

CIRCUIT COURT, BALDWIN COUNTY, ALA. IN EQUITY

No. 423

vs. *Est. Della Oswalt*
Nichols, Deceased

PLAINTIFF
DEFENDANT

BILL OF COSTS

FEES OF REGISTER	Dollars	Cents	Brought Forward	\$
Filing each bill and other papers	\$	10	7 65
Issuing each subpoena		50	For Receiving, keeping and paying	
Issuing each copy thereof		40	out or distributing money, etc.: 1st	
Entering each return thereof		15	\$1,000, 1%, all over \$1,000, and not	
For each order of publication	1	00	over \$5,000, 3-4 of 1%; all over \$5,-	
Issuing Writ of injunction	I	50	000 and not exceeding \$10,000, 1-2 of	
For each copy thereof		50	1%, all over \$10,000 1-4 of 1%.	
Entering each return thereof		15	Receiving, keeping and paying out	
Issuing Writ of Attachment	I	00	money paid into court, etc., 1-2 of	
Entering each return thereof		15	1% of amount received.	
Docketing each case	1	00	Each notice sent by mail to creditor ...	15
Entering each appearance		25	Filing receipting for and docketing each	
Issuing each decree pro confesso on per ser.	1	00	claim, etc.	25
Issuing each decree pro confesso on publica	1	00	For all entries on subpoena docket, etc.	50
Each order appointing guardian	I	00	For all entries on commission docket,	
Any other order by Register		50	etc.	50
Issuing Commission to take testimony		50	Making final record. per 100 words....	15
Receiving and filing		10	Certified copy of decree	1 00
Endorsing each package		10	Report of divorce to State Health Office	50
Entering order submitting cause		50	(Acts 1915)	
Entering any other order of court.....		25	TOTAL FEES OF REGISTER..	
Noting all testimony		50	FEES OF SHERIFF	12 65
Abstract of cause, etc.	I	00	Serving and returning subpoena on deft. \$1	
Entering each decree		75	Serving and returning subpoena for	4 50
For every 100 words over 500.....		15	witness	65
Taking account, etc.	3	00	Levying attachment	1 50
Taking testimony, etc		15	Entering and returning same.....	25
Each report, 500 words or less	2	50	Selling property attached	
For every 100 words over 500		15	Impaneling Jury	75
Amount claimed less than \$500, etc	2	00	Executing Writ of possession	2 50
Issuing each subpoena		25	Collecting execution for costs	1 50
Witness certificate, each		25	Serving and returning sci. fa., each....	65
Issuing execution, each		75	Serving and returning notice	65
Entering each return		15	Serving and returning writ of injunction	1 50
Taking and approving bond, each	1	00	Serving and returning writ of exeat....	1 50
Making copy of bill, etc		15	Taking and approving bonds, each	75
Each notice not otherwise provided for ..		50	Collecting money on execution	
Each certificate or affidavit, with seal ..		50	Making Deed	2 50
Each certificate or affidavit, no seal		25	Serving and returning application, etc..	1 00
Hearing and passing on application, etc.	3	00	Serving attachment, contempt of court..	1 50
Each settlement with Receiver, etc.	3	00	TOTAL FEES OF SHERIFF..	4 50
Examining each voucher of Receiver, etc ..		10	RECAPITULATION	
Examining each answer, etc.	3	00	Register's Fees	12 65
Recording resignation, etc		75	Sheriff's Fees	4 50
Entering each certificate to Supreme Court		50	Commissioner's Fees	
Taking questions and answers, etc		25	Solicitor's Fees	
For all other ser relating to such proceedings	1	00	Witness Fees	
For services in proceeding to relieve min-			Guardian Ad Litem	20 00
ors, etc., same fee as in similar cases.			Printer's Fees	3 00
Commission on sales, etc: 1st \$100, 2 per			Trial Tax	3 00
cent: all over \$100 and not exceeding			Recording Decree in Probate Court	
\$1,000, 1 1-2 per cent; all over \$1,000,				
and not exceeding \$20,000, 1 per ct; all				
over 20,000, 1-4 of 1 per cent.				
Sub Total Carried Forward			TOTAL.....	40 15

Received payment this _____ day of _____ 193_____

Register.

JEMIMA McCALLA NICHOLS, Individually)
and as Administratrix of the Estate)
of Forrest Nichols, Deceased,)

Complainant,)

vs.)

FIRST NATIONAL BANK OF MOBILE, ALA-)
BAMA, as Executor of the Estate of)
Della O. Nichols, Deceased, and)
ALICE ADELLE NICHOLS and MADELYNE)
NICHOLS,)

Defendants.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

FINAL DECREE

This cause coming on to be heard and having been submitted to the Court for final decree upon the pleadings and proof, viz., bill of complaint, answer and cross complaint with exhibits, answer to the cross complaint, and answer of the guardian ad litem for Alice Adelle Nichols and Madelyne Nichols, minors, all as noted by the Register in the Note of Evidence,

The parties hereto appeared by counsel in open court and also came *LESLIE HALL*, heretofore appointed by this Court to be the guardian ad litem for Alice Adelle Nichols and Madelyne Nichols, minors,

The Court, having considered the relevant evidence and disregarded the irrelevant evidence, is of the opinion the relief prayed for in the defendant's cross complaint should be granted.

NOW, THEREFORE, it is ordered, adjudged and decreed that the agreement between the complainant and the First National Bank of Mobile, Alabama, as Executor of the Estate of Della O. Nichols, Deceased, as set out in Exhibit C to the cross-bill of the defendant, be and hereby is approved and confirmed in all respects, and that the said First National Bank, as executor, pay to Wm. H. Cowan, as attorney for the complainant, the sum of Five Hundred Dollars (\$500.00), and convey to Jemima McCalla Nichols the following described property in Baldwin County, Alabama, to-wit:

From the Southeast corner of Fractional Section 18, T. 6 S. R. 2 East, run West 38.43 chains (2536.4 feet), thence North 14.5 chains (957.0 feet), thence North 50°0' West 802.5 feet along

the South line of Della O. Nichols Estate, to its intersection with the East side of Mobile Avenue, which point is the Northwest corner of Block 13, Division 2, Fairhope Single Tax Corporation Subdivision, and the beginning point of this lot description, thence South 50° 0' East 250 feet to a corner, thence North 28° 30' East 60 feet to a corner, thence North 50° 0' West 250 feet to a corner, thence South 28° 30' West 60 feet to the point of beginning.

Said property being the property now occupied by Mrs. Jemima Nichols, and bounded on the South by property now or late of Mrs. Hill, on the West by Mobile Avenue, on the North by cottage named "Meadowea" owned by the Estate of Della O. Nichols, and on the East by property of the Estate of Della O. Nichols, Deceased.

Also, all the following described real property situated in the County of Baldwin, State of Alabama, to-wit: From a large Magnolia tree which is the Northwest corner of Section 18, Barron De Ferriet Grant, thence run South 50° East 325 feet, to the Southeast corner of the land of Jemima McCalla Nichols, for a point of beginning; thence South 50° East 387 feet; thence North 42° East 57 feet; thence South 58° East 55 feet to the West margin of Satsuma Avenue; thence North 40° East 207 feet along the West margin of Satsuma Avenue to the Southwest intersection of Satsuma Avenue and Nichols Street; thence North 50° West 436 feet, along the South margin of Nichols Street to the Northeast corner of the land of Jemima McCalla Nichols; thence South 40° West 275 feet, to the point of beginning, in Section 37, Barron De Ferriet Grant according to the Act of Congress approved June 1, 1858.

Being the same property described in Exhibit C attached to the answer and cross bill of the defendant.

It is further ordered, adjudged and decreed that the payment of the said \$500.00 and conveyance to Jemima McCalla Nichols of the above described property is in full and complete settlement of the contest of the will of Della O. Nichols, deceased, filed by the complainant, and of the claim filed by the complainant in the Probate Court of Baldwin County against the estate of Della O. Nichols, deceased, and the complainant herein is ordered to discharge and cancel in full said claim, and further the said payment of the cash and the conveyance of the real property above mentioned be and is in full and complete settlement of any and all claims of every kind and nature which the complainant or complainant as administratrix of the estate of Forrest Nichols, deceased, has or may have against the estate of Della O. Nichols, deceased, or to any property, the record title to

which stood in the name of Della O. Nichols at the time of her death.

Done in term time this 29th day of September 1938.

A. M. Hare

JUDGE.

11. Defendant denies as true the allegations in Paragraph Eleventh of the bill of complaint.

12. Defendant denies as true the allegations in Paragraph Twelfth of the bill of complaint.

13. Defendant denies as true the allegations in Paragraph Thirteenth of the bill of complaint.

14. Defendant further says that the will of Della O. Nichols, Deceased, a true copy of which is attached hereto, marked Exhibit A and made a part hereof as if copied herein, was duly executed in all respects as is required by law, and that at the time said Della O. Nichols executed said will she was fully conscious and knew she was making her last will and testament, knew the property she was devising and bequeathing, and the persons to whom it was being devised and bequeathed, and was at that time of sound mind and memory and in every way fully competent to make a last will and testament, and said will was properly admitted to Probate, by the Probate Court of Baldwin County, Alabama, and is truly the last will and testament of the said Della O. Nichols.

15. Defendant says the estate of Della O. Nichols, deceased, consists principally of fifteen houses in or near Fairhope, Alabama, used for summer cottages, lots in squares A. B. and C. on the map of the town of Fairhope made by John Huffman, Surveyor, about forty acres of land on the edge and south of Fairhope, house and lot in Montgomery, Alabama, and a plantation of about one thousand, four hundred acres in Macon County, Alabama, and a small amount of personal property.

16. Defendant further says that the complainant has filed a contest of the last will of Della O. Nichols, deceased, to defend which the Mobile Bar Association provides compensation of fifteen per cent on the first five thousand dollars and ten per cent on the next twenty thousand dollars on the amount involved, for the attorney of the executor.

17. Defendant further says that the complainant has filed claim in the Probate Court of Baldwin County, Alabama, claiming the house and lot in which she resides, located on Mobile Avenue in or near Fairhope, and the forty acres of land near Fairhope, as the property of Forrest Nichols, deceased, and claiming Fourteen Thousand Seven Hundred Dollars (\$14,700.00) for services rendered by Forrest

Nichols to Della O. Nichols, copy of which claim is attached hereto, marked Exhibit B and made a part hereto as if copied herein, to defend which claim the Mobile Bar Association by its fee bill provides for the same compensation as for the contest of will.

18. Defendant says to defend the will contest and the said claim will cost a large sum of money, entail perhaps years of delay, embarrassing the executor in the management and handling of the estate, and, therefore, it is to the best interest of the estate of Della O. Nichols, deceased, that some compromise settlement be effected.

19. In the event the contest in the instant case is sustained under the Laws of Alabama the widow would be entitled to a dower interest in the land of the estate, which would be one-third part thereof for life, and would be entitled to one-third of the personal property, subject, of course, to the debts of the estate of Forrest Nichols, deceased.

20. Complainant had proposed to defendant a settlement of all matters between the complainant and defendants which is agreeable to the defendant, and complainant and defendant have entered into an agreement of settlement, a copy of which is attached hereto, marked Exhibit C and made a part hereof as if copied herein. That provision was made for payment of money and conveyance of property of Jemima McCalla Nichols, individually, instead of to her as administratrix, as a complete settlement could only be made on that basis, and it was thought to the best interest of all concerned that it be so made.

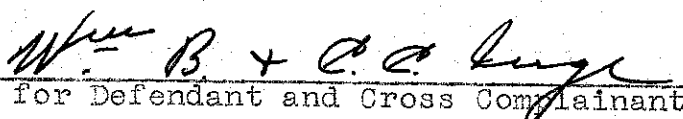
21. Defendant further says under the will of Della O. Nichols, deceased, it is given full power and authority to sell and convey any property of the estate without an order of court, and perhaps the said First National Bank would be within its rights to carry out the terms of the agreement set out in Exhibit C hereof without an order of court, but, inasmuch as the property of the estate is to be administered as a trust for minors, the defendant, the First National Bank of Mobile, Alabama, should have said agreement approved by the court, after the minors have been properly represented by a guardian ad litem appointed by this court.

22. The settlement suggested in Paragraph Twenty hereof as relating to the agreement set out in Exhibit C attached hereto has been

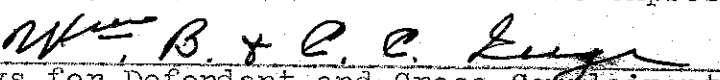
considered by Georgia Nichols, the mother and natural guardian of Alice Adelle Nichols and Madelyne Nichols, minors, and by Alice Adelle Nichols and Madelyne Nichols, and all of them have approved the settlement and ask the Court to approve same as will appear from instrument signed by them, being marked Exhibit D, attached hereto, which is made a part hereof, the same as if copied herein.

THE PREMISES CONSIDERED, the defendant prays that process issue to the complainant requiring her to make answer to this cross bill with particular reference to paragraphs 14 through 22, both inclusive, or else be taken as confessed against her unless complainant voluntarily appears and answers same.

Defendant further prays that this instrument be treated as an answer to the bill of complaint, and also taken and treated as a cross bill, and further prays that upon the hearing of this cause, may it please the Court to enter an order approving and confirming the agreement between complainant and the First National Bank of Mobile, as Executor of the Estate of Della O. Nichols, deceased, as set out in Exhibit C hereto attached, and order and decree that the First National Bank of Mobile, Alabama, as Executor of the Estate of Della O. Nichols, Deceased, pay to complainant the sum of Five Hundred Dollars (\$500.00) and convey to Jemima McCalla Nichols the property described in Exhibit C attached hereto, in full and complete settlement of the contest of the will of Della O. Nichols, deceased, and of the claim filed by complainant in the Probate Court of Baldwin County, Alabama, in the Estate of Della O. Nichols, Deceased, and in full and complete settlement of any and all claims of every kind and nature which the complainant or the complainant as administratrix of the estate of Forrest Nichols has or may have against the estate of Della O. Nichols, deceased, or to any property the record title to which stood in the name of Della O. Nichols at the time of her death, and if this cross complainant has not prayed for such specific relief as it may be entitled to and may be just and proper, may it please the Court to grant it such other and further relief as may be proper in the premises, and in duty bound, etc.


Attorneys for Defendant and Cross Complainant

Complainant is required to answer the foregoing cross bill from paragraph 14 through 22, both inclusive, but answer under oath is expressly waived.


Attorneys for Defendant and Cross Complainant

IN THE MATTER OF THE ESTATE
OF DELLA O. NICHOLS, DECEASED

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA.

CLAIM OF MRS. JAMIMA McCALLA NICHOLS, ADMINISTRATRIX
OF THE ESTATE OF FOREST NICHOLS, DECEASED, AGAINST
THE ESTATE OF DELLA O. NICHOLS, DECEASED.

Now comes Jamima McCalla Nichols as administratrix of the estate of Forest Nichols, deceased and makes this claim against the estate of Dealla O. Nichols, deceased, for the following described lands located in Baldwin County, Alabama, more particularly described:

From the southeast corner of fractional section 18, t6s, r2east run west 38.43 chains (2536.4 feet), thence north 14.5 chains (957.0) feet, thence north 50 deg 0' west 802.5 feet along the south line of Della O. Nichols Estate, to its intersection with the east side of Mobile Avenue, which point is the northwest corner of Block 13, Division 2, Fairhope Single Tax Corporation ration Subdivision, and the beginning point of this lot description, thence south 50 deg. 0' east 250 feet to a corner, thence north 28 deg. 30' east 60 feet to a corner, thence north 50 deg. 0' west 250 feet to a corner, thence south 28 deg. 30' west 60 feet to the point of beginning.

Said property being the property now occupied by Mrs. Jamima Nichols, and bounded on the south by property now or late of Mrs. Hill, on the west by Mobile Avenue, on the North by cottage named "Meadowea" owned by the Estate of Della O. Nichols, and on the east by property of the Estate of Della O. Nichols, deceased, together with the house and improvements thereon.

And in addition the following described lands located in Baldwin County, Alabama, more particularly described:

The northwest quarter of the northwest fractional quarter of Fractional section 20, t6s, r2e, according the the map approved May 19, 1845, by James H. Weakley, Surveyor General, together with the improvements thereon.

And in addition the sum of Fourteen Thousand Seven Hundred (\$14,700.00) Dollars for that continuously from to-wit the 1st day of January, 1920, to the death of said Dealla O. Nichols, or, to-wit the 1st day of January, 1938, the said Forest Nichols, during his life time, rendered services to and performed work and labor for said Della O. Nichols, deceased, which services consisted of managing the real estate and property, collecting rents, repairing houses, improving the property and otherwise manageing and assisting said Della O. Nichols during said period of time in and about the management of all of her properties and caring for and protecting said Della O. Nichols during said period of time, assisting her in paying bills, purchasing groceries, waiting and attending her during her illness and advising with her relative to the management of her property and performing such services and work as the said Della O Nichols requested or required of him during his life time, or which was necessary or proper to be done for her comfort and pleasure for which services the said Della O. Nichols agreed either expressly or impliedly that siad Forrest Nichols would be paid or compensated out of her estate, and for that during the lifetime of the said Della O. Nichols, deceased, and the lifetime of said Forrest Nichols, deceased, and during the period of time from January 1st, 1920, to on about the 8th day of September, 1937, the said Forrest Nichols, paid the said Della O. Nichols in cash money of the United States of America, work, labor and other services or things of value for all the lands hereinbefore described and the said Della O. Nichols, during her lifetime, agreed either expressly or impliedly to execute

AGREEMENT between Jemima Nichols, individually and as administratrix of the Estate of Forest Nichols, Deceased, hereinafter known as the Party of the First Part, and the First National Bank of Mobile, Alabama, as executor of the Estate of Della O. Nichols, Deceased, and trustee under will of Della O. Nichols, hereinafter known as the Party of the Second Part,

WITNESSETH:

WHEREAS, the Party of the First Part has instituted a contest of the will of Della O. Nichols, Deceased, in the Circuit Court of Baldwin County, Alabama, Equity Side, and has filed claim in the Estate of Della O. Nichols, Deceased, in the Probate Court of Baldwin County, Alabama, claiming certain lands and a large sum of money, and she is desirous of adjusting the same, and

WHEREAS, the Party of the Second Part, while not recognizing the soundness of the Party of the First Part's contention and claims, for expediency, economy and to avoid litigation, is willing to make an adjustment of the controversy between the parties,

NOW, THEREFORE, the parties hereto agree as follows:

1. The Party of the First Part will proceed in the Probate Court for authority to compromise all claims of the Estate of Forest Nichols, Deceased, against the Estate of Della O. Nichols, Deceased.

2. In the proceedings in the Circuit Court of Baldwin County, Alabama, to contest the will of Della O. Nichols, Deceased, the Party of the Second Part will undertake to have the Circuit Court authorize and approve the compromise hereinafter stated, in which the Party of the First Part and her counsel will assist and cooperate.

3. When the compromise is approved by the Probate Court and the Circuit Court as above stated, the Party of the First Part

(a) will not further contest the will of Della O. Nichols, Deceased, and will do what is necessary to remove the contest in court;

(b) will satisfy the claims filed by the Party of the First Part in the Estate of Della O. Nichols, Deceased, in the Probate Court of Baldwin County, Alabama;

(c) and will give a full and complete receipt releasing and relinquishing any and all claims of every kind and description which

she individually or as administratrix has or may have against the Estate of Della O. Nichols, Deceased, and in any property of the Estate of Della O. Nichols, Deceased, the record title to which was in the name of Della O. Nichols at the time of her death, in consideration of the Party of the Second Part paying to ^{W.H. Cowan attorney for} the Party of the First Part the sum of Five Hundred Dollars (\$500.00) and conveying to Jamima Nichols property in or near Fairhope, Alabama, described as follows:

From the Southeast corner of Fractional Section 18, T. 6 S. R. 2 East, run West 38.43 chains (2536.4 feet), thence North 14.5 chains (957.0 feet), thence North 50°0' West 802.5 feet along X the South line of Della O. Nichols Estate, to its intersection with the East side of Mobile Avenue, which point is the Northwest corner of Block 13, Division 2, Fairhope Single Tax Corporation Subdivision, and the beginning point of this lot description, thence South 50°0' East 250 feet to a corner, thence North 28°30' East 60 feet to a corner, thence North 50°0' West 250 feet to a corner, thence South 28°30' West 60 feet to the point of beginning.

Said property being the property now occupied by Mrs. Jamima Nichols, and bounded on the South by property now or late of Mrs. Hill, on the West by Mobile Avenue, on the North by cottage named "Meadowea" owned by the Estate of Della O. Nichols, and on the East by property of the Estate of Della O. Nichols, Deceased.

Also, all the following described real property situated in the County of Baldwin, State of Alabama, to-wit:

From a large Magnolia tree which is the northwest corner of Section 18, Barron De Ferriet Grant, thence run S 50° E 325 feet, to the Southeast corner of the land of Jamima McCalla Nichols, for a point of beginning; thence S 50° E 387 Feet; thence N 42° E 57 feet; thence S 58° E 55 feet; to the West margin of Satsuma Avenue; thence N 40° E 207 Feet along the West margin of Satsuma Avenue to the Southwest intersection of Satsuma Avenue and Nichols Street; thence N 50° W 436 feet, along the South margin of Nichols Street to the Northeast corner of the land of Jamima McCalla Nichols; thence S 40° W 275 feet, to the point of beginning, in Section 37, Barron De Ferriet Grant according to the Act of Congress approved June 1, 1858.

4. It being understood and agreed that the compromise set out in Section Three herein settles completely all matters between the Parties hereto, and the Party of the First Part will make no further or other claims in the matter of the Estate of Della O. Nichols, Deceased, or any of the property claimed by said estate.

5. The cost of court ^{not exceeding fifty dollars (\$50.00)} in pending matters and proceedings to effectuate this agreement will be paid by the Party of the First Part and the Party of the Second Part held harmless in that respect.

6. All matters now pending in court shall remain in Status Quo to await the carrying out of this agreement, and no steps shall be

taken by either party hereto prejudicial to the other while this agreement is being worked out.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate on this the 26th day of August, 1938.

Jemima Nichols
Jemima Nichols, individually and as
Administratrix of the Estate of
Forest Nichols, Deceased.

FIRST NATIONAL BANK OF MOBILE, ALABAMA,
as executor of the Estate of Della O.
Nichols, Deceased, and trustee under
will of Della O. Nichols,

By

[Signature]
Vice President

JEMIMA McCALLA NICHOLS, Individually
and as Administratrix of the Estate
of Forrest Nichols, Deceased,

Complainant,

vs.

FIRST NATIONAL BANK OF MOBILE, ALA-
BAMA, As Executor of the Estate of
Della O. Nichols, Deceased, and ALICE
ADELLE NICHOLS and MADELYNE NICHOLS,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

We, the undersigned, Georgia Nichols, Alice Adelle Nichols and Madelyne Nichols, the last two named being the children of the late Forrest Nichols, hereby declare that we are entirely familiar with the claims made by Jemima McCalla Nichols, individually and as administratrix of the estate of Forrest Nichols, deceased, against the estate of Della O. Nichols, deceased, and property of the estate of Della O. Nichols, deceased, and have had read to us the agreement between Jemima McCalla Nichols, individually and as administratrix of the estate of Forrest Nichols, deceased, and the First National Bank of Mobile, Alabama, as executor of the estate of Della O. Nichols, deceased, which agreement forms Exhibit C of the answer and cross bill of the First National Bank of Mobile, Alabama, as executor of the estate of Della O. Nichols, deceased, in the matter of the contest of the last will of Della O. Nichols by Jemima McCalla Nichols, individually and as administratrix, etc., and hereby formally concur and approve said agreement, and respectfully request the Circuit Court of Baldwin County, Alabama, sitting in Equity, to approve said agreement and make an order and render a decree ordering the settlement set forth in the said agreement, and also ordering the payment of Five Hundred Dollars (\$500.00) and the execution and delivery of such papers as may be necessary to carry out its terms.

IN WITNESS WHEREOF, we hereto set our hands on this the 23rd
day of September, 1938.

Mrs Georgie Nichols

Alice Adelle Nichols

Madelyn Nichols