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Emma A. Burkart,

Complainant,

VS.

Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar. And the unknown heirs of Bella Smith Portovan, deceased, Martin Villar, Jr., deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmelita Perrenot, deceased, and John Kee, deceased. And also the following described land, to-wit:

All that part of the William Kee Spanish Grant being Sections Twelve (12) Township Nine (9) South and Section Twenty-six (26) Township Eight (8) South, all in Range Five (5) East of the St. Stephens Meridian, Alabama, containing 567.17 acres, as shown by the Township Plats approved April 4th, 1832, and March 12th, 1832, respectively, being claim No. 42 of Report No. 1, American State Papers Vol. 3, page 393; described as follows:

Commencing at a point corresponding with the northeast corner of Northwest Qr. of Section Two (2), Regular Survey, Township Nine (9) South, Range Five (5), East, and running west  $4\frac{1}{2}^{\circ}$  S. Two (2) chains and fifty-five (55) links for beginning corner, said beginning corner being more particularly described as being at the intersection of the township line between Townships Eight (8) and Nine (9) South, and the East line of the said William Kee Grant, thence south  $10^{\circ}$  east 30 chains 90 links, more or less, along the east line of said William Kee Grant, to the north side of Bay Ornocor or South Bay, thence along the shore of said Bay with its meanders to the west line of said regular Section Two (2), thence north  $4\frac{1}{2}^{\circ}$  west, along the west line of said regular Section Two (2), 29 chains 18 links, more or less, to the south line of Bay La Launch, thence eastwardly along the shore of said Bay with its meanders to the township line between Townships Eight (8) and Nine (9) South, thence East  $4\frac{1}{2}^{\circ}$  north, with said Township line, 31 chains and 11 links, more or less, to the place of beginning, containing 132.91 acres, more or less, being the lands known as the G. W. Johnson lands, situated in Baldwin County, Alabama.

IN THE  
CIRCUIT COURT  
OF  
BALDWIN COUNTY,  
ALABAMA,  
IN EQUITY.

This cause coming on to be heard was submitted on

the bill of complaint, decree pro confesso against all of the defendants, and upon the testimony as noted by the register. And it appearing to the court from the pleadings and proof that the complainant, Emma A. Burkart, claims in her own right to own the lands hereinafter described as follows, to-wit:

All that part of the William Kee Spanish Grant being Sections Twelve (12) Township Nine (9), South, and Section Thirty-six (36) of Township Eight (8) South, all in Range Five (5) East of the St. Stephens Meridian, Alabama, containing 567.17 acres, as shown by the Township Plats approved April 4th, 1832, and March 12th, 1832, respectively, being claim No. 42 of Report No. 1 American State Papers Vol. 3, page 393; described as follows:

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And that the complainant was at the time of the filing of the bill of complaint, and still is, in the actual, peaceable possession of said lands and that she and those through whom she claims have regularly and annually assessed and paid taxes on said lands for more than ten years next preceding the filing of the bill in this cause and that no other person has paid the taxes on any part of said lands during said period and that none of the respondents or their predecessors in claim have ever been in the actual possession of the lands. And it further appearing that there is no suit pending to test complainant's title to, interest

in, or her right to the possession of said land; and it further appearing that the respondents claim, or are reputed to claim, some title to, interest in, or lien or incumbrance upon said lands; and it appearing further that complainant's claims to own the legal title in fee simple to the said above described lands and that she derived her title to said lands through and under the provisions of the last will and testament of her husband, C. Burkart, deceased, which said last will and testament was duly admitted to probate in the probate court of Cullman County, Alabama, on the 18th day of June, 1922; and that the said C. Burkart derived his title to said lands through a warranty deed executed by G. W. Johnson, single, on the 2nd day of May, 1913, which said deed is recorded in Deed Book Vol. 22 NS P. 392, in the office of the judge of probate of Baldwin County, Alabama; and it further appearing that the said G. W. Johnson had been in the actual, peaceable, open and notorious possession of said lands under claim of right since the 3rd day of August, 1876, up until the time he sold and conveyed the same to the said C. Burkart; and it further appearing that the title to said lands stands upon the records of the probate court of Baldwin County, Alabama, where said lands are situated, in the name of Emma A. Burkart, the complainant:

The court is therefore of the opinion that the complainant is entitled to the relief prayed for in her bill of complaint. It is therefore ordered, adjudged and decreed by the court that the complainant, Emma A. Burkart, has a full and complete legal title in fee simple to the said above described lands; that the title in fee simple to said lands be and the same are hereby vested in the complainant, Emma A. Burkart, and that the respondents, Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher

Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar. And the unknown heirs of Bella Smith Portovan, deceased, Martin Villar, Jrs, deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmeleta Perrenot, deceased, and John Kee, deceased, or either of them, and each of them, have no right, title or interest in or to said lands and no lien or incumbrance upon the same or any part thereof, and that as against the said parties defendant to this suit and each of them, complainant, Emma A. Burkart, has a good and perfect legal title in fee simple to all of said lands and that the complainant's title to said lands be and the same are forever quieted as against the above named defendants and each of them.

It is further ordered, adjudged and decreed that a certified copy of this decree be recorded in the office of the judge of probate of Baldwin County, Alabama, in which the lands lie; and that said record shall be indexed on the direct index in the name of C. Burkart to Emma A. Burkart, and on the indirect index of the record thereof in the name of Emma A. Burkart from C. Burkart. It is further ordered, adjudged and decreed that the register of this court shall, within thirty days from the rendition of this decree, file a certified copy of said decree in the office of the judge of probate of Baldwin County, Alabama, for record, and that he shall tax the expense thereof as a part of the costs of the case and that the probate

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judge shall record such copy in the same book and manner in which deeds are recorded and shall index the same as in said decree ordered and directed.

It is further ordered, adjudged and decreed that the complainant pay the costs of this suit, to be taxed by the register, for which let execution issue.

This 20th day of September, 1927.

John D Leigh  
Judge.

STATE OF ALABAMA )  
BALDWIN COUNTY )

In the Circuit Court of  
Baldwin County, Alabama,  
In Equity.

I, T. W. Richerson, register of the circuit court of Baldwin County, Alabama, in equity, hereby certify that the within and foregoing is a true and correct copy and transcript of the original and final decree rendered in said cause as the same appears of record in my office.

Given under my hand, this 26<sup>th</sup> day of  
September, 1927.

T. W. Richerson  
Register.

Emma A. Burkart,

Complainant,

VS.

Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar. And the unknown heirs of Bella Smith Portovan, deceased, Martin Villar, Jr., deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmaleta Perrenot, deceased, and John Kee, deceased,

Respondents.

IN THE CIRCUIT COURT  
OF BALDWIN COUNTY,  
ALABAMA, IN EQUITY.

TO THE HON. JOHN D. LEIGH, Judge of said Circuit Court:

Your complainant, Emma A. Burkart, brings this her bill of complaint against Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirion, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar; and the unknown heirs of Bella Smith Portovan, deceased, Martin Villar, Jr., deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmaleta Perrenot, deceased, and John Kee, deceased, and against the following described real estate situated in Baldwin County,

Alabama, to-wit:

All that part of the William Kee Spanish Grant being Sections Twelve (12) Township Nine (9), South, and Section Thirty-six (36) of Township Eight (8) South, all in Range Five (5) East of the St. Stephens Meridian, Alabama, containing 567.17 acres, as shown by the Township Plats approved April 4th, 1832, and March 12th, 1832, respectively, being claim No. 42 of Report No. 1 American State Papers Vol. 3, page 393; described as follows:

Commencing at a point corresponding with the northeast corner of Northwest Qr. of Section Two (2), Regular Survey, Township Nine (9) South, Range Five (5), East, and running west  $4\frac{1}{2}^{\circ}$  S. Two (2) chains and fifty-five (55) links for beginning corner, said beginning corner being more particularly described as being at the intersection of the township line between Townships Eight (8) and Nine (9) South, and the East line of the said William Kee Grant, thence south  $10^{\circ}$  east 30 chains 90 links, more or less, along the east line of said William Kee Grant, to the north side of Bay Ornocor or South Bay, thence along the shore of said Bay with its meanders to the west line of said regular Section Two (2), thence north  $4\frac{1}{2}^{\circ}$  west, along the west line of said regular Section Two (2), 29 chains 18 links, more or less, to the south line of Bay La Launch, thence eastwardly along the shore of said Bay with its meanders to the township line between Townships Eight (8) and Nine (9) South, thence East  $4\frac{1}{2}^{\circ}$  north, with said Township line, 31 chains and 11 links, more or less, to the place of beginning, containing 132.91 acres, more or less, being the lands known as the G. W. Johnson lands,

and humbly complaining says:

1. Complainant avers that she is a bona fide resident of Cullman County, Alabama, and is over the age of twenty-one years; that the respondents Fritz Beck and Gus Portovan are non-residents of the State of Alabama and when last heard from resided somewhere in the State of Mississippi; that Lorena Valisori and Mary Moton are non-residents of the State of Alabama and reside somewhere in the State of Florida; that Russell Bullman, Mary Fletcher Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell and Fred Beck are non-residents of the State of Alabama and when last heard from resided somewhere in the State of Mississippi; that Francis Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter,

and Charles Villar, whose places of residence are unknown, when last heard from resided out of the State of Alabama and complainant is informed and believes and alleges upon such information and belief that they are non-residents of the State of Alabama. Artemus Villar, alias Artemus Billard, and Martin F. Villar, complainant avers she is informed, reside somewhere in the State of Alabama but their particular place of residence is unknown to complainant, and the more particular addresses or places of residence of above named resident respondents could not and can not be ascertained by complainant, although diligent inquiry has been made to that end. That Bella Smith Portovan, Martin Villar, Mr., Alice Hunter Mabry, Bella Hunter, Victoria Villar Hunter, Victorine Villar Beck, Missouri Carter, Artemus Villar, Gus Villar, Phillipia Villar and Frank Kee (a son of William Kee, the patentee of the lands herein described) are all dead, having died intestate; and the unknown heirs of William Kee, deceased, who died intestate, and Isabella Villar (nee Kee) who died intestate, Carmaleta Perrenot (nee Kee) deceased, who died intestate, and John Kee, deceased, who died intestate, all of said unknown heirs being heirs at law of William Kee, deceased, the patentee of the lands described in this bill of complaint, but the names or places of residence or whereabouts of the heirs at law, next of kin or devisees of such deceased persons are unknown to complainant and could not and cannot be ascertained, although complainant has made diligent inquiry in the neighborhood where said lands are situated and of the people who have known or are reputed to have known anything about the names or residence of any of said parties, and after said diligent inquiry complainant has been unable to ascertain the same. Such unknown heirs at law and next of kin complainant is informed and believes are non-residents of the State of Alabama and complainant alleges, upon such information and belief, them to be non-residents of

4.  
the State of Alabama. Such unknown heirs at law and next of kin of said deceased persons are made unknown parties defendant to this cause and complainant sues them as unknown defendants because they are necessary parties. That all of the parties defendant whose names are set forth herein are over the age of twenty-one years; that as to the unknown parties defendant, complainant on making diligent inquiry was informed and believes, and therefore alleges upon such information and belief, that all such unknown parties defendant are over the age of twenty-one years. Complainant avers that she has made diligent inquiry in the neighborhood where said lands are situated and ask of all persons who know or are reputed to know anything of the names and places of residence of all the defendants herein and after making such diligent inquiry she could not and can not ascertain the places of residence or the addresses of any of the defendants to this bill of complaint.

2. That the complainant claims in her own right to own the lands above described, to-wit:

All that part of the William Kee Spanish Grant being Sections Twelve (12) Township Nine (9), South, and Section Thirty-six (36) of Township Eight (8) South, all in Range Five (5) East of the St. Stephens Meridian, Alabama, containing 567.17 acres, as shown by the Township Plats approved April 4th, 1832 and March 12th, 1832, respectively, being claim No. 42 of Report No. 1 American State Papers Vol. 3, page 393; described as follows:

Commencing at a point corresponding with the northeast corner of Northwest Cr. of Section Two (2) regular survey, Township Nine (9) South, Range Five (5) East, and running west  $4\frac{1}{2}^{\circ}$  S. two (2) chains and fifty-five (55) links for beginning corner, said beginning corner being more particularly described as being at the intersection of the township line between Townships Eight (8) and Nine (9) South, and the east line of the said William Kee Grant, thence south  $10^{\circ}$  east 30 chains 90 links, more or less, along the east line of said William Kee Grant, to the north side of Bay Ornocor or South Bay, thence along the shore of said Bay with its meanders to the west line of said regular Section Two (2), thence north  $4\frac{1}{2}^{\circ}$  west, along the west line of said regular Section Two (2), 29 chains 18 links, more or less, to the south line of Bay La Launch, thence eastwardly along the shore of said Bay with its meanders to the town-

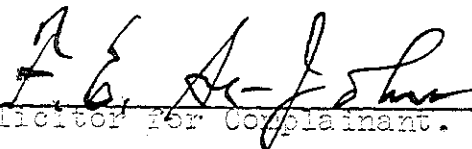
ship line between Townships Eight (8) and Nine (9) South, thence east  $4\frac{1}{2}$ ° north, with said township line, 31 chains and 11 links, more or less, to the place of beginning, containing 132.91 acres, more or less, being the lands known as the G. W. Johnson lands,

and is in the actual peaceable possession of said land and that she and those through whom she claims have regularly and annually assessed and paid taxes on said lands for more than ten years next preceding the filing of the bill in this cause and that no other person has paid the taxes on any part of said lands during said period and that none of the respondents or their predecessors in claim have ever been in the actual, possession of the lands and that there is no suit pending to test complainant's title to, interest in or her right to the possession of said lands. And complainant avers that the respondents claim, or are reputed to claim, some title to, interest in or lien or incumbrance upon said lands.

3. Complainant avers that she claims to own the legal title in fee simple to said above described lands; that she derived her title to said lands through and under the provisions of the last will and testament of her husband, C. Burkart, deceased, which said last will and testament was duly admitted to probate in the Probate Court of Cullman County, Alabama, on the 19th day of June, 1922; that the said C. Burkart derived his title in said lands through a warranty deed executed by G. W. Johnson, single, on the 2nd day of May, 1915, and recorded in Deed Book Vol. 22-NS, page 392, in the office of the Judge of Probate of Baldwin County, Alabama; That the said G. W. Johnson had been in the actual, peaceable, open and notorious possession of said lands under claim of right since the 3rd day of August, 1876, up until the time he sold and conveyed the same to the said C. Burkart; that the title to said lands stand upon the records of the Probate Court of Baldwin County, Alabama, where said lands are situated, in

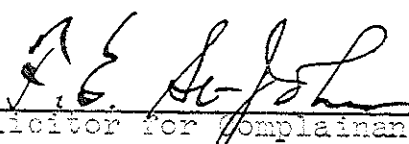
the name of the complainant.

WHEREFORE, the premises considered, complainant prays that your Honor will take jurisdiction of this cause; that the above named parties defendant be made parties defendant hereto and that proper process be issued to bring them into court by publication, or otherwise, to plead, answer or demur to this bill of complaint within the time and in the manner required by law; that upon final hearing of this cause a decree be entered establishing complainant's right and title in and to the lands described in the bill and to clear up all doubts and disputes concerning the same, and decreeing that the respondents, and each of them, have no right, title or interest in or to said lands, and no lien or incumbrance upon the same, or any part thereof, and that as against the said parties defendant to this suit, and each of them, your complainant has a good and perfect legal title in fee simple to all of said lands, and that said title to said lands be forever quieted as against the above named defendants and each of them. And for such other relief, general and special, as may be agreeable to equity and good conscience.

  
Solicitor for Complainant.

NOTE:

The respondents are each required to answer each and every paragraph of the foregoing bill of complaint, from 1 to 3, inclusive, but not under oath which is hereby expressly waived.

  
Solicitor for Complainant.

STATE OF ALABAMA )

CULLMAN COUNTY )

Before me, the undersigned authority in and for  
said County and State, personally appeared Emma A. Burkart,  
who being by me first duly sworn, deposes and says:

That she is the complainant in the foregoing bill  
of complaint and that the allegations contained in said bill  
of complaint are true.

Emma A. Burkart  
Affiant

Subscribed and sworn to before me, this 3rd day

of June, 1927.

Paul F. Engel  
Notary Public, Ala.

STATE OF ALABAMA )

CULLMAN COUNTY )

Before me, Leona Torrey, a notary public in and for said County and State, personally appeared F. E. St. John, who is known to me, and who, after being by me first duly sworn, doth depose and says under oath:

That his name is F.E. St. John; that he is the solicitor of complainant, Emma A. Burkart in the case of Emma A. Burkart, Complainant, vs. Fritz Beck, Et Al., Respondents, now pending in the circuit court in equity of Baldwin County, Alabama, and that as such he is the agent and attorney for complainant and is fully and duly authorized to make this affidavit; that he makes this affidavit on account of his being acquainted with the facts herein alleged; that Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher Porterman, Victoria Fletcher Grebs, Virginia Fletcher, Conde Fletcher, Mika Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar; and the unknown heirs of Bella Smith portovan, deceased, Martin Villar<sup>Jr.</sup>, deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmaleta Perrenot, deceased, and John Kee, deceased, are non-residents of the State of Alabama; that their particular places of residence are unknown to complainant or to affiant; that the places of residence and addresses of those alleged in the bill as being residents of the State of Alabama are unknown; that complainant and affiant have made diligent inquiry as to the names, residences and addresses of said defendant by in-

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quiring in the neighborhood where the lands involved in this cause are situated and inquiring of all persons who know, or are reputed to know, anything about the names or places of residence and addresses of said respondents, and of the names, places of residence and addresses of those alleged in the bill as being unknown, and after such diligent inquiry the complainant or affiant has been unable to ascertain the same; that in the belief of affiant all of said defendants are over the age of twenty-one years and that service by publication is necessary in order to make them parties defendant in said cause.

A. E. DeJohn  
Affiant

Subscribed and sworn to before me, this 9th day  
of June, 1927.

Reona Torrey  
Notary Public

3  
Emma A Burkart.

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Fritz Beck et al

Affidavit as  
to now residence  
of defendant.

Filed June 1907  
J. M. Higgins  
Register

12.3  
Emma A. Burkart,

Complainant,

VS.

Fritz Beck, Gus Portovan, Lorena Valisori,  
Mary Moton, Russell Bullman, Mary Fletcher  
Porterman, Victoria Fletcher Crebs, Virginia  
Fletcher, Conde Fletcher, Mike Fletcher,  
Mrs. Silas Powell, Fred Beck, Frances Codina,  
Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth  
Selirio, Angelo Selirio, Josie Villar, Bella  
Villar, Missouri Bullman, Willie Mabry, Willie  
Hunter, Charles Villar, Artemus Villar alias  
Artemus Billard, Martin F. Villar. And the  
unknown heirs of Bella Smith Portovan, deceased,  
Martin Villar, Jr., deceased, Alice Hunter  
Mabry, deceased, Bella Hunter, deceased, Victoria  
Villar Hunter, deceased, Victorine Villar Beck,  
deceased, Missouri Carter, deceased, Artemus  
Villar, deceased, Gus Villar, deceased, Phillipia  
Villar, deceased, Frank Kee, deceased, William  
Kee, deceased, Isabella Villar, deceased, Carma-  
leta Perrenot, deceased, and John Kee, deceased.  
And also the following described land, to-wit:

All that part of the William Kee Spanish Grant  
being Sections Twelve (12) Township Nine (9),  
South, and Section Thirty-six (36) of Township  
Eight (8) South, all in Range Five (5) East of  
the St. Stephens Meridian, Alabama, containing  
567.17 acres, as shown by the Township Plats  
approved April 4th, 1832, and March 12th, 1832,  
respectively, being claim No. 42 of Report No. 1,  
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as follows:

Commencing at a point corresponding with the  
northeast corner of Northwest Qr. of Section Two  
(2), Regular Survey, Township Nine (9) South,  
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Two (2) chains and fifty-five (55) links for  
beginning corner, said beginning corner being  
more particularly described as being at the inter-  
section of the township line between Townships  
Eight (8) and Nine (9) South, and the East line  
of the said William Kee Grant, thence south  $10^{\circ}$   
east 30 chains 90 links, more or less, along the  
east line of said William Kee Grant, to the north  
side of Bay Ornocor or South Bay, thence along  
the shore of said Bay with its meanders to the  
west line of said regular Section Two (2), thence  
north  $4\frac{1}{2}^{\circ}$  west, along the west line of said reg-  
ular Section Two (2), 29 chains 18 links, more or  
less, to the south line of Bay La Launch, thence  
eastwardly along the shore of said Bay with its  
meanders to the township line between Townships  
Eight (8) and Nine (9) South, thence East  $4\frac{1}{2}^{\circ}$   
north, with said Township line, 31 chains and  
11 links, more or less, to the place of beginning,  
containing 132.91 acres, more or less, being the  
lands known as the G. W. Johnson lands, situated  
in Baldwin County, Alabama.

IN THE  
CIRCUIT COURT  
OF  
BALDWIN COUNTY,  
ALABAMA,  
IN EQUITY.

This cause coming on to be heard was submitted on

the bill of complaint, decree pro confesso against all of the defendants, and upon the testimony as noted by the register. And it appearing to the court from the pleadings and proof that the complainant, Emma A. Burkart, claims in her own right to own the lands hereinafter described as follows, to-wit:

All that part of the William Kee Spanish Grant being Sections Twelve (12) Township Nine (9), South, and Section Thirty-six (36) of Township Eight (8) South, all in Range Five (5) East of the St. Stephens Meridian, Alabama, containing 567.17 acres, as shown by the Township Plats approved April 4th, 1832, and March 12th, 1832, respectively, being claim No. 42 of Report No. 1 American State Papers Vol. 3, page 393; described as follows:

Commencing at a point corresponding with the northeast corner of Northwest Qr. of Section Two (2), Regular Survey, Township Nine (9) South, Range Five (5), East, and running west  $4\frac{1}{2}^{\circ}$  S. Two (2) chains and Fifty-five (55) links for beginning corner, said beginning corner being more particularly described as being at the intersection of the township line between Townships Eight (8) and Nine (9) South, and the East line of the said William Kee Grant, thence south  $10^{\circ}$  east 30 chains 90 links, more or less, along the east line of said William Kee Grant, to the north side of Bay Ornocor or South Bay, thence along the shore of said Bay with its meanders to the west line of said regular Section Two (2), thence north  $4\frac{1}{2}^{\circ}$  west, along the west line of said regular Section Two (2), 29 chains 18 links, more or less, to the south line of Bay La Launch, thence eastwardly along the shore of said Bay with its meanders to the township line between Townships Eight (8) and Nine (9) South, thence East  $4\frac{1}{2}^{\circ}$  north, with said Township Line, 31 chains and 11 links, more or less, to the place of beginning, containing 152.91 acres, more or less, being the lands known as the G. W. Johnson lands, situated in Baldwin County, Alabama.

And that the complainant was at the time of the filing of the bill of complaint, and still is, in the actual, peaceable possession of said lands and that she and those through whom she claims have regularly and annually assessed and paid taxes on said lands for more than ten years next preceding the filing of the bill in this cause and that no other person has paid the taxes on any part of said lands during said period and that none of the respondents or their predecessors in claim have ever been in the actual possession of the lands. And it further appearing that there is no suit pending to test complainant's title to, interest

in, or her right to the possession of said land; and it further appearing that the respondents claim, or are reputed to claim, some title to, interest in, or lien or incumbrance upon said lands; and it appearing further that complainant claims to own the legal title in fee simple to the said above described lands and that she derived her title to said lands through and under the provisions of the last will and testament of her husband, C. Burkart, deceased, which said last will and testament was duly admitted to probate in the probate court of Cullman County, Alabama, on the 18th day of June, 1922; and that the said C. Burkart derived his title to said lands through a warranty deed executed by G. W. Johnson, single, on the 2nd day of May, 1913, which said deed is recorded in Deed Book Vol. 22 NS P. 392, in the office of the judge of probate of Baldwin County, Alabama; and it further appearing that the said G. W. Johnson had been in the actual, peaceable, open and notorious possession of said lands under claim of right since the 3rd day of August, 1876, up until the time he sold and conveyed the same to the said C. Burkart; and it further appearing that the title to said lands stands upon the records of the probate court of Baldwin County, Alabama, where said lands are situated, in the name of Emma A. Burkart, the complainant:

The court is therefore of the opinion that the complainant is entitled to the relief prayed for in her bill of complaint. It is therefore ordered, adjudged and decreed by the court that the complainant, Emma A. Burkart, has a full and complete legal title in fee simple to the said above described lands; that the title in fee simple to said lands be and the same are hereby vested in the complainant, Emma A. Burkart, and that the respondents, Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher

Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar. And the unknown heirs of Bella Smith Portovan, deceased, Martin Villar, Jr., deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmeleta Perrenot, deceased, and John Kee, deceased, or either of them, and each of them, have no right, title or interest in or to said lands and no lien or incumbrance upon the same or any part thereof, and that as against the said parties defendant to this suit and each of them, complainant, Emma A. Burkart, has a good and perfect legal title in fee simple to all of said lands and that the complainant's title to said lands be and the same are forever quieted as against the above named defendants and each of them.

It is further ordered, adjudged and decreed that a certified copy of this decree be recorded in the office of the judge of probate of Baldwin County, Alabama, in which the lands lie; and that said record shall be indexed on the direct index in the name of C. Burkart to Emma A. Burkart, and on the indirect index of the record thereof in the name of Emma A. Burkart from C. Burkart. It is further ordered, adjudged and decreed that the register of this court shall, within thirty days from the rendition of this decree, file a certified copy of said decree in the office of the judge of probate of Baldwin County, Alabama, for record, and that he shall tax the expense thereof as a part of the costs of the case and that the probate

judge shall record such copy in the same book and manner in which deeds are recorded and shall index the same as in said decree ordered and directed.

It is further ordered, adjudged and decreed that the complainant pay the costs of this suit, to be taxed by the register, for which let execution issue.

This 20<sup>th</sup> day of September, 1927.

John D. Leigh  
Judge.

THE STATE OF ALABAMA

CULLMAN COUNTY

I, C. Burkart, being of sound mind and disposing memory do make this last will and testament, thereby revoking all former wills at any given time heretofore made by me.

(1) I give, devise and bequeath unto my wife Emma A. Burkart all the property of which I may die, seized or possessed or to which I may be entitled at the time of my decease to have and to hold absolutely.

(2) I nominate and appoint my wife, Emma A. Burkart as executrix of this my last will and testament, and declare that she shall not be required to give any bond for the performance of her duties arising thereunder; Nor shall she be required to make any inventory of the property coming into her hands as such executrix nor make any report to any court of her proceedings thereunder.

Witness my hand this 25 day of October 1918.

C. Burkart,

Signed and declared to be his last will and Testament by C. Burkart in our presence and we in his presence, and in the presence of each other, and at his request, have hereunto set our names as witnesses on the day the same bears date.

D.H. Veal  
M.M. Gibbs

STATE OF ALABAMA

CULLMAN COUNTY

Filed in office this <sup>the</sup> day of June 1922,

Fred J. Buchmann  
Judge of Probate  
Cullman County.

STATE OF ALABAMA  
CULLMAN COUNTY

I, Fred J. Buchmann, Judge of Probate in and for said County and State, hereby certify that the foregoing instrument of writing has this day in said Court and before me been duly proven to be the last Will and Testament of C. Burkart Deceased, and the same is hereby admitted to record and probate, and together with the proof thereof has been duly recorded in Book of Wills No. 3, on page 326.

In witness whereof I have hereunto set my hand and seal this 19th day of June 1922,

Fred J. Buchmann  
Judge of Probate

State of Alabama,

Cullman County.

Probate Court.

In the Matter of the Estate of C. Burkart, Deceased,  
Present Hon. Fred J. Buchmann Judge of Probate,  
Before me Fred J. Buchmann Judge of Probate in and for said County  
personally appeared in open Court D.H. Veal who being first duly  
sworn deposes and says that he is a subscribing witness to the instru-  
ment of writing now shown to him and which purports to be the last  
will of C. Burkart deceased, late an inhabitant of this county, that  
said C. Burkart since deceased, signed and executed said instrument  
on the day the same bears date, and declared the same to be his last  
will and that affiant set his signature thereto on the day the same  
bears date as a subscribing witness to the same in the presence of said  
C. Burkart and that such other witness subscribed his name as a witness  
in his presence and in the presence of said.....

The said C. Burkart was of sound mind and disposing memory and in  
the opinion of the deponent fully capable of making his will at the  
time the same was so made as aforesaid, affiant further states that  
said C. Burkart was on said date of said Will of the full age of Twenty  
One years and upwards.

D.H. VEAL

Sworn to and subscribed before me, this 19th day of June 1922.

Fred J. Buchmann  
Judge of Probate

State of Alabama  
Cullman County

Filed in office this the 19th day of June 1922.

Fred J. Buchmann  
Judge of Probate  
Cullman County, Ala.

Recorded in Vol. 3, Page 324.

Page 2

STATE OF ALABAMA

CULLMAN COUNTY

PROBATE COURT:

In the Matter of the Estate of C. Burkart Deceased  
Present Hon. Fred J. Buchmann Judge of Probate.

Before me Fred J. Buchmann Judge of Probate in and for said County, personally appeared in open Court, M.M. Gibbs who being first duly sworn, deposes and says that he is subscribing witness to the instrument of writing now shown to him and which purport to be the last will of C. Burkart deceased, late an inhabitant of this county, that said C. Burkart since deceased, signed and executed said instrument on the day the same bears date and declared the same to be his last will, and that affiant set his signature thereto on the day the same bears date as a subscribing witness to the same in the presence of said C. Burkart and that such other witness subscribed his name as a witness in his presence and in the presence of said.....

That said C. Burkart was of sound mind and disposing memory, and in the opinion of the deponent fully capable of making his will at the time the same was so made as aforesaid, Affiant further states that said C. Burkart was on said date of said will of the full age of Twenty One years and upwards.

M.M. Gibbs

Sworn to and subscribed before me, this 19th day of June 1922.

Fred J. Buchmann  
Judge of Probate

State of Alabama  
Cullman County

Filed in office this the 19 day of June 1922.

Fred J. Buchmann  
Judge of Probate  
Cullman County, Ala.

Recorded in Vol. 3 Page 325

Fred J. Buchmann  
Judge of Probate.

Page # 3

STATE OF ALABAMA

CULLMAN COUNTY

PROBATE COURT:

I, S.J. Griffin, Judge of Probate, in and for State and County aforesaid, do hereby certify that the foregoing is a true and correct copy of an instrument of writing, proven to be the last Will and Testament of C. Burkart, Deceased, same having been filed in this office on the 7th day of June 1922, and admitted to record and probate on the 19th day of June 1922, as same appears of record in my office, record of Wills, Vol. 3, Page 326.

Also a true and correct copy of the proof of said will on which said will was duly probated and admitted to record, as same appears of record in my office, record of Wills, Vol. 3 at pages 324 & 325.

Given under my hand and Official Seal this the 3rd day of June 1927.

  
PROBATE JUDGE.

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Page #4

WILLIAM TO CHURCH

WILLIAM TO CHURCH

WILLIAM TO CHURCH

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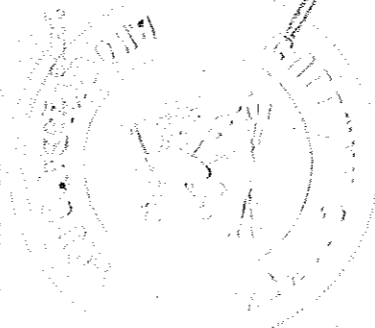
WILLIAM TO CHURCH

WILLIAM TO CHURCH

WILLIAM TO CHURCH

WILLIAM TO CHURCH

Identified Copy of  
Will and Testimony  
and Certificates



Received in Will  
Record "C" at Pages  
349 & 350

Filed in office of  
Judge of Probate Court  
Benton Co, Arkansas  
10th, 1947

J. W. Humphreys, Judge  
by S. K. K. Clerk

The State of Alabama, }  
BALDWIN COUNTY.

CIRCUIT COURT, IN EQUITY.

No. 680 Vacation Term, 1927

Emma Burkett,

Complainants

vs.

Fritz Beck et al.

vs.

Defendants

Motion is hereby made for a Decree Pro Confesso against Fritz Beck et al

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 18th day of August 1927

746 Code.

F. E. St John,

Solicitor.

6  
No. 680

Page .....

STATE OF ALABAMA,  
Baldwin County.

CIRCUIT COURT, IN EQUITY.

Emma Burkett

Complainants.

Vs.

Fritz Beck et al.

Defendants.

MOTION FOR DECREE PRO  
CONFESSO ON PUBLICATION.

Filed August 1927

*T. W. Pickens*  
Register.

Recorded in ..... Record,

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

Register.

Baldwin Times Print, Bay Minette.

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

} CIRCUIT COURT, IN EQUITY.

No. 680 Vacation Term, 1927

Emma Burkett

Complainant

Fritz Beck et al

vs. Defendant S

In this cause it appears to the Register that the order of publication here-

tofore made in this cause, was published for four consecutive weeks, commencing on the 9th

June 27, 1927, in the Baldwin Times

a newspaper published in Bay Minette Alabama, that a copy of said order was posted at the Court

House door in Baldwin County, on the 9th day of June, 1927,

And it now further appearing to the Register that the said Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar. And the unknown heirs of Bella Smith Portovan, deceased, Martin Villar, Jr., deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmaleta Perrenot, deceased, and John Kee, deceased.

having to the date hereof failed to demur, plead to or answer the Bill of Complaint in this cause, it is now, there-

fore, on motion of Complainant, ordered and decreed by the Register that the

Bill of Complaint in this cause be, and it hereby is in all things taken as confessed against the said

above named defendants,

This 15 day of August, 1927.

*D. W. Richardson*  
Register.

7  
No. 680

Page

THE STATE OF ALABAMA,  
Baldwin County.

CIRCUIT COURT, IN EQUITY

Emma Burkhardt

vs.

Fritz Beck et al.

DECREE PRO CONFESSO ON  
PUBLICATION.

Issued Aug 15 1927

*T. W. Richmond*  
Register.

Recorded in Record

Vol. Page

Register.

RECORDED

Emma A. Burkart,	)	
Complainant,	(	IN THE CIRCUIT COURT OF
vs.	)	BALDWIN COUNTY, ALABAMA,
Fritz Beck, Et Al.,	(	IN EQUITY.
Respondents.	)	No. _____

In this cause it is made to appear to the Register by affidavit on file of F. E. St. John, the solicitor of complainant, that the respondents, Fritz Beck, Gus Portovan, Lorena Valisori, Mary Moton, Russell Bullman, Mary Fletcher; Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell, Fred Beck, Frances Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter, Charles Villar, Artemus Villar alias Artemus Billard, Martin F. Villar; and the unknown heirs of Bella Smith Portovan, deceased, Martin Villar, Jr., deceased, Alice Hunter Mabry, deceased, Bella Hunter, deceased, Victoria Villar Hunter, deceased, Victorine Villar Beck, deceased, Missouri Carter, deceased, Artemus Villar, deceased, Gus Villar, deceased, Phillipia Villar, deceased, Frank Kee, deceased, William Kee, deceased, Isabella Villar, deceased, Carmaleta Perrenot, deceased, and John Kee, deceased, are non-residents of the State of Alabama, and that the places of residence and addresses of those alleged in the bill as being residents of the State of Alabama are unknown; and that the places of residence and addresses of all other respondents are unknown, and after diligent inquiry the complainant has been unable to ascertain the same. And further, that in the belief of said affiant the said respondents are each over the age of twenty-one years.

Now, therefore, this is to notify all of said above named respondents that the complainant, Emma A. Burkart, did on the 6th day of June, 1927, file her bill of complaint in

2.

the circuit court of Baldwin County, Alabama, in equity,  
against all of said above named respondents and against the  
lands hereinafter described, to-wit:

All that part of the William Kee Spanish Grant  
being Sections Twelve (12) Township Nine (9), South,  
and Section Thirty-six (36) of Township Eight (8)  
South, all in Range Five (5) East of the St. Stephens  
Meridian, Alabama, containing 567.17 acres, as shown  
by the Township Plats approved April 4th, 1832, and  
March 12th, 1832, respectively, being Claim No. 42 of  
Report No. 1 American State Papers Vol. 3, page 595,  
described as follows:

Commencing at a point corresponding with the  
northeast corner of Northwest Qr. of Section Two (2),  
regular survey, Township Nine (9) South, Range Five  
(5) East, and running west  $4\frac{1}{2}^{\circ}$  S. two (2) chains and  
fifty-five (55) links for beginning corner, said be-  
ginning corner being more particularly described as  
being at the intersection of the township line between  
Townships Eight (8) and Nine (9) South, and the east  
line of the said William Kee Grant, thence south  $10^{\circ}$   
east 30 chains 90 links, more or less, along the east  
line of said William Kee Grant, to the north side of  
Bay Ormocor or South Bay, thence along the shore of  
said Bay with its meanders to the west line of said  
regular Section Two (2), thence north  $4\frac{1}{2}^{\circ}$  West, along  
the west line of said regular Section Two (2), 29  
chains 18 links, more or less, to the south line of  
Bay La Launch, thence eastwardly along the shore of  
said Bay with its meanders to the township line be-  
tween Townships Eight (8) and Nine (9) South, thence  
east  $4\frac{1}{2}^{\circ}$  north, with said township line, 31 chains  
and 11 links, more or less, to the place of beginning,  
containing 132.91 acres, more or less, being the lands  
known as the G. W. Johnson lands,

to establish her right or title to such lands, or interest in  
the same, and to clear up all doubts or disputes concerning  
the same and to declare that the said respondents have no  
interest or title in or to said lands, or any lien or incum-  
brance thereon, and that the complainant claims the legal  
title in fee simple to all of said lands; that she derived  
title to the same through the last will and testament of her  
husband, C. Burkart, who in turn derived title thereto under  
a warranty deed executed by G. W. Johnson to C. Burkart on  
the 2nd day of May, 1913; that the said G. W. Johnson had been  
in the actual, peaceable, open and notorious possession of said  
lands since 1876 and that the complainant is in the actual,  
peaceable possession of said lands and she and those under whom

2.

she holds have been in the possession of said lands for a period of more than ten years next preceding the filing of the bill, and that she and those through whom she claims have paid taxes consecutively and annually during the whole of said period of ten years, and that no other person has paid taxes thereon during any part of said period and that none of the respondents have been in possession of said lands or any part thereof during said period of ten years next before the filing of this bill; that the title to said lands stands in the name of the complainant on the records in the probate office of Baldwin County, Alabama.

It is therefore ordered that publication of the foregoing notice be made in the Baldwin/Times, a newspaper published in Bay Minette, Baldwin County, Alabama, once a week for four consecutive weeks and that all of said respondents be required to demur, plead to or answer the bill of complaint in the above cause within sixty days of the first publication of this notice and to deposit a certified copy thereof in the probate court of Baldwin County, Alabama, where said lands lie.

Witness my hand, this 12 day of June, 1927.

T. W. Richerson  
Register.

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STATE OF ALABAMA )  
BALDWIN COUNTY )

I, T. W. Richerson, Register of the circuit court of Baldwin County, Alabama, hereby certify that the foregoing is a true and correct copy of the original notice issued in said cause, as the same appears of record in my office.

Witness my hand, 16 day of June, 1927.

T. W. Richerson  
Register.

F. E. ST. JOHN  
ATTORNEY AT LAW  
302-3-4 NEW LEETH BUILDING  
PHONE 194  
CULLMAN, ALABAMA

November 9, 1927.

Hon. T. W. Richerson

Bay Minette, Alabama.

Dear Sir:

I am enclosing you check of C.  
Burkart & Company for \$52.72 in settlement  
of cost bill in the case of Emma A. Burkart  
vs. Fritz Beck, Et Al.

Five dollars of this amount is the  
commissioners fee due Miss Leona Torrey, my  
stenographer for taking the testimony. You  
may mail her check in my care for that amount  
and sign her name on the book receipting for  
it.

Yours very truly,

*F. E. St. John*

STJ:LT

# The State of Alabama

No. \_\_\_\_\_ Chancery Court.

BALDWIN

COUNTY

District,

Division.

EMMA A. BURKART,

vs.

Complainant

FRITZ BECK, ET AL.,

Defendant S

## DEPOSITION OF

By virtue of the commission hereto annexed, issued by the Register of said Court of said District and Division, in the above stated cause pending in said Court of said District and Division, I, Leona Torrey, the Commissioner named in said Commission, have called and caused to come before me Emma A. Burkart and Albert Burkart,

the witness<sup>es</sup> named in the Commission, and having first sworn the said witness<sup>es</sup> to speak the truth, the whole truth and nothing but the truth, the said witness<sup>es</sup> deposes and says as follows:

DEPOSITION OF EMMA A. BURKART.

My name is Emma A. Burkart. I reside in Cullman County, Alabama, and did so reside at the time of the filing of the bill in this cause and am over the age of twenty-one years.

The respondents, Fritz Beck and Gus Portovan, are non-residents of the State of Alabama and when last heard from resided somewhere in the State of Mississippi; that Lena Valisori and Mary Moton are non-residents of the State of Alabama and reside somewhere in the State of Florida; that Russell Bullman, Mary Fletcher Porterman, Victoria Fletcher Crebs, Virginia Fletcher, Conde Fletcher, Mike Fletcher, Mrs. Silas Powell and Fred Beck are non-residents of the State of Alabama and when last heard from resided somewhere in the State of Mississippi. That Francis Codina, Johnny Fletcher, Mrs. Bill Ankerson, Elizabeth Selirio, Angelo Selirio, Josie Villar, Bella Villar, Missouri Bullman, Willie Mabry, Willie Hunter and Charles Villar, whose places of residence are unknown to complainant, and when last heard from resided out of the State of Alabama, and complainant is informed and believes, and upon such information and belief, states that they are non-residents of the State of Alabama. Complainant is informed that Artemus Villar, alias Artemus Billard, and Martin F. Villar reside somewhere in the State of Alabama but their particular places of residence are unknown to complainant and their places of residence and addresses could not and can not be ascertained by complainant although she has made diligent inquiry to find out the same. That Bella Smith Portovan, Martin Villar, Alice Hunter Mabry, Bella Hunter, Victoria Villar Hunter, Victoria Villar Beck, Missouri Carter, Artemus Villar, Gus Villar, Phillipia Villar and Frank Kee, who is a son of William Kee who was the patentee of the

lands described in the bill of complaint, are all dead, having died intestate; that William Keg died intestate, and Isabella Villar (nee Keg) died intestate; that Carmeleta Perrenot (nee Keg) died intestate, and John Keg, who died intestate, all of said persons being the unknown heirs at law of William Kee, deceased, who was the patentee of the lands described in the bill of complaint, and whose unknown heirs are parties defendant to this bill, but the names and places of residence or whereabouts of the heirs at law, next of kin, or devisees of such deceased persons are unknown to complainant and could not and can not be ascertained, although complainant has made, or had made, diligent inquiry in the neighborhood where such lands are situated and of the people who have known, or are reputed to have known, anything about the names or residences of any of said parties, and after such diligent inquiry complainant has been unable to ascertain the same. Complainant is informed and believes that such unknown heirs at law and next of kin are non-residents of the State of Alabama. Such unknown heirs at law and next of kin of said deceased persons and all of the parties defendant whose names are set forth herein are over the age of twenty-one years; and the unknown parties defendant complainant, on making diligent inquiry, was informed and believes are over the age of twenty-one years. I have made and had made diligent inquiry in the neighborhood where said lands are situated and of all persons who know or are reputed to know anything of the names and places of residence of all the defendants herein, and after making such diligent inquiry I could not and can not ascertain the places of residence or the addresses of any of the defendants to this bill of complaint.

At the time of the filing of the bill in this cause I claimed and still claim in my own right to own the lands described in the bill of complaint, to-wit:

All that part of the William Kee Spanish Grant being Sections Twelve (12) Township Nine (9), South, and Section Thirty-six (36) of Township Eight (8) South, all in Range Five (5) East of the St. Stephens Meridian, Alabama, containing 567.17 acres, as shown by the Township Plats approved April 4th, 1852, and March 12th, 1852, respectively, being claim No. 42 of Report No. 1 American State Papers Vol. 5, page 393; described as follows:

Commencing at a point corresponding with the northeast corner of Northwest Qr. of Section Two (2), Regular Survey, Township Nine (9) South, Range Five (5), East, and running west  $4\frac{1}{2}^{\circ}$  S. Two (2) chains and fifty-five (55) links for beginning corner, said beginning corner being more particularly described as being at the intersection of the township line between Townships Eight (8) and Nine (9) South, and the East line of the said William Kee Grant, thence south  $10^{\circ}$  east 30 chains 90 links, more or less, along the east line of said William Kee Grant, to the north side of Bay Ornocor or South Bay, thence along the shore of said Bay with its meanders to the west line of said regular Section Two (2), thence north  $4\frac{1}{2}^{\circ}$  west, along the west line of said regular Section Two (2), 29 chains 18 links, more or less, to the south line of Bay La Launch, thence eastwardly along the shore of said Bay with its meanders to the township line between Townships Eight (8) and Nine (9) South, thence East  $4\frac{1}{2}^{\circ}$  north, with said Township Line, 31 chains and 11 links, more or less, to the place of beginning, containing 132.91 acres, more or less, being the lands known as the G. W. Johnson lands, situated in Baldwin County, Alabama.

And I was at the time of the filing of the bill in this cause, and still am in the actual, peaceable possession of said lands; and I, and those through whom I claim, have regularly and annually assessed and paid taxes on said lands for more than ten years next preceding the filing of the bill in this cause and that no other person has paid taxes on any part of said lands during said period and that none of the respondents, or their predecessors in claim, have ever been in the actual possession of the lands; and that there is no suit pending to test complainant's title to, interest in, or her right to the possession of said lands. The respondents claim, or are reputed to claim, some title to, interest in, or lien or encumbrance upon said lands. I claim to own the legal title ~~and~~ <sup>in</sup> fee simple to said above described lands. I derived my title to said lands through and under the provisions of the last will and testament of my late husband, C. Burkart, de-

4.

ceased, which said last will and testament was duly admitted to probate in the probate court of Cullman County, Alabama, on the 19th day of June, 1922; that the said C. Burkart derived his title to said lands through a warranty deed executed by G. W. Johnson, single, on the 2nd day of May, 1913, which said deed is recorded in Deed Book Vol. 22 NS p. 592, in the office of the Judge of Probate of Baldwin County, Alabama. That said G. W. Johnson had been in the actual, peaceable, open and notorious possession of said lands under claim of right since the 3rd day of August, 1876, up until the time he sold and conveyed the same to the said C. Burkart; that the title to said lands stands upon the records of the probate court of Baldwin County, Alabama, where said lands are situated, in the name of Emma A. Burkart, the complainant.

Mrs Emma A Burkart  
Complainant

Subscribed and sworn to before me, this 14 day of  
September, 1927.

Reona Torrey  
Commissioner.

DEPOSITION OF ALBERT BURKART

My name is Albert Burkart. I reside in Cullman County, Alabama, and am over the age of twenty-one years. I am a son of the complainant in this cause. I am acquainted with the lands involved in this suit. I know that my father and mother together have been in the actual, peaceable possession of said lands and have regularly and annually assessed and paid taxes on said lands for more than ten years next preceding the filing of the bill in this cause and that no other person has paid taxes on any part of said lands during said period, and that none of the respondents or their predecessors in claim have ever been in the actual possession of said land, and that there is no suit pending to test complainant's title to, interest in, or her right to possession of said lands. My father was in possession of said lands continuously, open and notoriously from the 2nd day of May, 1913, when he purchased same from G. W. Johnson up until his death, and my mother has been in possession of said lands continuously, open and notoriously since the death of my father up until this time. The title to said lands stands on the records of the probate court of Baldwin County, Alabama, where said lands are situated in the name of my mother, Emma A. Burkart, the complainant. My mother and those through whom she claims have regularly and annually assessed and paid taxes on said lands for more than ten years next preceding the filing of the bill in this cause, and no other person has paid taxes on any part of said lands during said period and none of the respondents or their predecessors in claim have ever been in the actual possession of the land, and there is no suit pending to test complainant's title to, interest in or her right to the possession of said land.

As the agent of the complainant, my mother, and acting for her, I made diligent inquiry as to the places of residence

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and the addresses of the defendants, both known and unknown, by making inquiry in the neighborhood where said lands are situated and of all persons who knew, or are reputed to know, anything about the places of residence or addresses of the defendants, and after making such diligent inquiry I was unable to ascertain their places of residence or their addresses. After making such diligent inquiry the best information I could get was that all of said defendants are over the age of twenty-one years. All of the unknown heirs at law and next of kin of the deceased parties mentioned in the bill are non-residents of the State of Alabama and are over the age of twenty-one years. My mother, the complainant, claims in her own right to own the lands described in the bill. She derived her title to said lands through and under the provisions of the last will and testament of my father, C. Burkart, deceased, which last will and testament was admitted to probate in the probate court of Cullman County, Alabama, on the 19th day of June, 1922. My father, C. Burkart, derived his title to said lands through a warranty deed executed by G. W. Johnson, single, on the 2nd day of May, 1913, which deed is recorded in Deed Book Vol. 22 NS p. 392, in the office of the Judge of Probate of Baldwin County, Alabama.

Albert Burkart

Subscribed and sworn to before me, this 14th day of September, 1927.

Reona Tarrey  
Commissioner.

I, Leona Torrey, the said Commissioner, hereby certify that the foregoing testimony was taken down in writing by xxxx me in the words of the witness, and were given over to them, that they assented, swore to and subscribed the same in my presence, the 14th day of September, 1927, at Cullman, Alabama; that I have personal knowledge of, or had proof before me of the identity of the witness, and that I am not of counsel or of kin to any of the parties to said cause, or in any manner interested in the result thereof.

And I enclose the said Deposition, together with the Commission and Interrogatories, Direct and Cross, and documents deposited were deposited to, in an envelope properly indorsed and sealed and returned to the Registrar of said Court of said District and Division.

Given under my hand and seal this 14th day of September, 1927.

Leona Torrey (L. S.)  
Commissioner.

#### WITNESS' FEES.

I hereby certify that the following named witnesses are entitled to the amounts stated below:

Witness.....	Days attendance at \$1.50 per day	\$.....
	Miles traveled at 5 cts per mile	.....
	Days attendance at \$1.50 per day	.....
	Miles traveled at 5 cts per mile	.....
	Days attendance at \$1.50 per day	.....
	Miles traveled at 5 cts per mile	.....
	Days attendance at \$1.50 per day	.....
	Miles traveled at 5 cts per mile	.....

#### COMMISSIONER'S FEES.

Commissioner Leona Torrey, / Days at \$1.50 per day \$1.50  
1780 Words at 20 cts per 100 \$3.50  
\$5.00

680

Page

The State of Alabama

COUNTY

CHANCERY COURT.

Emma A. Burkart

vs. Fritz Becker, Etal

Deposition Taken Before Commissioner

Deposition of Emma A. Burkart  
Albert Burkart

for Complainant

Filed Sept 19 1927

Published by order of Court,

191

J. W. McManis Register

Rogers Stationery Co., Birmingham, Ala.

1033

Emma A. Burkart, )  
Complainant, ( IN THE CIRCUIT COURT OF  
vs. ) BALDWIN COUNTY, ALABAMA,  
Fritz Beck, Et Al., ( IN EQUITY.  
Respondents. )

To the Hon. T. W. Richerson, Register of said Court:

Application is hereby made to the register for an order allowing the oral examination of the following named witnesses, viz: Emma A. Burkart, the complainant, Albert Burkart and Asa B. Fuller, all of whom reside in Cullman County, Alabama, and whose testimony when taken will be material to the complainant in said cause. And Miss Leona Torrey, of Cullman, Alabama, is suggested as a suitable and competent person to be appointed commissioner to take the testimony of said witnesses.

F. E. St. John  
Solicitor for Complainant.

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In consideration of the foregoing petition, it is ordered by the register that said application be granted and that the testimony of said witnesses be taken at the office of F. E. St. John in Cullman, Alabama, at such time as may be designated by the commissioner, before Miss Leona Torrey, to whom it is ordered that a commission hereby issue to take the testimony of said witnesses.

Dated this 29<sup>th</sup> day of August, 1927.

T. W. Richerson  
Register.

Filed Aug 29th/1927.  
T. W. Richmond  
Registrar

Emma A. Burkart, )

Complainant, (

vs. )

Fritz Beck, Et Al., (

Respondents. )

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY.

*Handwritten: 7-1-27*

In this cause it is ordered that publication of the notice to the non-resident defendants required under Sec. 9915 of the Code of 1923 be published in the Baldwin County Times, a weekly newspaper published at Baldwin County, Alabama, and having general circulation in said County where the lands described in the bill of complaint lie.

This 6th day of June, 1927.

*John D. Leigh*  
*Judge of the 21<sup>st</sup>*  
*Judicial Circuit*

4  
Emma A Burkhead

vs

Fritz Beck et  
al.

~~Emma A Burkhead~~

designating  
paper in which  
non-resident  
notice may be  
published.

Filed June 6/1927  
T. H. McQuinn  
Register

RECORDED

Booked  
June 6/27  
T. H. McQuinn  
Register

# NOTE OF TESTIMONY.

Emma A. Burkart,

Complainant,

vs.

Fritz Beck, Et Al.,

Respondents.

CIRCUIT COURT IN EQUITY

~~BALDWIN~~ *Baldwin*  
~~AT GULLEMAN,~~ ALABAMA

Complainant, being called, offers, the following testimony, to-wit:

1st Bill of Complaint

2nd Decree pro confesso against all respondents.

3rd Certified copy of deed from G. W. Johnson to C. Burkart

4th Certified copy of will of C. Burkart.

5th Deposition of Emma A. Burkart

6th Deposition of Albert Burkart

*J. E. Johnson*  
Solicitor for Complainant

Defendant, being also called, offered the following testimony, to-wit:

1st

2nd

3rd

4th

5th

6th

I hereby certify that the above Note of Testimony is correct.

This 19th day of September 1927

*T. W. Richardson*

Register.

No. ....

The State of Alabama,  
*Bascom*  
CULLMAN COUNTY.

Circuit Court In Equity

Emma A. Burkart

Complainant,

vs.

Fritz Beck, Et Al.,

Respondents.

Note of Testimony

Filed in office this 19th day of

Sept 1927

*T. W. Bascom*  
Register.