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RICHARD T. DARDEN, JOSEPH A. SAIIA, J. FRANK DAY, III, DUNCAN HAMILTON, LLOYD R. WILSON, C. RAY CUNNINGHAM, and SHAMROCK ENTERPRISES, INC., a corporation, Plaintiffs, vs. HOMER EUGENE SMITH, Defendant.	)	IN THE CIRCUIT COURT FOR SHELBY COUNTY, ALABAMA 570 CASE NO. E-1174-76
JAMES P. SIRAGUSA and wife, FRANCES M. SIRAGUSA, Plaintiffs, vs. HOMER EUGENE SMITH, BIRMINGHAM TRUST NATIONAL BANK, a national banking association of Birmingham, Alabama, Defendants.	)	IN THE CIRCUIT COURT FOR SHELBY COUNTY, ALABAMA CASE NO. E-1233-76
ANNIE M. BLANKENSHIP HOWARD, Plaintiff, vs. JAMES P. SIRAGUSA and wife, FRANCES M. SIRAGUSA, Defendants.	)	IN THE CIRCUIT COURT FOR SHELBY COUNTY, ALABAMA CASE NO. E-1270-76

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JUDGMENT

These consolidated cases coming on for trial on May 16, 1978 and all parties to Case Number E-1174-76, except the Plaintiff Shamrock Enterprises, Inc., as mortgagee, and all parties to Case Number E-1233-76, except the Defendant Birmingham Trust National Bank against which a default was entered by the Register of this Court on January 28, 1977, being present in open Court in their own and proper persons and by and through their Attorneys of Record and the Attorneys of Record for the Plaintiff in Case Number E-1270-76, but not the Plaintiff in person, and the Defendants and their Attorney of Record in said case being in open Court and upon these consolidated cases being called for trial by the Court, all Attorneys of Record in all cases announced in open Court that a settlement of all cases had been reached and agreed to between counsel and all parties present in Court contingent and dependent upon the Plaintiff in Case Number E-1270-76 accepting the settlement agreement and the Court being fully advised and informed of all terms of such settlement agreement for all cases and the Court finding that such settlement agreement is fair and equitable to all parties in each case, the Court then caused a written stipulation of such settlement agreement to be made in open Court and filed in these consolidated cases on May 16, 1978, thereupon the Court took all cases under advisement pending written notification that the

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Plaintiff in Case No. E-1270-76 accepts such settlement of her case and such notification being received by the Court from Plaintiff's counsel and filed in these consolidated cases on May 24, 1978, it is, therefore, ORDERED by the Court as follows:

1. Case No. E-1174-76.

A. That in this case judicial corners and a judicial boundary line between the adjoining real estate of the Plaintiffs and the Defendant be and the same are hereby located and defined as follows: The South corner of this judicial boundary line is located at the point where the South line of the SE¼ of the NE¼ of Section 17, Township 19 South, Range 1 West, Shelby County, Alabama (hereafter all land referred to in this Judgment is situated in this Section 17), as shown on the survey prepared by Frank W. Wheeler, the surveyor appointed by the Court in this cause on September 27, 1976, and filed in these consolidated cases on January 17, 1977 (hereafter in this Judgment lines or points or landmarks on this survey are referred to as "Mr. Wheeler's survey" or similar words), intersects the Western margin of the Gravel Road, as shown on the survey prepared by Miller-Norrell Engineers, Inc., the surveyors for the Defendant in this case, and filed in these consolidated cases on January 17, 1977 (hereafter in this Judgment all lines or points or landmarks on this survey are referred to as "Mr. Miller's survey" or similar words); from this South judicial corner run in a Northeastern direction along the Western margin of said Gravel Road to a point thereon where the Eastern margin of the Dirt Road, as shown on Mr. Miller's survey, intersects said Gravel Road and then continue on along said Western margin of said Gravel Road for an undetermined distance of approximately 50 feet to a point on the Western margin of said Gravel Road, which point is to be established by the surveyor appointed by this Judgment pursuant to Section 35-3-3, Code of Alabama, 1975 (hereafter in this Judgment such surveyor is referred to as the "Court Appointed Surveyor") by beginning at a point on the West line of the SE¼ of the NE¼, as shown on Mr. Wheeler's survey, that is 5 feet North of the point where said West ¼-¼ line is intersected by the Eastern margin of said Dirt Road and then running East and parallel with the North line of said ¼-¼ Section, as shown on Mr. Wheeler's survey, for a distance

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of approximately 50 feet to a point of sufficient distance from said point on said West ¼-¼ line so that a straight line can be run to the aforesaid point on said Gravel Road, which straight line at its closest point will be 5 feet Northeast of the Easternmost point on the Eastern margin of said Dirt Road; a judicial corner is located at the point so defined by this Judgment and to be established by the Court Appointed Surveyor on the West line of said ¼-¼ Section, at the point so established by the Court Appointed Surveyor approximately 50 feet to the East of said judicial corner on the West line of said ¼-¼ Section and at the point so established by the Court Appointed Surveyor on the Western margin of said Gravel Road; from the judicial corner located on the West line of said ¼-¼ Section run thence North along said West ¼-¼ line, as shown on Mr. Wheeler's survey, to the point where said West ¼-¼ line intersects the fence, as shown on Mr. Miller's survey, at which point the North corner of this judicial boundary line is located.

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B. That judgment be and the same is hereby entered in favor of the Plaintiffs Richard T. Darden, Joseph A. Saiia, J. Frank Day, III, Duncan Hamilton, Lloyd R. Wilson, C. Ray Cunningham and against the Defendant Homer Eugene Smith for the sum of $600.00, for which let execution issue if not paid within 30 days after entry of this Judgment.

C. That one-half of the Court costs in this case will be paid by the Plaintiffs Richard T. Darden, Joseph A. Saiia, J. Frank Day, III, Duncan Hamilton, Lloyd R. Wilson, C. Ray Cunningham and the other one-half by the Defendant Homer Eugene Smith, for which let execution issue if not paid within 30 days after entry of this Judgment.

2. Case Number E-1233-76.

A. That in this case judicial corners and judicial boundary lines between the adjoining real estate of the Plaintiffs and the Defendants be and the same are hereby located and defined as follows: The East corner of the first judicial boundary line is located at the same point on the fence as is described in this Judgment for the North corner of the judicial boundary line in Case No. E-1174-76; from this judicial corner run thence in a Westerly direction along said fence, as shown on Mr. Miller's survey, to the point shown on Mr. Miller's survey as "Old 2 inch open iron bent over" and at this point is located

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the West corner of the first judicial boundary line in this case. The South corner of the second judicial boundary line is located at the same point as the West corner of the first judicial boundary line in this case; from this judicial corner run thence in a Northwesterly direction along the fence shown on Mr. Miller's survey as a "Wire fence 547 feet ±" in length North and South to a point on said fence which is 30 feet South of the line shown on Mr. Miller's survey as being "551.24 feet" in length East and West when measured at a right angle with said line, at which point on said fence is located a judicial corner; thence run West and parallel with the North line of the SW¼ of the NE¼, as shown on Mr. Wheeler's survey, to the point of intersection with the line shown on Mr. Miller's survey as being "330.97 feet" in length North and South, at which point a judicial corner is located; thence run North along said "330.97 feet" line for a distance of 30 feet, more or less, to the point of intersection with said "551.24 feet" line, at which point of intersection is located the North corner of the second judicial boundary line in this case.

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B. That judgment be and the same is hereby entered in favor of the Plaintiffs and against the Defendant Homer Eugene Smith for the sum of $1,500.00, for which let execution issue if not paid within 30 days after entry of this Judgment.

C. That one-half of the Court costs in this case be paid by the Plaintiffs and the other one-half by the Defendant Homer Eugene Smith, for which let execution issue if not paid within 30 days after entry of this Judgment.

3. Case Number E-1270-76.

A. That in this case judicial corners and a judicial boundary line between the adjoining real estate of the Plaintiff and the Defendants be and the same is hereby located and defined as follows: The South corner of this judicial boundary line is located at the same point as described in this Judgment for the North corner of the second judicial boundary line in Case Number E-1233-76; from this judicial corner run thence in a Northerly direction along said "330.97 feet" line shown on Mr. Miller's survey to the point shown on Mr. Miller's survey as "Found 2 inch open top iron", at which point is located the North corner of the judicial boundary line

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in this case.

B. That judgment be and the same is hereby entered under the Defendants' Counterclaim in this case by establishing a judicial easement 30 feet in width across the Plaintiff's real estate in the same location as the newly opened roadway from the point where such roadway crosses the North line of Plaintiff's real estate to the point where such roadway crosses the judicial boundary line established in this case and Case Number E-1233-76. The Court Appointed Surveyor will determine a correct legal description for the center line of this judicial easement from the point where it crosses the North line of the SE¼ of the NW¼, as shown on Mr. Wheeler's survey, to the point where it crosses the judicial boundary line in this case and in Case Number E-1233-76 and enters upon the real estate of the Defendants in this case (who are the Plaintiffs in Case Number E-1233-76), but in no event will such judicial easement enter upon the real estate of the Defendants in Case Number E-1233-76.

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C. That judgment be and the same is hereby entered in this case vacating the presently existing and recorded thirty foot easement for roadway across the North line of all of that part of the SE¼ of the NW¼ that lies East of U. S. Highway 280 and across the North line of the SW¼ of the NE¼, which recorded easement is shown as a title encumbrance in the deed to the Plaintiff in this case, Annie M. Blankenship Howard, formerly Annie M. Blankenship, as recorded in Deed Book 271, at Page 478, in the Office of the Judge of Probate of Shelby County, Alabama, and in the deed to the Defendants in this case, James P. Siragusa and wife, Frances M. Siragusa, as recorded in Deed Book 206, at Page 424, and in Deed Book 303, at Page 382, in said Probate Records.

D. That one-half of the Court costs in this case will be paid by the Plaintiff and the other one-half by the Defendants, for which let execution issue if not paid within 30 days after entry of this Judgment.

4. That Frank W. Wheeler be and he is hereby appointed as the surveyor in Case Number E-1174-76, E-1233-76 and E-1270-76 in accordance with Section 35-3-3, Code of Alabama, 1975, and he is

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hereby directed to forthwith establish a permanent landmark at each of the corners located and defined in this Judgment, such landmarks shall have distinctly cut thereon "judicial landmark", and he is to forthwith establish and determine a correct legal description for each of the judicial boundary lines and the judicial easement in Case Number E-1270-76 in accordance with this Judgment with reference to the surveys he prepared under previous orders of this Court in these cases and filed with the Court on January 17, 1977 and April 6, 1977; further, said Court Appointed Surveyor will forthwith make his report to the Court furnishing a correct legal description of each such judicial corner and each such judicial boundary line and the judicial easement, all in accordance with Section 35-3-3, Code of Alabama, 1975.

5. That upon the Court Appointed Surveyor making and filing his report with the Court in accordance with paragraph number 4 of this Judgment, the Register will serve a copy thereof on all Attorneys of Record and the same will lie over for a period of 5 days for filing of written objections, if any, by counsel. Thereafter, the Court will pass upon such report and, when approved, all future legal descriptions of the land of any party to these consolidated cases will be made with reference to such survey and future surveys of the land embraced in this Judgment shall be made from such survey.

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6. That the Court awards to Frank W. Wheeler the sum of $2,000.00 as compensation for services rendered in accordance with the orders of this Court entered on September 27, 1976 in Cases Number E-1174-76 and E-1233-76 and on December 3, 1976 in Case Number E-1270-76 appointing him as the surveyor prior to judgment in these consolidated cases and as compensation for his services to be rendered in accordance with this Judgment, of which the Plaintiffs in Cases Number E-1174-76 and E-1233-76 have heretofore paid to said Frank W. Wheeler the sum of $1,000.00 in accordance with said Court Order of September 27, 1976, leaving a balance of $1,000.00 due on the compensation hereby awarded to Frank W. Wheeler by the Court for all of his services in these consolidated cases. That judgment be and the same is hereby rendered in favor of Frank W. Wheeler and against the Defendant Homer Eugene Smith for the sum of $1,000.00, for which let execution issue if not paid within 30 days from the date of this Judgment.

7. That the Register of this Court will cause a certified copy of this Judgment to be recorded in the Deed Records in the Office of

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the Judge of Probate of Shelby County, Alabama and indexed in the direct indexes under the names of Richard T. Darden, Joseph A. Saiia, J. Frank Day, III, Duncan Hamilton, Lloyd R. Wilson, C. Ray Cunningham, James P. Siragusa, Frances M. Siragusa, Annie M. Blankenship Howard, formerly Annie M. Blankenship, and in the indirect indexes under the name of Homer Eugene Smith, James P. Siragusa and Frances M. Siragusa. The cost of recording this Judgment will be taxed as part of the Court costs in these consolidated cases, one-third of the total recording cost being made part of the Court costs in each case.

8. That the Register of this Court will serve this Judgment by mailing a copy thereof to all Attorneys of Record and to the Defendant Birmingham Trust National Bank and to the Court Appointed Surveyor.

DONE AND ORDERED this 1st day of June, 1978.

James W. Shanlett
Circuit Judge

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
Deed Tax - None
1978 JUN -1 PM 3:05

Rose G. Shanlett, Jr.
JUDGE OF PROBATE

Rec. 14.50
Ind 1.00
$ 15.50

FILED IN OFFICE, This the 1st day
of June 1978
Kyle Lansford
Register Circuit Court of
Shelby County, Alabama

Certified a true and complete copy.
Kyle Lansford
Register of Circuit Court