusing one tract in Lillian Swamp that I couldn't get to.

Q. Did you work for Mr. Marinos?

A. At one time I did for two years.

Q. At the same time you worked for S. M. Adams?

A. Yes sir.

Q. Do you know Mr. P. E. Frankos of Malbis Foundation?

A. Yes sir.

Q. Do you know Mr. Mathews who looks after the property?

A. I do.

Q. Have either of these gentlemen requested that you look after their property in Baldwin County, Alabama, on your trips through the County?

A. Yes sir.

Q. Do you, from time to time check the property of Malbis Memorial Foundation?

A. I do.

Q. Are you familiar with the various parcels of property involved in the law suits under discussion?

A. Yes sir.

Q. You have gone over the description of the property with me?

A. Yes.

Q. You have looked at the property on a map of Baldwin County?

A. I have.

Q. Have you personally visited every parcel of property involved in these law suits?

A. I have - I think a little more than that; I have marked the timber

on every parcel.

Q. You testify that you have marked the timber on every parcel of timber involved in these law suits?

A. That is right.

Q. Has that been since the time Mr. Marinos owned the property?

A. Yes sir.

Q. Have you ever cut any timber from these parcels?

A. From all parts.

Q. What was the nature of the cutting?

A. Improvement cutting - thinning and cutting the trees that have been worked for turpentine.

Q. Do you know of any other than Malbis Memorial Foundation claiming to own the property since the death of George Marinos?

A. No.

Q. During the time you were familiar with these parcels of property while they were owned by George Marinos, did you know of any one else claiming any right or title to the lands?

A. No I didn't.

Q. Did the title of certain of these piece of property come through S. M. Adams, Inc?

A. Yes sir.

Q. Was the timber cut prior to the time it was sold to George Marinos by S. M. Adams, Inc?

A. It was.

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

I hereby certify that the foregoing, consisting of pages 1 to 11, both inclusive, correctly sets forth a true and correct transcript of the testimony in the above styled cause, as taken by me in open Court, on the 19th day of August, 1959.

This 25th day of August, 1959.

Laura Bassenberger

Court Reporter

Case 4606 #50 - Dist 1

Comp Ex 1

Also #259 - Dist 1

#34

#49

———————0000000———————

No. 5.

The United States of America.

To all to whom these presents shall come, Greeting: Whereas by the act of Congress, approved September 28th, 1850, entitled, "An act to enable the state of Arkansas and other states to reclaim the "Swamp lands" within their limits" it was provided that all the "Swamp and Overflowed Lands," made unfit thereby for cultivation, within the state of Alabama which remained unsold at the passage of said act, shall be granted to said state.

And whereas, in pursuance of instructions from the General Land Office of the United States, the several tracts or parcels of land hereinafter described have been selected as "Swamp and Overflowed" Lands," inuring to the said state under the act aforesaid, being situated in the district of lands subject to sale at Mobile, formerly at St Stephens, to-wit:-

Township one south of range one east:-The west half of the north west quarter, the south east quarter, and the east half of the south west quarter of section two; the part of the south east quarter east of river of section five; the whole of fractional section ten, east of Tensas river; the north west quarter of the north east quarter, the north half of the north west quarter, the south west quarter of the north west quarter, the north east quarter of the south east quarter, the south half of the south east quarter and the north west quarter of the south west quarter of section twelve; the north east fractional quarter and the north fractional half of the northwest quarter of section fourteen; the part of fractional section seventeen east of Mobile river; the south east quarter of the north east quarter, the north west quarter, and the south east quarter of section twenty-two; the east fractional half of section twenty-four, and the northwest quarter of the north west quarter of section twenty-six, containing one thousand six hundred and eighty-one acres, and thirty-nine hundredths parts of an acre.

Township two south of range one east:-The south half of the northeast quarter the north half of the southeast quarter, the south west quarter of the south east quarter, the east half of the south west quarter and the south west quarter of the south west quarter of section two; the north east fractional quarter of the north east quarter east of Lizzard creek, the south west fractional part of the north east quarter east of Lizzard creek, the south east fractional quarter east of Lizzard creek, and the part of the west fractional half east of Lizzard creek of section ten; the whole east of Lizzard creek of fractional section fourteen; the whole east of Lizzard creek of fractional section twenty-four; the whole of section twenty-eight; the north half, and the north half of the south west fractional quarter east of Touacha river of section thirty; the south east quarter of the north west quarter, the south east quarter and the south west quarter of the south west quarter of section thirty-two; and the fraction east of Lizzard creek of section thirty-six, containing two thousand four hundred and forty-seven acres and fifty-five hundredths parts of an acre.

Township three south range one east:-The north west quarter of the north east quarter and the north half of the north west quarter of section four. the north west quarter of the north east quarter and the north half of the north west quarter of section six; the whole west of Mobile river of fractional section eight; the whole south of Raft river of fractional section twenty-two; the west fractional part of section twenty-six; the east half, and the south half of the south west quarter of section twenty-seven; the north east quarter of the north east quarter, and the Lot A. of section twenty-eight; the east half of the north east quarter, the south west quarter of the north east quarter, and Lots A, B, C, D, E, F, G and H of section thirty-three; the whole on both sides of river of section thirty-four; the whole of fractional section thirty-five; and the whole west of river of fractional section thirty-six, containing two thousand eight hundred and ninety-nine acres and seventy-three hundredths parts of an acre.

Township four south of range one east:-The whole of fractional section two; the east half of the north west quarter, and the south half of the south west quarter of section three; the north east fractional quarter on both sides of river, the west fractional half, and the north west fractional part of the south west quarter west of river of section four; the whole of fractional section five; the whole of fractional section eight; the north fractional part of the south west quarter on island, the west fractional part of the north west quarter, and the south west fractional quarter on both sides of river of section nine; the whole of fractional section ten; the east fractional half and the north west fractional quarter of section eleven; the whole of fractional section thirteen; the whole of fractional section fourteen; the whole of fractional section fifteen; the whole of fractional section seventeen; the whole of fractional section twenty; the whole of fractional section twenty-two; the whole of fractional section twenty-four; the whole of fractional section twenty-five; the whole on both sides of river of fractional section twenty-six; the whole on both sides of river of fractional section [illegible]

section twenty-four, the whole or fractional section thirty-two, section thirty-
of fractional section thirty-six, containing three thousand one hundred
three acres and seventy-one hundredth parts of an acre.
township six south of range one east.-The whole of fractional section three, the
section twenty-three, the whole of fractional section twenty-two, the north
section twenty-three, the north half, and the south west quarter of section twenty-
and the east half of the north west quarter of section twenty-five, containing
six hundred and forty-seven acres and ninety hundredth parts of an acre.
township one south of range two east.-The east half and the north west quarter of section
the whole of fractional section eighty, the north half of the north east quarter, the
half of the north west quarter, the south west quarter of the north west quarter, the
west quarter of the south west quarter of section twelve, the whole of section
or fractional section twenty; and the whole of fractional section thirty, containing
hundred and twenty-five acres and thirty-five hundredth parts of an acre.
township two south of range two east.-The whole of fractional section six, the whole of
section eight, the whole of section eighteen, the whole of fractional section
the whole of fractional section thirty, containing one thousand five hundred and
acres and thirty-four hundredth parts of an acre.
township three south of range two east.-The east half of the north west quarter of section
the lot A, of section eight, containing one hundred and thirty-two acres and forty-
hundredth parts of an acre.
township four south of range two east.-The west half of the north west quarter and the
the south west quarter of section two; the north east quarter, the south west
half of the north east quarter and the east half of the south west quarter of section four;
the north east quarter and the east half of the south west quarter of section ten; the north east
section eight; the west half of the south west quarter of section twenty-three; the
of section fourteen, the south half of the north east quarter of section twenty-three; the
of section twenty-four, the whole of section twenty-six, and the whole of section thirty-
six, containing two thousand seven hundred and thirty-nine acres.
township five south range two east.-The north east quarter and the east half of the north
west quarter of section twelve; and the north east quarter of section twenty-three, containing
three hundred and ninety-nine acres and eighty-three hundredth parts of an acre.
township seven south of range two east.-The south half of the south east quarter and the south
half of the south west quarter of section twenty-eight; the lots one, two, three, six and seven
of section thirty-three, and the lots one, two, three, four, five, six and eight or section
thirty-four, containing six hundred and sixty-five acres and ninety-five hundredth parts of
an acre.
township nine south of range two east.-The lots one and two of section twenty-five, containing
one hundred and ninety-eight acres and six hundredth parts of an acre.
township one south of range three east.-The whole of section twelve; the north east quarter
south east quarter of the north west quarter, the north east quarter of the south west quarter
and the west half of the south west quarter of section fourteen; the north east quarter of the south
tion twenty-two; the east half of the north east quarter and the east half of the south west
quarter of section twenty-four, the south east quarter and the north half of the south west
of section twenty-six; the west half of the south east quarter of section thirty-four,
the whole of section thirty-six, containing two thousand two hundred and thirty-five acres
twenty-three hundredth parts of an acre.
township two south of range three east.-The north east quarter of the north east quarter
west half of the north east quarter, the west half of the north west quarter, the south east
quarter of the north west quarter, the west half of the south east quarter and the south
quarter of section two; the north east quarter, the north half of the north east quarter
south half of the south east quarter and the south half of the south west quarter of section
twelve; the east half of the north west quarter and the south west quarter of the south east
quarter of section twenty-two; the north west quarter of the north east quarter, the south east
half of the north east quarter, the south half of the north west quarter, the south west
half of the south east quarter, the east half of the south west quarter and the north west
ter of the south west quarter of section twenty-four; the north half and the north east quarter
of the south east quarter of section twenty-six; the east half of the north east quarter
section thirty; the east half of the north west quarter and the east half of the south
quarter of section thirty-four; the south half of the north east quarter and the south
section thirty-six, containing two thousand three hundred and forty-five acres and
seven hundredth parts of an acre.
township three south of range three east.-The east half of the north east quarter and the
east half of the south east quarter of section two; the north east quarter of section four; the
quarter, and the north west quarter of the north west quarter, the west half of the south
quarter, the north west quarter of the north west quarter of section ten; the west
quarter and the south east quarter of the south east quarter of section twelve;
the north west quarter and the west half of the south west quarter, the north east quarter
the north east quarter, the north west quarter, the south west quarter
for the south west quarter, and the north west quarter of the south west quarter
the north half and the south east quarter of the north west quarter, the east half of the north
two, the east half of the north east quarter, the south west quarter of the south west
south east quarter and the north east quarter of the south west quarter
four; the north west quarter and the east half of the north west quarter, the north west
the south west quarter of the north west quarter of section twenty-
quarter and the north half of the south west quarter, the east half of the south
the north east quarter of section thirty; the east half of the north east quarter
or, quarter of the north west quarter, the south west quarter of section thirty-two, the
north west quarter of the south west quarter, the north east quarter, the
south east quarter of section thirty-four; the north east quarter of section thirty-six, containing
east quarter, and the south west quarter of section thirty-six, containing
seventy-six acres and twenty-eight hundredth parts of an acre.
township four south of range three east.-The east half of the north east quarter of the
of section two; the north half of the north east quarter and the north west quarter of the
the north east quarter and the north west quarter of the north west quarter, the west half of the
east half of the south east quarter

north east quarter and the south half of the north west quarter of section twenty-
four; the north east quarter of the north east quarter, the south west quarter of
north west quarter, and the west half of the south west quarter of section thirty-two; the north west quar-
the south half of the south east quarter of section thirty-two; the north east quar-
ter of the north east quarter, and the south east quarter of the north east quar-
ter of section thirty-four, and the west half of the north west quarter of section
thirty-six, containing one thousand three hundred and twenty-nine acres.
Township five south of range three east:-The north west quarter of section two; the
east half of section four; the north east quarter of the south east quarter, the
west half of the south east quarter, and the north west quarter of section six; the
north east quarter of the south east quarter of section ten; the south half of the
north west quarter, and the south half of section twelve; the east half, the south
half of the north west quarter, and the east half of the south west quarter of sect-
on twenty-four; the north half of the north east quarter, and the west half of the
north west quarter of section twenty-six; the north east quarter of section thirty;
the north west quarter of the north west quarter, and the south half of the south we
west quarter of section thirty-two; and the north half of section thirty-six; con-
taining two thousand four hundred and thirty-six acres and sixteen hundredth parts
an acre.
Township eight south of range three east:-The lots eleven, twelve and fourteen of
section eighteen; the lot two of section nineteen; the lots eleven, twelve and four-
teen of section twenty; the lots three, six, seven, nine, ten and fourteen of sect-
ion twenty-eight, containing five hundred and twenty-one acres and sixty-two hun-
dredth parts of an acre.
Township nine south of range three east:-The lot D. of section one; the lots A. and
B. of section twelve; the lots A. and B. of section fourteen; the south fractional
half or lots A, B, C, and D of section nineteen; the lots B. and C. and D. of section
twenty; and the lots C. and D. of section twenty-three; containing seven hundred
and thirty-four acres.
Township one south of range four east:-The south half of section two; the north
west quarter of the north west quarter and the south half of section four; the
south half of section six; the south west quarter of the north east quarter, the south east
quarter of the north west quarter, the north half of the south east quarter and the
south west quarter of the south east quarter of section eight; the whole of section
ten; the north east quarter of section twelve; the west half and the south east
quarter of section fourteen; the whole of section eighteen; the west half and the
south east quarter of section twenty; the west half of the north west quarter, and
the south half of sction twenty-two; the north west quarter of section twenty-
four; the north west quarter of section twenty-six; the whole of section twenty-
eight; the whole of section thirty; the west half, and the west half of the south
east quarter of section thirty-two; and the whole of section thirty-four, contain-
ing six thousand four hundred and eighty-one acres and eighty-one hundredth parts
of an acre.
Township two south of range four east:-The south half of the north west quarter and
the South west quarter of section two; the whole of section four; the south half of the
north east quarter of section six; the north half of the south east quarter, and the
north half of the south west quarter of section eight; the north east quarter, the east
half of the north south east quarter; the south west quarter of the south east quarter
and the south west quarter of section ten; the east fractional half, and the east
fractional half of the south west quarter of section twelve; the west half of the
north east quarter, the north east quarter, and the south east quarter of section
fourteen; the south half of section twenty; the whole of fractional section twenty-four
the south west quarter of section twenty-eight; the north half of the north east quar-
ter, the north half of the north west quarter, the west half of the south east quarter
and the south east of the south east quarter of section thirty-six; containing three
thousand and eighty-five acres, and eighty one hundredths parts of an acre.
Township three south of range four east:- The west half of the north east quarter
the east half of the north west quarter, the south half of the south east quarter and
the north half of the south west quarter of section four; the west half of section
six, the south half of the north east quarter and the west half of the south east
quarter of section fourteen; the east half of section twenty-two; the north west quar-
ter of section twenty four; the north east quarter and the west half of section twen-
ty-six the west half of the north east quarter, the north west quarter of section
east quarter, and the north east quarter of the south west quarter of section twenty-
eight; the south west quarter of the north east quarter, the north east quarter of the south
west quarter, and the west half of the south west quarter of section thirty; the south
west quarter of section thirty-two; and the north east quarter of section thirty-four
containing two thousand three hundred and eighty-seven acres and eighty three hun-
dredth parts of an acre.
Township four South of range four east:- The east half, and the east half of the south
west quarter of section two; the north east quarter, the north east quarter of south
west quarter and the south west quarter of section four; the south half of the north
east quarter, the north west quarter, the south east quarter, and the north half of the
south west quarter of section six; the north east quarter, and the west half of sect-
ion eight; the west half of the north east quarter and the east half of the north
west quarter of section ten; the east half of section fourteen; the whole of section
twenty; the south half of the north east quarter, and the west half of section twen-
ty-two; the west half and the south west quarter of section twenty-two; the whole of sect-
ion twenty-four; the west half of section twenty-six; the south half of section twen-
ty-eight; the north east quarter, the west half of the south east quarter, the west
half of the north west quarter of section thirty; the east half of the north east quar-
ter, the west half of the south east quarter, the west half of the south west quar-
ter, the north east quarter of the north west quarter, the west half of the south
west quarter, and the south east quarter of section thirty-four; containing two

west quarter of the south east quarter, the north east quarter of the south west quarter, the south half of the south west quarter, the west half of the south west quarter, of section twenty-two, the north half of the south east quarter, and the north half of the north west quarter of section twenty-three, containing six hundred and eighty acres and one hundred and twenty-four hundredths part of an acre.

Township five South of Range four East:- The whole of section one, the south half of the north east quarter, and the south half of the south east quarter of section two, the south half of the south east quarter, and the south half of the south west quarter of section three, the south half of the south east quarter, and the south half of the south west quarter of section four, the north east quarter of the south east quarter, the south half of the south east quarter, the north west quarter of the north west quarter of section five, the north east quarter of the south east quarter, and the south half of the south east quarter, the north west quarter, and the north east quarter of the south west quarter of section six, the west half of the north west quarter, the south east quarter, and the south half of the south west quarter of section seven, the west half of the north west quarter, the south east quarter, and the south half of the south west quarter of section eight, the west half of the south west quarter of section nine, the north half of the north west quarter, the south half of the south east quarter of section ten, the north half of the north east quarter, the south half of the south west quarter, the north half of the north west quarter, and the south half of the south west quarter of section eleven, the south west quarter of the north east quarter, the north west quarter, the south west quarter, the south east quarter of section twelve, the south half of the south west quarter of section thirteen, the north east quarter, the south half of the south east quarter, the south west quarter of section fourteen, the south half of the south east quarter, the south west quarter, and the south west quarter of section fifteen, the south west quarter of the north east quarter, the north west quarter, the south west quarter, the south east quarter of section sixteen, the south half of the north west quarter, the east half of the north west quarter, the south west quarter, the south east quarter, and the south west quarter of the south east quarter, and the south west quarter of section twenty, the west half of the south east quarter, and the south west quarter, the west half of section twenty-one, the north east quarter, the east half of the north west quarter, the east half of the south west quarter, the south west quarter of section twenty-two, the north west quarter of the south west quarter, the south west quarter, and the south west quarter of section twenty-three, the east half of the north west quarter, the south west quarter, the south east quarter, and the south west quarter of section twenty-four, the east half of section twenty-five, containing two thousand two hundred and forty-eight acres and one hundred and twenty-four hundredths part of an acre.

Township six South of Range four East:- The South West quarter of the north east quarter, the north east quarter of the north west quarter, and the south east quarter of section one, the west half of the north east quarter, the north west quarter, and the south east quarter of section two, the north east quarter of the north west quarter, the south east quarter, the north west quarter of the north east quarter, the south west quarter of the north east quarter, the south west quarter, the south east quarter of the north west quarter, and the north half of the south west quarter of section three, the south west quarter of the north west quarter, the south east quarter, the south west quarter of the south west quarter, the south east quarter, and the south west quarter of section four, the south west quarter of the south west quarter, the south east quarter, and the east half of the south west quarter of section five, the north half of the north east quarter of section six, the north half of the north east quarter of section seven, the north half of the north east quarter, and the south west quarter of section eight, the north half of the north east quarter, and the south west quarter of section nine, the south half of the north east quarter, the south half of the south east quarter, and the south west quarter of section twelve, the whole of section thirteen, the north east quarter, the south half of the south east quarter, and the south west quarter of section fourteen, the south half of the north east quarter, the south half of the south east quarter, and the south west quarter of section fifteen, the south half of the north west quarter, the north half of the south west quarter of section twenty-five, the south half of the south west quarter of section twenty-six, the west half of the north west quarter, and the south west quarter of section twenty-seven, the south east quarter of the south west quarter of section twenty-eight, the north half of section twenty-three, the north east quarter, and the south east quarter of section thirty-one, the east half of section thirty-five, the west half of the north east quarter, the south east quarter, and the south west quarter of section thirty-four, the west half of the south east quarter, and the south west quarter, the west half of section thirty-six, containing six thousand nine hundred and eighty-four acres and eighty four hundredths parts of an acre.

Township seven South of Range four East:- The west half of the north east quarter, the north west quarter, and the west half of the south west quarter of section two, the north half of the south west quarter, and the west half of the south west quarter, and the west half of the south west quarter and the west half of the south west quarter of section three, the south half of the north west quarter of section three, the north half of the south west quarter of section eleven, the south west quarter of the south east quarter, and the west half of the north west quarter, the north half of the south west quarter, the north west quarter, the south west quarter, the south east quarter of section fourteen, the north west quarter of the south east quarter, the south half of the south east quarter, the south west quarter of the south west quarter, the south east quarter of the south west quarter, the south east quarter of section twenty-two, the north west quarter of the north west quarter, the west half of the north east quarter, the west half of the south east quarter, the south west quarter of section twenty-three, the north half of the north east quarter, the south east quarter, and the south west quarter, and the west half of the south west quarter, the north east quarter of the north west quarter, the south east quarter, containing two thousand two hundred and forty-eight acres and one hundred and twenty-four hundredths part of an acre.

Township eight south of Range four East:- The west half of the south east quarter of section one, the south west quarter of section four, the north east quarter of section nine, the south west quarter of section fourteen, the north west quarter of the south east quarter of section twenty-three, the south west quarter of section twenty-six, the south east quarter of the south west quarter, and the west half of section twenty-seven, the south half of the south west quarter, the south west quarter of section twenty-eight, the south east quarter of the south west quarter, the south west quarter of section thirty-one, the south half of section thirty-two, the south east quarter, the east half of the south west quarter, the south west quarter of the south west quarter, the south east quarter, and the south west quarter of section four, the south west quarter of the south west quarter, the south east quarter, and the south west quarter of section five, the south west quarter of the south west quarter, the south east quarter, and the south west quarter of section twenty-eight, containing six thousand seven hundred and forty-four acres and eighty-eight hundredths parts of an acre.

#25a

#24

#49

the east half of section thirty-four, the west half of section thirty-five, the east half ~~of~~ and the south half of the south-west quarter of section thirty-six; containing three thousand, five hundred and twenty-eight acres and fifty-two hundredths parts of an acre.

Township nine south of RAnge four East:- The west half of the South east quarter and the north half of the south west quarter of section two; the south half of the south east quarter, and the south half of the south west quarter of section three; the south west quarter of the north west quarter; the west half of the south east quarter, and the south west quarter of section four; the south east quarter of the north east quarter, the north west quarter, and the south half of section five; the north east quarter of section six; the east half, and the south east quarter of the south west quarter of section seven; the whole of section eight; the north east quarter the west half and the east half of the south east quarter of section nine; the whole of section ten; the south half of section eleven; the whole of section twelve; the lots A and B of section thirteen; the north half and the south west quarter of lot B. of section fourteen; the whole of section fifteen; the south fractional half of section seventeen; the lots A and B of section eighteen; the whole of fractional section section nineteen; the lot A of section twenty; the lots A and B of section twenty-one; the whole of fractional section twenty-two and the whole of fractional section twenty-three; containing seven thousand one hundred and thirty-eight acres and eighty hundredths of an acre; containing in the aggregate seventy-nine thousand and forty two acres and fifty hundredths parts of an acre, according to the official plats of survey of said lands returned to the General Land Office by the Surveyor General, and for which the Governor of the said State of Alabama, did, on the twenty-first day of February in the year eighteen hundred and seventy, request a patent to be issued to the said state, as required in the aforesaid act. Now Therefore, know ye that the United States of America in consideration of the premises, and in conformity with the act of congress aforesaid, have given and granted and by these Presents do give and grant, unto the said State of Alabama, in fee simple, subject to the disposal of the Legislature thereof, the tracts of land above described. TO HAVE AND TO HOLD the same together with all the rights, privileges, immunities and appurtenances thereto belonging, unto the said State of Alabama, in fee simple and to its assigns forever.

In Testimony Whereof I, Ulysses S. Grant, president of the United States of America have caused these Letters to be made patent and the seal of the General Land Office to be hereunto affixed. Given under my hand at the City of Washington the eleventh day of July in the year of our Lord one thousand eight hundred and seventy, and of the Independance of the United States the ninety-fifth.

By the President: U.S.Grant,
by Charles White, Secretary.

L.S. J.N.Granger, Recorder of the General Land Office.

M.L. 128514 E.M.

D E P A R T M E N T O F T H E I N T E R I O R.
GENERAL LAND OFFICE.

R.C.L. Washington, D.C., June 9, 1902.

I, Binger Herman, Commissioner of the General Land Office, do hereby certify that the annexed paper, being a copy of Alabama, Swamp Land Patent No. 5 Mobile series, issued July 11, 1870, is a true and literal exemplification of the record of the original patent in this office.

In Testimony Whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the CITY OF WASHINGTON, on the day and year above written.

Binger Herman,
(Seal) Commissioner of the General Land Office.

Filed for record June 16th, 1902 at 10:15 A.M.,

Recorded June 18th, 1902.

Chas Hall,

Judge of Probate.

———————000000000———————

The State of Alabama,
Baldwin County.

PROBATE COURT

I, W. R. STUART, Judge of Probate Court in and for said State and County, hereby certify that the within and foregoing five (5) photostatic pages contain a full, true and complete copy of the Swamp Land Patent - U. S. of A. to Alabama

as the same appears of record in my office in Deed Book No. 5 page s 222 - 226.

Given under my hand and seal of office, this 17th day of August, 19 59

W R Stuart
Judge of Probate

By: Harry M. Dollive Chief Clerk

Moore Printing Co.

#50 - Inst 2

#49 - Statutent

Cartt 4606

Comp Exh 2

---0000---

The State of Alabama-

To all to whom these presents shall come, Greeting:

Know ye, That whereas by the provisions of the act of the Legislature of Alabama, entitled, "An Act for the relief of the Perdido Bay Lumber Company approved by the Governor of the State of Alabama, February 12th, 1879, the sales and conveyances by John R Tompkins, Receiver and Henry St. Paul, Agent of swamp and overflowed lands, made in the year 1872, to Robert F Queal, O H Queal, and S K Scott and by them conveyed to the Perdido Bay Lumber Company, lying and being in Baldwin County in this State and more particularly described in the report of said John R Tompkins, as Receiver, to Robert B Lindsay, Governor of the State, made in the year 1872, and in the patents issued by him were confirmed to said Perdido Bay Lumber Company, so that it could have and enjoy all the rights and interests which the state of Alabama had prior to such sale, and the Governor of this State was directed on demand to deliver to said Company patents for said lands, properly executed according to law-

And whereas I, Wm. D Jelks, Governor of the state of Alabama, have caused to be produced to me the original patents issued by Robert B Lindsay, as aforesaid, to the said R F Queal, O H Queal and Sarah K Scott, and have ascertained

therefrom and from the report of John R Tompkins, aforesaid, to Robert B Lindsay, Governor as aforesaid, mentioned in the said Act of February 12th, 1879, that the following lands are the lands sold and conveyed to the said Robert F Queal, O H Queal and S K Scott, as aforesaid, to-wit:-

South half of south east quarter and west half of section twenty-three, township eight south, range four east, containing 403-20 acres. south west quarter of section twenty-five township eight south, range four east, containing 161-00 acres. West half and north east quarter of section twenty-six, township eight south, range four east, containing 484-95 acres. East half of south west quarter and south east quarter of section twenty-seven, township eight south, range four east, containing 241-11 acres. South half of north west quarter and south west quarter of section twenty-eight, township eight south, range four east, containing 241-91 acres. South half of south west quarter and east half of section thirty-six, township eight south, range four east, containing 402-70 acres. West half of section thirty-five, township eight south, range four east, containing 316-15 acres. East half of section thirty-four, township eight south, range four east, containing 318-21 acres. North half of north east quarter and south east quarter of north east quarter of section thirty-two, township eight south, range four east, containing 110-10 acres. South half of south west quarter and north west quarter of south west quarter of section thirty-two, township eight south, range four east, containing 110-10 acres. South east quarter of section thirty-one, township eight south, range four east, containing 159-16 acres. West half of south east quarter and north half of south west quarter of section two, township nine south, range four east, containing 160-15 acres. South half of south half of section three, township nine south, range four east, containing 160-10 acres. West half of south east quarter and south west quarter of section four, township nine south, range four east, containing 239-90 acres. South west quarter of North west quarter of section four, township nine south, range four east, containing 39-98 acres; all in Baldwin County, State of Alabama.

There is therefore by these presents granted by the State of Alabama in conformity with the requirements of said act and to the extent therein authorized all the rights and interest in said lands which the state had prior to said sales by John R Tompkins, Receiver, etc., and Henry St. Paul, Agent, etc., to said Queal and Scott, with all the appurtenances thereunto belonging, unto the said Perdido Bay Lumber Company and its successors and assigns:

In testimony whereof, I have caused these Letters to be made patent and the great seal of the state of Alabama to be affixed at the Capitol in the City of Montgomery, this 9th day of May A D, one thousand nine hundred and five, and of the independence of the United States the one hundred and twenty-ninth year.

W D Jelks, Governor of Alabama

(seal)

By the Governor: E R McDavid, Secretary of State

Recorded in Book Patents 1, page 148.

Filed for record May 24th, 1905 at 10 A M

Recorded May 27th, 1905

J H H Smith, Judge of Probate.

The State of Alabama,
Baldwin County.

PROBATE COURT

I, W. R. STUART, Judge of Probate Court in and for said State and County, hereby certify that the within and foregoing two (2) photostatic pages contain a full, true and complete copy of the State Patent - Alabama to Perdido Bay Lumber Co.

as the same appears of record in my office in Deed Book No. 8 pages 662 - 663.

Given under my hand and seal of office, this 17th day of August, 19 59

W. R. Stuart
Judge of Probate

By: Harry M. Doline ~~Chief~~ Clerk

Moore Printing Co.

#50 - Inst 3

Case #4606
Comp Exh 3

----- o O o -----

Exh

The State of Alabama,
County of Baldwin.

Know all men by these presents; That, Whereas, the land hereinafter described was subject to taxation for the year 1925, and the Board of Revenue levied taxes thereon for county purposes for said year; and

Whereas, Said land was returned for taxation by Oscar Bergstein for said year 1925, and Whereas, The certificate of assessments was made in accordance with Section 18 of the Revenue Code, 1925; and

Whereas, The Tax Collector entered in the Docket of Tax Causes the description of said land, and amount of taxes, fees and charges due thereon for said year and delivered said Docket to the Probate Judge; and reported, in accordance with Section 220 of the Revenue Code, 1925, that he was unable to collect said taxes without sale of said land; and

Whereas, The Probate Court at the April, 1926, term, rendered decree ordering sale of said land for the payment of said taxes, fees, charges, costs and expenses at sale; and Whereas, The Tax Collector, in enforcement of said decree, gave thirty days notice by publication once a week for three successive weeks in the Baldwin Times, a newspaper regularly published in said county, and also by posting notice at the Court House of said County, at a public place in the precinct in which the land was situated, that he would sell said land on the 24th day of May, 1926, between 10 o'clock A M and 4 o'clock P M, in front of said Court House, which notices described said land and stated the amount for which the Probate Court's decree had been rendered against same, and that said taxes had been assessed to Oscar Bergstein, and

Whereas, The Tax Collector at said time, in front of said Court House door, did offer said land at public outcry, so that, as far as practicable, only such portion thereof was sold as was necessary to satisfy said decree, and did sell said land to A M Grimsley, who was the highest bidder, for $12.20, which covered the taxes, fees, charges, costs and expenses of sale, which amount he paid to said Tax Collector; and

Whereas, The Tax Collector did then deliver to said purchaser, in accordance with Section 235, of the Revenue Code, 1925, a certificate of purchase, containing description of said land, showing the date the same had been assessed toOscar Bergstein for said year; and also showing the taxes due thereon, distinguishing the amount due the State and county, and for school purposes, and the fees and costs; and further showing the time for wich said land was advertised, the date it was offered for sale, the name of the purchaser, and the price paid; and

Whereas, The time for redemption of said land has elapsed, and said Certificate of Purchase has been returned to the Probate Judge by A M Grimsley the purchaser.

Now, therefore, I G.W.Humphries, as Probate Judge, in and for said county, in said State, under and by virtue of the provisions of Section 245 of the Revenue Code of Alabama of 1923, and in consideration of One Dollar, to me paid, have this day granted, bargained and sold, and by these presents do grant, bargain, sell and convey unto A M Grimsley all the right, title and interest of said Oscar Bergstein, and all the right, title interest and claim of the said State and County on account of said taxes, or under said decree, in and to the following described land, to-wit:

SE¼ of SW¼ of Section 35, Township 8 South, Range 4 East, situated in said county and State; To have and to Hold the same, the said right, title and interest unto said A M Grimsley, heirs, assigns or successors forever; but no right, title or interest of any reversioner or remainderman in said land is conveyed hereby.

In Testimony Whereof, I have hereunto set my hand and seal, this 25th day of May, A.D., 1928.

(seal)

G.W.Humphries, Judge of Probate,
Baldwin County.

State of Alabama,
Baldwin County.

I, T.W.Richerson, Clerk of the Circuit Court, in and for said county, in said State, hereby certify that G. W.Humphries, whose name is signed to the foregoing conveyance as Judge of Probate, and who is known to me, acknowledged before me on this day, that being informed of the contents of this conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand, this the 25th day of May, A.D., 1928.

(seal)

T.W.Richerson, Clerk of the Circuit Court,
Baldwin county, Alabama.

The State of Alabama,
Baldwin County. Probate Court.

Filed in office this 25 day of May, 1928, and duly recorded in Deed Book No 48, pages 19 & 20; and I certify that ------cts 50 license or privilege tax, paid as required by an Act of the Legislature, approved September 14, 1923.

G.W.Humphries, Judge of Probate,
By J L Kessler, Clerk.

------ o O o -------

The State of Alabama,
Baldwin County.

PROBATE COURT

I, W. R. STUART, Judge of Probate Court in and for said State and County, hereby certify that the within and foregoing two (2) photostatic pages contain a full, true and complete copy of the Tax Deed from Oscar Bergstein to A. M. Grimsley

as the same appears of record in my office in Deed Book No. 46 page s 19-20.

Given under my hand and seal of office, this 17th day of August, 19 59

W. R. Stuart
Judge of Probate

By: Harry M. Blue Chief Clerk

Moore Printing Co.

#50 - Inst # 4
250 - Inst 5 - Sec #4 - Inst 4

Form 44--QUIT CLAIM DEED

Printed and for Sale by Roberts & Son. Birmingham

The State of Alabama

BALDWIN County

Comp Eqt 4
Inst # 4606

KNOW ALL MEN BY THESE PRESENTS, That in consideration of the sum of One and No/100- DOLLARS,

to A. M. Grimsley and wife, Adylise Grimsley in hand paid

by J. S. Lowrey the receipt whereof

is hereby acknowledged We do remise, release, quit claim and convey to the said

J. S. Lowrey all our

right, title, interest and claim in or to the following described real estate, to wit:

50 — SE¼ of SW¼ of Section 35, Township 8 South, Range 4 East.

42 — Also N½ of NE¼ of Section 26, Township 8 South, Range 4 East, all lying, being and situated in Baldwin County, Alabama.

We hereby transfer all of our rights, title and interest to the above described lands acquired by us at a tax sale and under deed of May 25th, 1928 recorded in Deed Record Book No. 46 at page 19 and 20 and deed of May 25th, 1928 recorded in Deed Record Book No.46 at page 29, respectively, in the office of the Judge of Probate, Baldwin County, Alabama.

situated in BALDWIN County, Alabama.

4-5-40

45
13

A. M. Grimsley and wife,

Adylise Grimsley

4-5-40

TO

J. S. Lowrey

QUIT CLAIM DEED

THE STATE OF ALABAMA }
.....COUNTY }

I, ...,

Judge of the Probate Court of said County, hereby certify that the within conveyance was filed for registration in this office on the..... day of APR 10 1940 and duly recorded in office this 310 TM 2 NS at page 366 Deed Book 90 and was recorded in Vol. ..... Record of Deeds, Pages..... and I certify that $..... Mtge tax, $..... has been paid on the day of ....., 19.....

Judge of Probate.

Judge of Probate

Record Fee, $.....

ROBERTS & SON, BIRMINGHAM

Rec Mrs Cox

DSO
R75
13

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	)	IN THE CIRCUIT COURT OF
Complainant,	)	BALDWIN COUNTY, ALABAMA
vs.		
OSCAR BERGSTEIN, if living, or, if deceased, the heirs or devisees of OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, and any other persons, firms or corporations claiming any title to or interest in the Lands Described in the Bill,	)	IN EQUITY NUMBER 4606
	)	IN REM
Respondents.	)	

DECREE PRO CONFESSO

In this cause, it appearing from the certificate of the Register that notice of the pendancy of this cause has been given by publication once a week for four consecutive weeks in the Baldwin Times, a newspaper published in Baldwin County, Alabama, and that a copy of said notice certified by the Register as being correct was filed for record as a Lis Pendens in the Office of the Probate Judge, Baldwin County, Alabama, and that sixty (60) days have expired since the first publication of said notice and the filing of the certified copy of said notice in the Probate Court of Baldwin County, Alabama; and it appearing to the Court that no appearance, answer or demurrer has been filed to said Bill of Complaint;

NOW, THEREFORE, upon motion of Complainant, MALBIS MEMORIAL FOUNDATION, as Trustee under Item Five of the Last Will and Testament of George Marinos, deceased, it is ORDERED that the allegations of said Bill of Complaint be, and hereby are, taken as confessed against OSCAR BERGSTEIN, if living, or, if deceased, against the heirs and devisees of Oscar Bergstein, who may not be minors, incompetents or in the Armed Forces of the United States of America, 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 described in the Bill of Complaint, or any part thereof, who may not be minors, incompetents or in the Armed Forces of the United States of America.

DATED, August 18, 1959.

Herbert M. Hull
JUDGE

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	)	IN THE CIRCUIT COURT
		OF
	)	BALDWIN COUNTY
Complainant,	)	ALABAMA
vs.		IN EQUITY
OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, ET AL,	)	NUMBER 4606
Respondents.)		

ORDER OF SUBMISSION

THIS CAUSE coming on to be heard is submitted for decree on the pleadings, the decree pro confesso, and on the proof as noted.

DATED, October 20th, 1959.

NOTE OF EVIDENCE

At the hearing of this cause the following note of evidence was taken, to-wit:

FOR COMPLAINANT:

Original Bill	Testimony of P. E. Frankos
Lis Pendens	Testimony of O. W. Lyles
Proof of Publication	Testimony of P. E. Teter
Non-Military Affidavit	Testimony of Edwin J. Curran, Jr.
Decree Pro Confesso	Complainant's Exhibits 1-4
Acceptance and Answer of Guardian Ad Litem and Attorney Ad Litem	

VICKERS, RIIS, MURRAY AND CURRAN

By Edwin J. Curran Jr.
Solicitors for Complainant

FOR RESPONDENTS:

None

FILED, October 20, 1959.

Eric L. Nerack
Register

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	) IN THE CIRCUIT COURT
	OF
	)
Complainant,	BALDWIN COUNTY, ALABAMA
	)IN EQUITY
Versus	NUMBER 4606
OSCAR BERGSTEIN, if living, or, if deceased, the heirs or devisees of OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, and any other persons, firms or corporations claiming any title to or interest in the lands described in the Bill,	) IN REM
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 President, 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, in order to establish its right or title to the lands described in the Bill of Complaint and to clear up all doubts and disputes concerning same, files this, its verified Bill of Complaint, against the following described lands, located in Baldwin County, Alabama, viz.:

> Southeast Quarter of the Southwest Quarter of Section 35, Township 8 South, Range 4 East,

and against OSCAR BERGSTEIN, if living, or, if deceased, against the heirs or devisees of OSCAR BERGSTEIN, all of whose names and addresses are unknown, and against any and

all unknown parties who claim or are reputed to claim any title to, interest in, lien or encumbrance upon said land or any part thereof. The said OSCAR BERGSTEIN, if living, 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 the above named Respondent, and also to ascertain whether the said OSCAR BERGSTEIN is living or dead, and if dead, who are his heirs or devisees, and further to ascertain who, if anyone, claims or is 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 has also contacted the Tax Assessor's office of Winnebago County, Illinois, and that in addition, it has, through its attorney, examined telephone directories and contacted persons who have been living in the neighborhood of the lands for a number of years, and that Complainant believes that if any of such Respondents are living, their residences are without the State of Alabama. Complainant has set out in full herein the information so obtained from such search as to names, ages and addresses of anyone claiming or reputed to claim any right, title, interest, lien or encumbrance in or upon said land or any part thereof and has exercised due diligence to locate their whereabouts and Complainant alleges that if any other persons, firms or corporations claim any right, title, interest, lien

or encumbrance in or upon said land above described or any part thereof, it is unknown to your Complainant.

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 from OSCAR BERGSTEIN by G. W. HUMPHRIES, Judge of Probate, to A. M. GRIMSLEY, dated May 25, 1928, and recorded in Deed Book 46, pages 19-20.

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 the 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 paid taxes on said land during the ten (10) year period next preceding the filing of this Bill of Complaint and no other person, natural or artificial, has paid taxes on said land or any portion thereof during any part of said period;

or

(v) that it is in actual peaceable possession of said property under color of title and that no one other than your Complainant and those under whom it claims has to its knowledge been in actual possession of said land or any part thereof within 10 years of the filing of this Bill of Complaint, and no one other than your Complainant and those under whom it claims is known to your Complainant to claim said land or any part thereof or interest therein.

SIX

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.

SEVEN

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 land hereinabove described and the Respondents hereinabove named; and that service of process be issued by the Register of this Court to OSCAR BERGSTEIN, if living, or if deceased, the heirs or devisees of OSCAR BERGSTEIN, all of whose names and addresses are unknown, and 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, by publication or other appropriate service, 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

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.

P. E. Frankos
Affiant

Subscribed and sworn to before me, the undersigned Notary Public in and for the State of Alabama at Large on this, the 30th day of April, 1959.

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

FILED
JUN 22 1959
ALICE J. DUCK, CLERK REGISTER

MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five Of The Last Will And Testament Of GEORGE MARINOS, Deceased, Complainant,)	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA
No. 4606)	ENTERED ON _____
vs.)	BOOK NO. _____
OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, ET AL, Respondents.)	ENTRY _____
	ALICE J. DUCK, Register

ORDER APPOINTING GUARDIAN AD LITEM AND ATTORNEY AD LITEM

This cause is submitted upon motion for the appointment of a Guardian Ad Litem and an Attorney Ad Litem, and, upon consideration, it is ordered, adjudged and decreed by the Court that Harry Wilters, who is a practicing attorney in Baldwin County, Alabama, be and hereby is appointed Guardian Ad Litem for all the unknown Respondents in this cause; and also appointed Attorney Ad Litem for any of the Respondents who may be in the Armed Forces of the United States of America, or its Allies within the meaning of the Soldiers and Sailors Relief Act.

Dated June 23, 1959.

Hubert Mitchell
JUDGE

FILED
JUN 22 1959
ALICE J. DUCK, CLERK REGISTER

MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five Of The Last Will and Testament Of GEORGE MARINOS, Deceased, COMPLAINANT,

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

No. 4606

IN EQUITY

VS

OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, ET AL

NOTICE OF APPOINTMENT OF

GUARDIAN AD LITEM AND ATTORNEY AD LITEM

TO: Harry Wilters Esquire

You are hereby notified that by a decree of this Court heretofore rendered in this cause, you have been appointed Guardian Ad Litem for all unknown Respondents in this cause; and also appointed Attorney Ad Litem for any of the Armed Forces of the United States of America, or its Allies within the meaning of Soldiers and Sailors Relief Act.

Dated this 23 day of June, 1959

As Register of the Circuit Court
of Baldwin County, Alabama

ACCEPTANCE TO APPOINTMENT OF

GUARDIAN AD LITEM AND ATTORNEY AD LITEM

STATE OF ALABAMA
BALDWIN COUNTY

I, the undersigned Harry Wilters do hereby accept appointment as guardian ad litem to represent any unknown Parties interested in this proceeding and also as attorney Ad Litem to represent any Respondents who may be in the Armed Forces.

Dated this 23 day of June, 1959.

As Guardian Ad Litem and
Attorney Ad Litem

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	)	IN THE CIRCUIT COURT
	)	OF
Complainant	)	BALDWIN COUNTY,
vs.		ALABAMA
		IN EQUITY
OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, ET AL,	)	NUMBER 4606
Respondents.)		

NON-MILITARY AFFIDAVIT

Personally appeared before me, the undersigned Notary Public in and for Mobile County, Alabama, EDWIN J. CURRAN, JR., who being known to me and who being by me first duly sworn, deposes and says on oath as follows:

My name is EDWIN J. CURRAN, JR. I am the Solicitor of record for the Complainant in the above styled cause, Before filing the Bill of Complaint in this cause, I made a diligent search and inquiry to locate the whereabouts of OSCAR BERGSTEIN, who the records show at one time had an interest in the property involved in the captioned cause. On the basis of said inquiry, I have been informed and believe and upon such information and belief, state that OSCAR BERGSTEIN is dead, but if alive he is an elderly person, beyond the age of military service, and is not presently in the Armed Forces of the United States of America, or its Allies, within the meaning of the Soldiers and Sailors Civil Relief Act, nor has he been in such military service at any time during the pendancy of this action.

Edwin J. Curran Jr.
EDWIN J. CURRAN, JR.

Sworn to and subscribed before me, the undersigned Notary Public, in and for said County and State, on this the 20th day of October, 1959.

Virginia H. Kamnoski
Notary Public, Mobile County, Alabama

FILED
OCT 21 1959
ALICE I. DUCK, CLERK REGISTER

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	)	IN THE CIRCUIT COURT OF BALDWIN COUNTY,
Complainant,		
vs.	)	ALABAMA,
OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, ET AL,	)	IN EQUITY NUMBER 4606
Respondents.	)	

MOTION FOR A DECREE PRO CONFESSO

Motion is hereby made for a Decree Pro Confesso against OSCAR BERGSTEIN, and against any and all unknown parties who claim or are reputed to claim any title to, interest in, lien or encumbrance upon the lands described in the Bill of Complaint in the captioned cause, or any part thereof, who may not be minors, incompetents or in the Armed Forces of the United States of America, Respondents, in the annexed stated cause on the ground that more than thirty days have elapsed since the perfection of publication was made under the order of this Court; and it having been shown by due proof to the Court that said Respondents are non-residents of the State of Alabama, and have failed to answer, plead or demur to the Bill in this cause, to the date hereof.

This 17th day of August, 1959.

Edwin J. Curran Jr.
EDWIN J. CURRAN, JR., Solicitor for Complainant.

THE BALDWIN TIMES

JIMMY FAULKNER
PUBLISHER

BALDWIN COUNTY

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 #4606

COST STATEMENT

511 WORDS @ 6½ cents ..... $ 33.22

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 June 11, 1969 Vol. 71 No. 22

Date of 2nd publication June 18, 1969 Vol. 71 No. 23

Date of 3rd publication June 25, 1969 Vol. 71 No. 24

Date of 4th publication July 2, 1969 Vol. 71 No. 25

Subscribed and sworn before the undersigned this 2 day of July, 1969.

Dorothy Martin
Notary Public, Baldwin County.

E. R. Morrisette Jr.
Editor.

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	))	IN THE CIRCUIT COURT
Complainant,	)	OF
vs.	)	BALDWIN COUNTY ALABAMA
OSCAR BERGSTEIN, if living, or, if deceased, the heirs or devisees of OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, and any other persons, firms or corporations claiming any title to or interest in the lands described in the Bill,	)	IN EQUITY NUMBER 4606 IN REM
Respondents.	))	

FINAL DECREE

THIS CAUSE being regularly set for trial and the same coming on to be heard in open court is submitted for final decree upon Complainant's verified bill of complaint and the answer of the Guardian Ad Litem, upon the decree pro confesso rendered therein, upon the testimony of P.E. FRANKOS, P. E. TETER, O.W. LYLES and EDWIN J. CURRAN, JR., taken orally before the Court, and upon the exhibits introduced into evidence all as noted by the Register; and the Court having full jurisdiction of the subject matter and having fully considered all of said matters and it appearing to the satisfaction of the Court and the Court finds:

1. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of GEORGE MARINOS, Deceased, at the time of the filing of its bill of complaint in this cause, claimed in its capacity as such Trustee to own the fee simple title to and was in fact in the peaceable and adverse possession of the following described real property situated in Baldwin County, Alabama, to-wit:

Southeast Quarter of the Southwest Quarter of Section 35, Township 8 South, Range 4 East;

2. That the Complainant, and those under whom it claims, have been in the actual, peaceable, exclusive and adverse possession of the above described lands under color of title for more than ten (10) years next preceding the filing of the bill of complaint in this cause and that it and those under whom it claims have assessed and paid taxes on said land for more than ten (10) years next preceding the filing of the bill of complaint in this cause and no other persons, firms or corporations have assessed said lands or any part thereof for taxes or paid any taxes thereon during the whole of said period.

3. That at the time of the filing of the said bill of complaint, no suit was pending to test the title of Complainant to the lands hereinabove described or its interest in or right to the possession of said lands;

4. That Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee aforesaid, acquired its title to the above described property by virtue of the following instruments which were introduced into evidence in this cause, to-wit:

(a) Tax Deed from Oscar Bergstein by G. W. Humphries, Judge of Probate, to A.M. Grimsley, dated May 25, 1928, and recorded in Deed Book 46, pages 19-20,

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

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

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

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

5. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee aforesaid, is entitled to the relief prayed for in the bill of complaint;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT:

1. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of George Marinos, Deceased, is entitled to the relief prayed for in the bill of complaint, and that the fee simple title to the following described land, to-wit:

> Southeast Quarter of the Southwest Quarter of Section 35, Township 8 South, Range 4 East

claimed by the Complainant in and to the above described land has been duly proved;

2. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of George Marinos, Deceased, is the owner of said lands and has a fee simple title thereto, free of all liens and encumbrances, and that its title thereto be and the same hereby is confirmed and established, and all doubts, clouds and disputes concerning the same are hereby cleared up and removed;

3.-That a certified copy of this decree be recorded by the Register in the proper record book in the Office of the Judge of Probate of Baldwin County, Alabama;

4. That the costs of this proceeding be and the same hereby are taxed against the Complainant, MALBIS

MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of George Marinos, Deceased, for which let execution issue.

DONE this the 21 day of October, 1959.

Hubert M. Hall
CIRCUIT 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 decree rendered by the Judge of the Circuit Court in above stated cause, which said decree is on file and enrolled in my office.
WITNESS MY HAND AND SEAL THIS THE 21 day of Oct, 1959

Alice J. Duck
Register of Circuit Court, in Equity

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	)) IN THE CIRCUIT COURT OF
Complainant,	)BALDWIN COUNTY ALABAMA
vs.	) IN EQUITY
OSCAR BERGSTEIN, if living, or, if deceased, the heirs or devisees of OSCAR BERGSTEIN, LANDS DESCRIBED IN THE BILL, and any other persons, firms or corporations claiming any title to or interest in the lands described in the Bill,	NUMBER 4606) IN REM)
Respondents.	))

FINAL DECREE

THIS CAUSE being regularly set for trial and the same coming on to be heard in open court is submitted for final decree upon Complainant's verified bill of complaint and the answer of the Guardian Ad Litem, upon the decree pro confesso rendered therein, upon the testimony of P.E. FRANKOS, P. E. TETER, O.W. LYLES and EDWIN J. CURRAN, JR., taken orally before the Court, and upon the exhibits introduced into evidence all as noted by the Register; and the Court having full jurisdiction of the subject matter and having fully considered all of said matters and it appearing to the satisfaction of the Court and the Court finds:

1. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of GEORGE MARINOS, Deceased, at the time of the filing of its bill of complaint in this cause, claimed in its capacity as such Trustee to own the fee simple title to and was in fact in the peaceable and adverse possession of the following described real property situated in Baldwin County, Alabama, to-wit:

> Southeast Quarter of the Southwest Quarter of Section 35, Township 8 South, Range 4 East;

2. That the Complainant, and those under whom it claims, have been in the actual, peaceable, exclusive and adverse possession of the above described lands under color of title for more than ten (10) years next preceding the filing of the bill of complaint in this cause and that it and those under whom it claims have assessed and paid taxes on said land for more than ten (10) years next preceding the filing of the bill of complaint in this cause and no other persons, firms or corporations have assessed said lands or any part thereof for taxes or paid any taxes thereon during the whole of said period.

3. That at the time of the filing of the said bill of complaint, no suit was pending to test the title of Complainant to the lands hereinabove described or its interest in or right to the possession of said lands;

4. That Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee aforesaid, acquired its title to the above described property by virtue of the following instruments which were introduced into evidence in this cause, to-wit:

(a) Tax Deed from Oscar Bergstein by G. W. Humphries, Judge of Probate, to A.M. Grimsley, dated May 25, 1928, and recorded in Deed Book 46, pages 19-20,

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

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

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

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

5. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee aforesaid, is entitled to the relief prayed for in the bill of complaint;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT:

1. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of George Marinos, Deceased, is entitled to the relief prayed for in the bill of complaint, and that the fee simple title to the following described land, to-wit:

> Southeast Quarter of the Southwest Quarter of Section 35, Township 8 South, Range 4 East

claimed by the Complainant in and to the above described land has been duly proved;

2. That the Complainant, MALBIS MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of George Marinos, Deceased, is the owner of said lands and has a fee simple title thereto, free of all liens and encumbrances, and that its title thereto be and the same hereby is confirmed and established, and all doubts, clouds and disputes concerning the same are hereby cleared up and removed;

3.-That a certified copy of this decree be recorded by the Register in the proper record book in the Office of the Judge of Probate of Baldwin County, Alabama;

4. That the costs of this proceeding be and the same hereby are taxed against the Complainant, MALBIS

MEMORIAL FOUNDATION, As Trustee Under Item Five of the Last Will and Testament of George Marinos, Deceased, for which let execution issue.

DONE this the 21 day of October, 1959.

Hubert M Hale
CIRCUIT JUDGE

FILED
OCT 21 1959
MAE L. DICK, CLERK REGISTER

MALBIS MEMORIAL FOUNDATION, AS TRUSTEE UNDER ITEM FIVE OF THE LAST WILL AND TESTAMENT OF GEORGE MARINOS, DECEASED,	)	IN THE CIRCUIT COURT OF
	)	BALDWIN COUNTY, ALABAMA,
COMPLAINANT	)	IN EQUITY
VS	)	NO. 4606
OSCAR BERGSTEIN, ET AL,	)	
RESPONDENTS	)	

Comes now Harry J. Wilters, Jr., Attorney at Law, appearing as guardian ad litem to defend this action for any unknown parties who are under the age of twenty-one years or who may be incompetent and as 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 Act and files this answer to the Complainant's Bill ofComplaint and says:

1.

He admits the allegations contained in paragraph one of theBill of Complaint.

2.

He neither admits nor denies the allegations contained in paragraph two, but demands strict proof thereof.

3.

He neither admits nor denies the allegations contained in paragraph three, but demands strict proof thereof.

4.

He neither admits nor denies the allegations contained in paragraph four, but demands strict proof thereof.

5.

He neither admits nor denies the allegations contained in paragraph five, but demands strict proof thereof.

6.

He neither admits nor denies the allegations contained in paragraph six, but demands strict proof thereof.

He neither admits nor denies the allegations contained in paragraph seven, but demands strict proof thereof.

FILED
JUL 18 1959
ALICE J. DUCK, Registe

Wilters & Brantley
BY: Guardian ad Litem

4606

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

COMPLAINANT

VS

OSCAR BERGSTEIN, ET AL,

RESPONDENTS

ANSWER