| | | |
|---|---|---|
| FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,<br><br>Complainants,<br><br>-vs-<br><br>LOT NUMBER EIGHTEEN (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and,<br><br>MATH HELLMICH, sometimes known as MATH J. HELLMICH, NICHOLAS BOECKER, MRS. MARY BOECKER, BERNARD BOECKER, NICK BRUCKER, and their unknown heirs, devisees, executors, administrators, and any and all persons, firms or corporations claiming any interest in the above described lands,<br><br>Respondents. | ) | IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA<br><br>IN EQUITY |

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

Comes Frank J. Hellmich and Emma Catherine Hellmich, husband and wife, the Complainants in the above styled cause, and show unto this Honorable Court the following:-

1. That your Complainants, Frank J. Hellmich and Emma Catherine Hellmich, are bona fide resident citizens of Foley, Baldwin County, Alabama, and are both over the age of twenty-one years. The real estate hereinabove described is located in Baldwin County, Alabama. The Respondent, Math Hellmich, sometimes known as Math J. Hellmich, is over the age of twenty-one years, and is presently believed to be a resident of the State of Ohio, but whose residence and Post Office address is unknown to your Complainants, but that he is not a resident of the State of Alabama, and that his address last known to your Complainants was Route #1, Box #443, West Pensacola, Florida, c/o Earl Edwards. The Respondents Nicholas Boecker, Bernard Boecker, Mrs. Mary Boecker and Nick Brucker, are not residents of the State of Alabama, and are unknown to your Complainants, although all are believed to be over the age of twenty-one years. Complainants know of no heirs at law or next of kin of the said Respondents, other than those hereinabove named, and believe Nicholas Boecker to be deceased, and Bernard Boecker to be his devisee and beneficiary

C. G. C.

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under a Last Will and Testament, which has not been properly proven in the State of Alabama. Complainants further believe the above named Respondents to be of sound mind.

Complainants further aver that they have made numerous inquiries in the vicinity of the property hereinabove described, and have exercised reasonable diligence in an effort to locate the whereabouts of the persons hereinabove listed, who are unknown to them, and that they have been unable to locate their whereabouts or to ascertain with certainty whether they are alive or dead, other than is hereinabove shown, and have been unable to ascertain the names of the next of kin, heirs at law, devisees, or personal representatives of the said persons, other than as hereinabove shown.

Complainants further show that they do not know of any persons, firms or corporations, claiming said property or any part thereof, or any title thereto or interest therein, or lien or encumbrances thereon, except those persons hereinabove named.

Complainants further show that they have obtained from J. A. Ertzinger & Son, Licensed Abstractors, an Abstract of Title which shows therein the above named persons as being the only possible Claimants to the real estate hereinabove described, other than your Complainants.

2. Complainants further show unto the Court that the real estate involved in this controversy is all situated in Baldwin County, Alabama, being more particularly described as follows:-

> Lot Number eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section twenty-nine (29), Township seven (7) South, Range four (4) East.

Complainants claim in their own right to own the undivided and entire fee simple interest in said lands. Complainants further aver that they are in the actual, peaceable, open, notorious and adverse possession of all of said property, and have been in the said open, notorious, peaceable and adverse possession thereof for more than twenty (20) years.

3. Complainants further show unto the Court that Math

Hellmich became the purchaser of the property hereinabove described by a Tax Deed from The State Tax Commissioner of the State of Alabama, on July 23, 1935, which said instrument is of record in the office of the JUdge of Probate of Baldwin County, Alabama, in Deed Book 57, Page 424, said land having been sold on the 13th day of June, 1932, for unpaid taxes, in the name of Mrs. Mary Boecker, and that, pursuant to a Decree of the Circuit Court of Baldwin County, Alabama, entered on the 14th day of October, 1958, said property was conveyed by Alice J. Duck, as Register in Chancery, for and in behalf of Math J. Hellmich, to Magdalena Hellmich, on the 16th day of December, 1958, which instrument is of record in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 274, Pages 332-333, and that Magdalena Hellmich conveyed said property on the 6th day of May, 1959, to your Complainants, by instrument of record in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 278, Page 281.

Complainants further show that no one has paid any taxes on the property hereinabove described for the last ten (10) years other than your Complainant, Frank J. Hellmich, although for a portion of this time, as a result of negligence and lack of knowledge on the part of your said Complainant, Frank J. Hellmich, taxes were paid and assessments made by the said Frank J. Hellmich for Math Hellmich or for the estate of Math Hellmich. YOUR Complainant, Frank J. Hellmich, however, is the sole and only person having assessed said property or paid any taxes thereon for more than ten (10) years next preceeding the filing of this Bill of Complaint.

4. Complainants further aver that title to all of the properties above described stands in their name upon the records in the office of the Judge of Probate of Baldwin County, Alabama, and that they are and have been in the open, notorious, peaceable and adverse possession thereof for more than twenty (20) years next preceeding the filing of this Bill of Complaint.

C. G. C.

5. Complainants further aver that no suit or action of any kind is pending to test their interest in, title to or possession of said properties.

THE PREMISES CONSIDERED, Complainants herewith file this, their verified Bill of Complaint against the Respondents above named, against all of their heirs at law and next of kin, devisees or personal representatives, and against said property itself, and against any and all persons, firms or corporations claiming any title to or interest therein, or lien or encumbrance upon said lands or any part thereof, said Bill being filed for the purpose of establishing Complainant's right and title to said properties, and to clear up any and all doubts or disputes concerning their ownership of the same, and Complainants therefore pray that the parties above named be made parties Respondent to this cause; that the said MAth Hellmich, sometimes known as Math J. Hellmich, be served by Registered Mail, he being a non-resident of the State of Alabama, and that service by PUblication be made on the remainder of said Respondents, they being non-residents of the State of Alabama, and their Post Office address being unknown, all in accordance with the Laws and Statutes of this State and the Rules of this Honorable Court, and the Complainants further pray that the Court will order all Respondents to plead, answer or demur within the time prescribed by law, and the Statutes in such cases made and provided, or that failing to do so, a Decree Pro Confesso may be entered against them. Complainants further pray that a Guardian Ad Litem be appointed for those persons who are unknown, and who might have an interest in said property, or for those persons who might be minors, or who might be through law, for some reason, not competent to receive service and to defend.

Complainants further pray,therefore, that this Honorable Court will find and establish all the rights, interest and ownership of all of the parties hereto, to the property hereinabove described, and will make and enter all Orders, Judgments and Decrees that may be meet and proper in the premises, and that upon a final hearing hereof, will find, decide and Decree that

the Complainants have an entire, undivided and fee simple interest, free of all liens and encumbrances, in and to the property hereinabove described.

Complainants further pray that if they be mistaken in the relief prayed for that this Court will grant them such other, further, additional, different or general relief to which they may be entitled and as in duty bound they will ever pray.

Solicitor for Complainants

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Frances G. Mallory, Notary Public in and for said County in said State, personally appeared Frank J. Hellmich and Emma Catherine Hellmich, who are known to me, and who, after being by me first duly and legally sworn, depose and say that the matters and facts set out in the foregoing Bill of Complaint are, to the best of their knowledge, information and belief, true and correct.

Frank J Hellmich

Emma Catherine Hellmich

Sworn to and subscribed before me, a Notary Public, on this the 26th day of October, 1959.

Notary Public, BALDWIN County
State of Alabama

FILED
OCT 30 1959
ALICE J. DUCK, Register

(affix Seal)

(fifth and last page)

| | |
|---|---|
| FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,<br><br>Complainants,<br><br>-vs-<br><br>LOT NUMBER EIGHTEEN (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and,<br><br>MATH HELLMICH, sometimes known as Math J. Hellmich, NICHOLAS BOECKER, MRS, MARY BOECKER, BERNARD BOECKER, NICK BRUCKER, and their unknown heirs, devisees, executors, administrators, and any and all persons, firms or corporations claiming any interest in the above described lands,<br><br>Respondents. | IN THE CIRCUIT COURT OF<br><br>BALDWIN COUNTY, ALABAMA<br><br>IN EQUITY |

It having been made to appear in the above styled cause from the affidavit of Frank J. Hellmich and EMMA Catherine Hellmich, Complainants in the above styled cause, that the defendants above named, or their heirs or devisees, are non-residents of the State of Alabama, their residences and Post Office addresses being unknown to Complainants.

NOTICE IS HEREBY GIVEN to Math Hellmich, sometimes known as Math J. Hellmich, Nicholas Boecker, Mrs. Mary Boecker, Bernard Boecker, Nick Brucker, if they be living, and if dead, then to the unknown devisees of them and each of them, and to any and all persons, firms or corporations, claiming any interest in, title to, or lien or encumbrance upon said land herein described; that on the 30th day of October, 1959, Frank J. Hellmich and Emma Catherine Hellmich filed in the Equity side of the Circuit Court of Baldwin County, Alabama, their Bill of Complaint against the following described lands in Baldwin County, Alabama, viz:-

> Lot Number eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section twenty-nine (29), Township seven (7) South, Range four (4) East,

and against the defendants hereinabove named and all persons, firms, or corporations claiming any interest in, lien or encumbrance upon

C. G. C.

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said land, and your are hereby notified to appear and plead, answer or demur within thirty (30) days of the 1st day of December, 1959, or a Decree Pro Confesso will be rendered against you; that said Bill of Complaint was and is filed for the purpose of quieting their title thereto and clearing up all doubts and disputes concerning the same; that title to said lands stands in the name of the Complainants on the records of the office of the Judge of Probate of Baldwin County, Alabama; that the Complainants acquired title to said land by Warranty Deed from Magdalena Hellmich, dated May 6, 1959, and of record in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 278, Page 281; Complainants further allege that no one has paid taxes on the land above described for the last ten (10) years except the Complainants and Magdalena Hellmich, and that they have annually assessed and paid the taxes on the same; and that they are in the quiet, peaceable, open, notorious possession of said land, claiming to own the same absolutely and in fee simple.

WITNESS my hand this the 30 day of October, 1959.

As Register of the Circuit Court
of Baldwin County, Alabama

C. G. CHASON
Solicitor for the
Complainants.

STATE OF ALABAMA, BALDWIN COUNTY
Filed 11-6-59 11:15A M
Recorded book 5 page 89-90
Judge of Probate

C. G. C.

8600 _ Motion for Decree Pro Confesso After Service by Registered Mail.

**The State of Alabama,**
**Baldwin County.**

No. ..... CIRCUIT COURT, IN EQUITY.

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife ..... Complainant...S...

Vs.

Certain Lands, Math Hellmich, et al ..... Defendant...S...

Motion is hereby made for a Decree Pro Confesso against Math Hellmich

..... Defendant.....

in the above stated cause, on the ground that more than thirty days have elapsed since service of summons upon said Defendant....., and that said summons was duly served by Registered Mail, according to law, and that said Defendant.....ha...s... failed to demur, plead to or answer the Bill of Complaint in this cause to this date.

This....20th..... day of .....May....., ~~19~~ 60.

..... Solicitor.

19

No. ..... Page .....

# THE STATE OF ALABAMA
## Baldwin County

## CIRCUIT COURT, IN EQUITY

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,

Vs.

Certain lands, Math Hellmich, et al

**MOTION FOR DECREE PRO CONFESSO AFTER NOTICE BY REGISTERED MAIL**

FILED

Filed MAY 23 1960, 19.....

ALICE J. DUCK, CLERK REGISTER

Register.

Recorded in ..... Record,

Vol. ..... Page .....

Register.

The Baldwin Times, Bay Minette, Alabama

Decree Pro Confesso of Publication.

The State of Alabama,
Baldwin County.

CIRCUIT COURT, IN EQUITY

No._____ _____Term, 19____

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife Complainant_S_

Certain lands, Math Hellmich, et al Defendant_S_

In this cause it appears to the Register Alice J. Duck that the order of publication heretofore made in this cause, was published for four consecutive weeks, commencing on the_____ day of _____, 19_____, in the_____a newspaper published in_____, Alabama, that a copy of said order was posted at the Court House door in Baldwin County, on the_____ day of_____19_____, and

And it now further appearing to the Register Alice J. Duck, that the said NICHOLAS BOECKER, BARNARD BOECKER, MRS. MARY BOECKER and NICH BRUCKER

having, to the date hereof, failed to demur, plead to, or answer the Bill of Complaint in this cause, it is now, therefore, on motion of Complainant_S_, ordered and decreed by the Register Alice J. Duck _____ that the Bill of Complaint in this cause be, and it hereby is in all things taken as confessed against the said NICHOLAS BOECKER, BERNARD BOECKER, MRS MARY BOECKER and NICK BRUCKER

This 23rd day of May 19 60

Alice J. Duck Register.

RECORDED

No._____ Page_____

# The State of Alabama
BALDWIN COUNTY

## Circuit Court, In Equity

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, HUsband and wife,

Vs.

Certain lands, Math Hellmich, et al,

## Decree Pro Confesso of Publication

Issued _____ 19____

FILED

MAY 23 1960

_____ Register.

ALICE J. DUCK, CLERK REGISTER

Recorded in _____ Record

Vol._____ Page_____

_____ Register.

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

8601. Motion for Decree Pro Confesso on Publication. MPCO

**THE STATE OF ALABAMA,**
**BALDWIN COUNTY**

**CIRCUIT COURT, IN EQUITY**

No. _____ _____, Term, 19____

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife _____ Complainant S

Vs.

Certain lands, Math Hellmich, et al _____ Defendant

Motion is hereby made for a Decree Pro Confesso against NICHOLAS BOECKER, BERNARD BOECKER, MRS. MARY BOECKER and NICK BRUCKER _____ Defendant S

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 Defendant is a non-resident of the State of Alabama, and has failed to answer, plead or demur to the Bill in this cause, to the date hereof.

This 20th day of May 19 60

746 Code _____ Solicitor.

No. _____ Page _____

# The State of Alabama,
BALDWIN COUNTY

## CIRCUIT COURT, IN EQUITY

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,

Complainant S

Vs.

Certain lands, Math Hellmich, et al

Defendant

## Motion for Decree Pro Confesso on Publication

FILED

Filed _____ 19____

MAY 23 1960

ALICE J. DUCK, CLERK REGISTER

Register.

Recorded in _____ Record

Vol. _____ Page _____

Register.

Moore Printing Co., Bay Minette, Ala.

4756

| | |
|---|---|
| FRANK J. HELLMICH, and EMMA CATHERINE HELLMICH, husband and wife<br>Complainants | IN THE CIRCUIT COURT OF |
| VS | BALDWIN COUNTY, ALABAMA |
| CERTAIN LANDS, MATH HELLMICH, et als,<br>Respondents | IN EQUITY<br>NO. |

APPOINTMENT OF GUARDIAN AD LITEM
AND ATTORNEY AD LITEM

It appearing to the Complainants that there are unknown heirs that may be under the age of twenty-one years, or in the Armed Forces of the United States, and that their interests should be represented by a guardian ad litem and an attorney ad litem;

It is therefore, ORDERED, ADJUDGED and DECREED that JAMES A. BRICE, Esquire, Attorney at Law, Foley, Alabama, be appointed as such guardian ad litem and attorney ad litem to represent the interests of such unknown heirs.

Done this the 24 day of May, 1960.

Alice J. Duck
Alice J. Duck - Register.

Consent To Act,

I, James A. Brice, Attorney At Law, hereby Consent to act as guardian ad litem and Attorney ad litem in the above styled cause.

James A. Brice
James A. Brice
Attorney at Law.

8602 DECREE PRO CONFESSO AFTER NOTICE BY REGISTERED MAIL BT-7-49-200

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife

Vs.

Certain lands, Math Hellmich, et al

CIRCUIT COURT OF
Baldwin County.

IN EQUITY

In this cause it being made to appear to the Register that on the _____ day of _____, 19____, a copy of the Bill of Complaint filed in this cause was sent to Math Hellmich

Defendant, by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," and return receipt demanded addressed to the Register of this Court; and that on the _____ day of _____, 19____, such receipt was duly received and filed in this cause:

And it further appearing to the Register that the said Defendant has failed to plead, answer or demur to the said Bill to the date hereof, it is now, therefore, on motion of Complainant, ordered, adjudged and decreed by the Register that the said Bill of Complaint be, and it hereby is in all things taken as confessed against the said Math Hellmich Defendant

This the 23 rd day of May, 19 60

Alice J. Mitchell Register.

No. _____

CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA

In Equity.

FRANK H. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,

Vs.

Certain Lands, Math Hellmich, et al

DECREE PRO CONFESSO AFTER
NOTICE BY REGISTERED MAIL

Filed in office this FILED day of
_____, 19
MAY 23 1960
_____, Register
ALICE J. DUCK, CLERK REGISTER
Entered in O. B. _____ Page _____

The Baldwin Times, Bay Minette, Alabama

RECORDED

8581—NOTE OF TESTIMONY

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

Frank J. Hellmich and Emma Catherine Hellmich, husband and wife

vs.

Lot 18 of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Sec. 29, Township 7 South ~~Range 4 East, and Math Hellmich,~~ et al

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

This cause is submitted in behalf of Complaint upon the original Bill of Complaint, Affidavit of non-residence of Defendants, Order of Publication, Motion for Decree Pro Confesso on Service by Publication and on Service by Registered mail, appointment of Guardian Ad Litem, and Testimony of Frank J. Hellmich and Magdalena Hellmich

and in behalf of Defendant upon

Solicitor for Complainant

Register.

No._____

# THE STATE OF ALABAMA
## Baldwin County

IN EQUITY

Circuit Court of Baldwin County

VS.

# Note of Testimony

Filed in Open Court this _____

day of _____ 3-6-69 _____, 19____

FILED
OCT
ALICE L. DOCK, CLERK
REGISTER

_____ Register.

MOORE PRINTING CO., BAY MINETTE, ALA.

| | |
|---|---|
| FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,<br><br>Complainants,<br><br>-vs-<br><br>LOT NUMBER EIGHTEEN, (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and<br><br>MATH HELLMICH, sometimes known as MATH J. HELLMICH, NICHOLAS BOECKER, MRS. MARY BOECKER, BERNARD BOECKER, NICH BRUCKER, and their unknown heirs, devisees, executors, administrators, and any and all persons, firms or corporations claiming any interest in the above described lands,<br><br>Respondents. | IN THE CIRCUIT COURT OF<br><br>BALDWIN COUNTY, ALABAMA<br><br>IN EQUITY |

## FINAL DECREE

This cause, coming on to be heard, was submitted on behalf of Complainants upon Sworn Bill of Complaint, Affidavit of non-residence of Defendants, Order of Publication, Motion for Decree Pro Confesso on Service by Publication and on Service by Registered mail, Appointment of Guardian Ad Litem, and Testimony as noted by the Register, and it being made to appear to the satisfaction of the Court that the Complainants are entitled to the relief prayed for in said Sworn Bill of Complaint,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, by the Court, that the Complainants, Frank J. Hellmich and Emma Catherine Hellmich, are the owners in fee simple to the following described lands in Baldwin County, Alabama, to-wit:-

> Lot eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section twenty-nine (29), Township seven (7) South, Range four (4) East,

and that no other person, firm, or corporation has any title to, interest in, lien or encumbrance upon said land, or any part thereof, and especially that Math Hellmich, also sometimes known as Math J. Hellmich, Nicholas Boecker, Bernard Boecker, Mrs. Mary Boecker and Nick Brucker, and their unknown heirs or personal representatives, devisees or next of kin, have no right, title to,

C. G. C.

interest in, or lien or encumbrance upon said land.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Register shall, within thirty (30) days from the rendition of this decree, file a Certified transcript thereof for record in the Probate Court of Baldwin County, Alabama, showing title out of the Defendants above named, in the direct indexes to the records, and title into Frank J. Hellmich and Emma Catherine Hellmich, husband and wife, in the indirect indexes to the records, and that the expenses thereof shall be taxed with the Costs of this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Frank J. Hellmich and Emma Catherine Hellmich, the Complainants, pay the Costs herein to be taxed, for which execution may issue.

DONE this the 4 day of October, 1960.

FILED
OCT 4 1960
ALICE L. DUCK, CLERK REGISTER

Hubert Mistakes
Judge of the Circuit Court of Baldwin County, Alabama, in Equity



C. G. C.

(second and last page)

SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,
Baldwin County.

No. 4756

Circuit Court, Baldwin County

_____ TERM, 19____

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon Math J. Hellmich, Et als

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against

Math J. Hellmich, et al, Defendant

by Frank J. Hellmich, et als, Plaintiff

Witness my hand this 30 day of October 1959

Alice J. Duck, Clerk

16A

RECORDED

No. 4756 Page

# The State of Alabama
Baldwin County

# CIRCUIT COURT

FRANK J. HELLMICH, ET AL

Plaintiffs

vs.

MATH J. HELLMICH, ET ALS

Defendants

## Summons and Complaint

Filed October 30, 1959

Alice J. Duck Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

Received In Office

19

, Sheriff

I have executed this summons

this 19

by leaving a copy with

Sheriff

Deputy Sheriff

BOOK 297 PAGE 515

STATE OF ALABAMA,
BALDWIN COUNTY

I certify that this instrument was filed on

OCT 31 1960 3:P M

and that no tax was collected. Recorded in deed

Book 297

Page 515-16

Judge of Probate

By NP

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,

Complainants,

-vs-

LOT NUMBER EIGHTEEN, (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and

MATH HELLMICH, sometimes known as MATH J. HELLMICH, NICHOLAS BOECKER, MRS. MARY BOECKER, BERNARD BOECKER, NICH BRUCKER, and their unknown heirs, devisees, executors, administrators, and any and all persons, firms or corporations claiming any interest in the above described lands,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

## FINAL DECREE

This cause, coming on to be heard, was submitted on behalf of Complainants upon Sworn Bill of Complaint, Affidavit of non-residence of Defendants, Order of Publication, Motion for Decree Pro Confesso on Service by Publication and on Service by Registered mail, Appointment of Guardian Ad Litem, and Testimony as noted by the Register, and it being made to appear to the satisfaction of the Court that the Complainants are entitled to the relief prayed for in said Sworn Bill of Complaint,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, by the Court, that the Complainants, Frank J. Hellmich and Emma Catherine Hellmich, are the owners in fee simple to the following described lands in Baldwin County, Alabama, to-wit:-

> Lot eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section twenty-nine (29), Township seven (7) South, Range four (4) East,

and that no other person, firm, or corporation has any title to, interest in, lien or encumbrance upon said land, or any part thereof, and especially that Math Hellmich, also sometimes known as Math J. Hellmich, Nicholas Boecker, Bernard Boecker, Mrs. Mary Boecker and Nick Brucker, and their unknown heirs or personal representatives, devisees or next of kin, have no right, title to,

interest in, or lien or encumbrance upon said land.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Register shall, within thirty (30) days from the rendition of this decree, file a Certified transcript thereof for record in the Probate Court of Baldwin County, Alabama, showing title out of the Defendants above named, in the direct indexes to the records, and title into Frank J. Hellmich and Emma Catherine Hellmich, husband and wife, in the indirect indexes to the records, and that the expenses thereof shall be taxed with the Costs of this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Frank J. Hellmich and Emma Catherine Hellmich, the Complainants, pay the Costs herein to be taxed, for which execution may issue.

DONE this the 4th day of October, 1960.

Hubert M. Hall
Judge of the Circuit Court of Baldwin County, Alabama, in Equity

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 the above styled cause, which said Decree is on file and enrolled in my office.

WITNESS my hand and seal this the 6 day of Oct, 1960.

Alice J. Duck
Register of the Circuit Court of Baldwin County, Alabama, in Equity

| | |
|---|---|
| FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,<br><br>Complainants,<br><br>-vs-<br><br>LOT NUMBER EIGHTEEN (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and,<br><br>MATH HELLMICH, sometimes known as MATH J. HELLMICH, NICHOLAS BOECKER, MRS. MARY BOECKER, BERNARD BOECKER, NICK BRUCKER, and their unknown heirs, devisees, executors, administrators, and any and all persons, firms or corporations claiming any interest in the above described lands,<br><br>Respondents. | IN THE CIRCUIT COURT OF<br>BALDWIN COUNTY, ALABAMA<br>IN EQUITY |

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

Comes Frank J. Hellmich and Emma Catherine Hellmich, husband and wife, the Complainants in the above styled cause, and show unto this Honorable Court the following:-

1. That your Complainants, Frank J. Hellmich and Emma Catherine Hellmich, are bona fide resident citizens of Foley, Baldwin County, Alabama, and are both over the age of twenty-one years. The real estate hereinabove described is located in Baldwin County, Alabama. The Respondent, Math Hellmich, sometimes known as Math J. Hellmich, is over the age of twenty-one years, and is presently believed to be a resident of the State of Ohio, but whose residence and Post Office address is unknown to your Complainants, but that he is not a resident of the State of Alabama, and that his address last known to your Complainants was Route #1, Box #443, West Pensacola, Florida, c/o Earl Edwards. The Respondents Nicholas Boecker, Bernard Boecker, Mrs. Mary Boecker and Nick Brucker, are not residents of the State of Alabama and are unknown to your Complainants, although all are believed to be over the age of twenty-one years. Complainants know of no heirs at law or next of kin of the said Respondents, other than those hereinabove named, and believe Nicholas Boecker to be deceased, and Bernard Boecker to be his devisee and beneficiary

under a Last Will and Testament, which has not been properly proven in the State of Alabama. Complainants further believe the above named Respondents to be of sound mind.

Complainants further aver that they have made numerous inquiries in the vicinity of the property hereinabove described, and have exercised reasonable diligence in an effort to locate the whereabouts of the persons hereinabove listed, who are unknown to them, and that they have been unable to locate their whereabouts or to ascertain with certainty whether they are alive or dead, other than is hereinabove shown, and have been unable to ascertain the names of the next of kin, heirs at law, devisees, or personal representatives of the said persons, other than as hereinabove shown.

Complainants further show that they do not know of any persons, firms or corporations, claiming said property or any part thereof, or any title thereto or interest therein, or lien or encumbrances thereon, except those persons hereinabove named.

Complainants further show that they have obtained from J. A. Ertzinger & Son, Licensed Abstractors, an Abstract of Title which shows therein the above named persons as being the only possible Claimants to the real estate hereinabove described, other than your Complainants.

2. Complainants further show unto the Court that the real estate involved in this controversy is all situated in Baldwin County, Alabama, being more particularly described as follows:-

> Lot Number eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section twenty-nine (29), Township seven (7) South, Range four (4) East.

Complainants claim in their own right to own the undivided and entire fee simple interest in said lands. Complainants further aver that they are in the actual, peaceable, open, notorious and adverse possession of all of said property, and have been in the said open, notorious, peaceable and adverse possession thereof for more than twenty (20) years.

3. Complainants further show unto the Court that Math

Hellmich became the purchaser of the property hereinabove described by a Tax Deed from The State Tax Commissioner of the State of Alabama, on July 23, 1935, which said instrument is of record in the office of the JUdge of Probate of Baldwin County, Alabama, in Deed Book 57, Page 424, said land having been sold on the 13th day of June, 1932, for unpaid taxes, in the name of Mrs. Mary Boecker, and that, pursuant to a Decree of the Circuit Court of Baldwin County, Alabama, entered on the 14th day of October, 1958, said property was conveyed by Alice J. Duck, as Register in Chancery, for and in behalf of Math J. Hellmich, to Magdalena Hellmich, on the 16th day of December, 1958, which instrument is of record in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 274, Pages 332-333, and that Magdalena Hellmich conveyed said property on the 6th day of May, 1959, to your Complainants, by instrument of record in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 278, Page 281.

Complainants further show that no one has paid any taxes on the property hereinabove described for the last ten (10) years other than your Complainant, Frank J. Hellmich, although for a portion of this time, as a result of negligence and lack of knowledge on the part of your said Complainant, Frank J. Hellmich, taxes were paid and assessments made by the said Frank J. Hellmich for Math Hellmich or for the estate of Math Hellmich. YOUR Complainant, Frank J. Hellmich, however, is the sole and only person having assessed said property or paid any taxes thereon for more than ten (10) years next preceeding the filing of this Bill of Complaint.

4. Complainants further aver that title to all of the properties above described stands in their name upon the records in the office of the Judge of Probate of Baldwin County, Alabama, and that they are and have been in the open, notorious, peaceable and adverse possession thereof for more than twenty (20) years next preceeding the filing of this Bill of Complaint.

5. Complainants further aver that no suit or action of any kind is pending to test their interest in, title to or possession of said properties.

THE PREMISES CONSIDERED, Complainants herewith file this, their verified Bill of Complaint against the Respondents above named, against all of their heirs at law and next of kin, devisees or personal representatives, and against said property itself, and against any and all persons, firms or corporations claiming any title to or interest therein, or lien or encumbrance upon said lands or any part thereof, said Bill being filed for the purpose of establishing Complainant's right and title to said properties, and to clear up any and all doubts or disputes concerning their ownership of the same, and Complainants therefore pray that the parties above named be made parties Respondent to this cause; that the said MAth Hellmich, sometimes known as Math J. Hellmich, be served by Registered Mail, he being a non-resident of the State of Alabama, and that service by PUblication be made on the remainder of said Respondents, they being non-residents of the State of Alabama, and their Post Office address being unknown, all in accordance with the Laws and Statutes of this State and the Rules of this Honorable Court, and the Complainants further pray that the Court will order all Respondents to plead, answer or demur within the time prescribed by law, and the Statutes in such cases made and provided, or that failing to do so, a Decree Pro Confesso may be entered against them. Complainants further pray that a Guardian Ad Litem be appointed for those persons who are unknown, and who might have an interest in said property, or for those persons who might be minors, or who might be through law, for some reason, not competent to receive service and to defend.

Complainants further pray, therefore, that this Honorable Court will find and establish all the rights, interest and ownership of all of the parties hereto, to the property hereinabove described, and will make and enter all Orders, Judgments and Decrees that may be meet and proper in the premises, and that upon a final hearing hereof, will find, decide and Decree that

the Complainants have an entire, undivided and fee simple interest, free of all liens and encumbrances, in and to the property hereinabove described.

Complainants further pray that if they be mistaken in the relief prayed for that this Court will grant them such other, further, additional, different or general relief to which they may be entitled and as in duty bound they will ever pray.



Solicitor for Complainants

STATE OF ALABAMA
BALDWIN COUNTY

Before me, Frances G. Mallory, Notary Public in and for said County in said State, personally appeared Frank J. Hellmich and Emma Catherine Hellmich, who are known to me, and who, after being by me first duly and legally sworn, depose and say that the matters and facts set out in the foregoing Bill of Complaint are, to the best of their knowledge, information and belief, true and correct.

Frank J Hellmich

Emma Catherine Hellmich

Sworn to and subscribed before me, a Notary Public, on this the 26th day of October, 1959.

Frances G. Mallory
Notary Public, Baldwin County
State of Alabama

(affix Seal)

CECIL G. CHASON
ATTORNEY-AT-LAW
FOLEY, ALABAMA

October 26, 1959

Mrs. Alice J. Duck, Register
Bay Minette, Alabama

Dear Mrs. Duck:

I am enclosing herewith original and two copies of the Bill of Complaint, Frank J. Hellmich and Emma Catherine Hellmich against certain lands, et al.

I am also enclosing Notice for publication in the Baldwin Times, and a notice for posting at the Court House door. Since Math Hellmich's last known address was c/o Earl Edwards, Route #1, Box #443, West Pensacola, Florida, I suggest that you send a copy of the Complaint by Registered Mail to this address, with Return Receipt Requested, marking "For Delivery to Addressee only", as it may be that he has a forwarding address.

Yours very truly,

C. G. Chason

CGC:fm

encls. as noted.

CECIL G. CHASON
ATTORNEY-AT-LAW
FOLEY, ALABAMA

Sept. 30, 1960

Mrs. Alice J. Duck, Register
Bay Minette, Alabama

Dear Mrs. Duck:

Enclosed herewith are final papers and suggested decree in the case of Frank Hellmich and Catherine Hellmich vs Certain lands and Math Hellmich, et al.

Yours very truly,

C. G. Chason

CGC:dc

Encl.

CECIL G. CHASON
ATTORNEY-AT-LAW
FOLEY, ALABAMA

May 20, 1960

Mrs. Alice J. Duck, Register
Bay Minette, Alabama

Dear Mrs. Duck:

I am enclosing herewith Motions for Decrees Pro Confesso, and Decrees Pro Confesso, in the Frank J. Hellmich suit to quiet title.

Please notify me who is acting as Guardian ad Litem in this cause.

Yours very truly,

C. G. Chason

C. G. Chason

CGC:fm

encls. as noted.

FRANK J. HELLMICH, and EMMA CATHERINE HELLMICH, husband and wife

Complainants

VS

CERTAIN LANDS, MATH HELLMICH, et als,

Respondents

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

NO.

APPOINTMENT OF GUARDIAN AD LITEM
AND ATTORNEY AD LITEM

It appearing to the Complainants that there are unknown heirs that may be under the age of twenty-one years, or in the Armed Forces of the United States, and that their interests should be represented by a guardian ad litem and an attorney ad litem;

It is therefore, ORDERED, ADJUDGED and DECREED that JAMES A. BRICE, Esquire, Attorney at Law, Foley, Alabama, be appointed as such guardian ad litem and attorney ad litem to represent the interests of such unknown heirs.

Done this the _____ day of ____May____, 1960.

Alice J. Duck - Register.

I, James A. Brice, Attorney At Law, hereby Consent to act as guardian ad litem and Attorney ad litem in the above styled cause.

James A. Brice
Attorney at Law.

COMMISSION TO TAKE DEPOSITIONS

**THE STATE OF ALABAMA**
**Baldwin County**

**Circuit Court**

**TO:** Dorothy Chason

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, as such time and place as you may appoint, to call before you and examine Frank J. Hellmich and Magdalena Hellmich

a witness in behalf of Frank J. Hellmich and Emma Catherine Hellmich in a cause pending in our Circuit Court in Baldwin County, of said State, wherein

Frank J. Hellmich and Emma Catherine Hellmich, husband and wife,

, Complainant s

and

Lot Number Eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and, Math Hellmich, sometimes Known as Math J. Hellmich, Nicholas Boecker, Mrs. Mary Boecker, Bernard Boecker, Nick Brucker and their unknown heirs, devisees, etc. Respondent

on oath, to be by you administered, upon them

to take and certify the deposition s of the witnesses and return the same to our Court, with all convenient speed, under your hand.

Witness 3rd day of October, 1950.

Alice Hellmich
Register.

Commissioner's Fee, $

Witness' Fees, $

No.

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,

Complainant

VS.

LOT NUMBER EIGHTEEN (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and,
Math Hellmich, sometimes known as Math J. Hellmich, et al.

Defendant

COMMISSION TO TAKE DEPOSITION

COMMISSIONER:

WITNESSES:

ORAL DEPOSITION

**THE STATE OF ALABAMA**
Baldwin County.

Circuit Court of Baldwin County, Alabama
(In Equity)

Frank J. Hellmich and Emma Catherine Hellmich, husband and wife, Complainants

VS.

Lot Number Eighteen (18) of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and Math Hellmich et al Respondent

I, _____ as Register and Commissioner Dorothy Chason

have called and caused to come before me Frank J. Hellmich and Maydalena Hellmich

witness es named in the Requirement for Oral Examination, on the 3rd day of October 1950, at the office of C. G. Chason

in Foley, Ala, Alabama, and having first sworn said Witness es to speak the truth, the whole truth, and nothing but the truth, the said Frank J. Hellmich and Maydalena Hellmich doth depose and say as follows:

**ORAL EXAMINATION.**

I, _____, as Register and Commissioner hereby certify that the foregoing deposition___on Oral Examination was taken down by me in writing in the words of the witness_____and read over to _____ and_____signed the same in the presence of myself _____ at the time and place herein mentioned; that I have personal knowledge of personal identity of said witness_____or had proom made before me of the identity of said witness___; that I am not of counsel or kin to any of the parties to said cause, or any manner interested in the result thereof

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this_____day of _____, 195_____.

_____(L. S.)

NO._____ PAGE_____

THE STATE OF ALABAMA
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY

_____ vs. _____ Complainant

_____ Respondent.

# Oral Deposition

Filed _____, 195_____

FILED
OCT 3 1980
CLERK
REGISTER

_____, Register.

_____ Record

Vol. _____ Page _____

_____, Register

| | | |
|---|---|---|
| FRANK J. HELLMICH and EMMA CATHERINE HELLMICH, husband and wife,<br><br>Complainants,<br><br>-vs-<br><br>LOT NUMBER EIGHTEEN (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the NE¼ of the SW¼ of Section 29, Township 7 South, Range 4 East, and,<br><br>MATH HELLMICH, sometimes known as MATH J. HELLMICH, NICHOLAS BOECKER, MRS. MARY BOECKER, BERNARD BOECKER, NICK BRUCKER, and their unknown heirs, devisees, executors, administrators, and any and all persons, firsm of corporations claiming any interest in the above described lands,<br><br>Respondents. | ) | IN THE CIRCUIT COURT OF<br>BALDWIN COUNTY, ALABAMA<br>IN EQUITY |

Testimony of Frank J. Hellmich:

My name is Frank J. Hellmich; I am over the age of twenty-one years of age, and a resident citizen of Foley, Baldwin County, Alabama, and have been such a resident citizen for my entire life; I am the owner of Lot Number eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section twenty-nine (29), Township seven (7) South, Range four (4) East; I became the purchaser of this property of record on the 6th day of May, 1959, from my mother, Magdalena Hellmich, who was paid a reasonable consideration for the property; my Deed is of record in the office of the Judge of Probate of Baldwin County, Alabama, which is made to myself and my wife, in Deed Book 278, at Page 281; my wife, Emma Catherine Hellmich, and I,have been in the actual, peaceable, notorious and adverse possession of this property for over twenty (20) years; this came about in that my step-father, Math Hellmich, who is a respondent in this action, purchased this property from the State of Alabama, by a Tax Deed, on or about the 23rd day of July, 1935, which deed is recorded in the Probate Office of Baldwin County, Alabama, in Deed Book 57, Page 424. A Decree of the Circuit Court of this County was entered on the

C. G. C.

14th day of October, 1958, directing the conveyance of this property from Math J. Hellmich to my mother, Magdalena Hellmich, and on December 16, 1958, in accordance with the Court Decree, Alice J. Duck, as Register in Chancery, made the deed in behalf of the said Math J. Hellmich. This deed, to myself and my wife, is recorded in Deed Book 274, Pages 332-333, in the office of the Judge of Probate of Baldwin County, Alabama; I am the only person who has paid the taxes on this property for more than ten (10) years, although for a part of this time the property was assessed in the name of Math Hellmich; I am the only person who has signed any assessment on the property, or has had any possession thereof for more than ten (10) years, next preceeding the filing of my Bill of Complaint. This property stands in my name and that of my wife, in the records of the office of the Judge of Probate of Baldwin County, Alabama, and there is no suit or action of any kind or nature pending to test our interest therein or title thereto this property, and it is known in the vicinity as being our property.

Frank J. Hellmich

Testimony of Magdalena Hellmich:

My name is Magdalena Hellmich; I have been a resident of Baldwin County, Alabama, for many years, and am the mother of Frank J. Hellmich; he and his wife, Emma Catherine Hellmich, both resident citizens of Baldwin County, Alabama, and are both over the age of twenty-one years; I am also familiar with the property in the City of Foley, described as Lot eighteen (18), of Thielen & Schumacher's Addition to the Town of Foley, being in the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section twenty-nine (29), Township seven (7) South, Range four (4) East; Math Hellmich, who is also known as Math J. Hellmich, bought this property from the State of Alabama on a Tax Deed in 1935, but he never paid any taxes on this property; my son, Frank J. Hellmich paid taxes on this lot ever since its purchase; he and his wife are in the actual

C. G. C.

possession of this property and have been since this time, and for approximately twenty (20) years; in October of 1958, I obtained in this Court a Decree whereby Math Hellmich was supposed to give me certain support, and that he was supposed to convey this property to me, as a part of the support; later that year a deed was made to me by Alice J. Duck, as Register of this Court, and I later conveyed the land to my son and daughter-in-law, who paid a reasonable price therefor; to the best of my information, no one has paid any taxes on this property for more than ten (10) years, other than my son, Frank J. Hellmich, and I don't believe that anyone has made any assessments except him; I do know that no one has been in possession of this property other than my son and his wife, for more than ten (10) years.

Magdalena Hellmich

I, Dorothy Chason, as Register and Commissioner hereby certify that the foregoing deposition on Oral Examination was taken down in writing by me in the words of the witnesses and read over to them and they signed the same in the presence of myself and C. G. Chason, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witnesses, or had proof made before me of the identity of said witnesses; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof.

I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and Seal, this 3rd day of October, 1960.

Dorothy Chason SEAL

C. G. C.

I, James A. Brice, Guardian Ad Litem in the above styled cause, hereby certify that I was present at the time of the examination of the witnesses, put all matters and facts in issue, and being satisfied with the original testimony, waive cross examination.

James A Brice

C. G. C.