

IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

RONALD BRASHER,

PLAINTIFF,

VS.

VICTOR MOONEY and
HENRY HIGGINS,

DEFENDANTS.

Case No. _____

20201109000511280 1/7 \$40.00
Shelby Cnty Judge of Probate, AL
11/09/2020 11:27:28 AM FILED/CERT

NOTICE OF LIS PENDENS

Notice is hereby given that Ronald Brasher commenced a civil suit against Victor Mooney and Henry Higgins in the Circuit Court of Shelby County on the 21st day of October, 2020, in which Plaintiff claims a right, title, interest, or claim in and to the following described property:

All of Lot 10A lying North of Mooney Road (County Road 78) according to a resurvey of Lot 10 and 11 Mooney Estates as recorded in Map Book 12, Page 92, Probate Office of Shelby County, Alabama.

In the aforesaid civil action, Plaintiff alleges, among other things, an easement by prescription over and across the subject property.

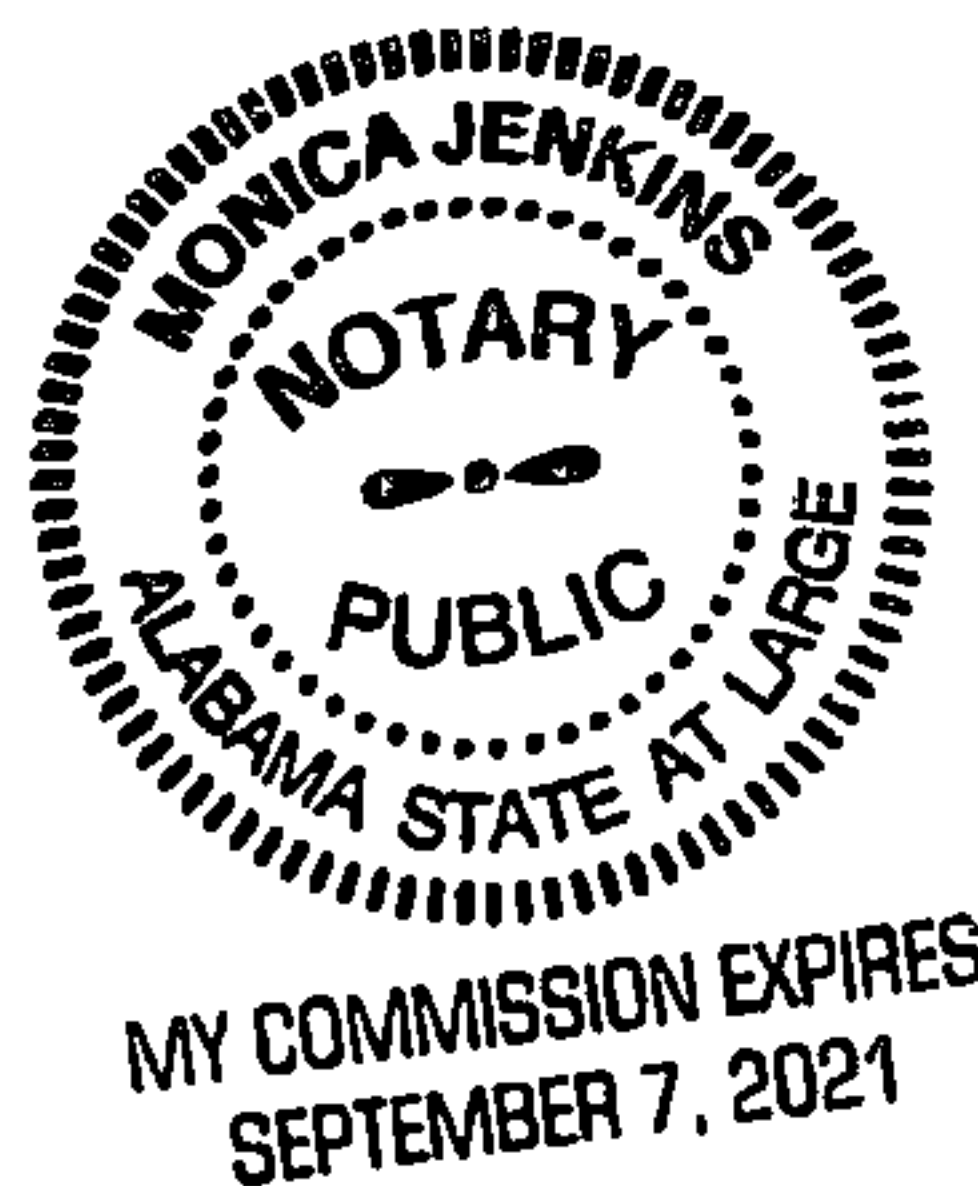

Fred Lawton III (LAW023)

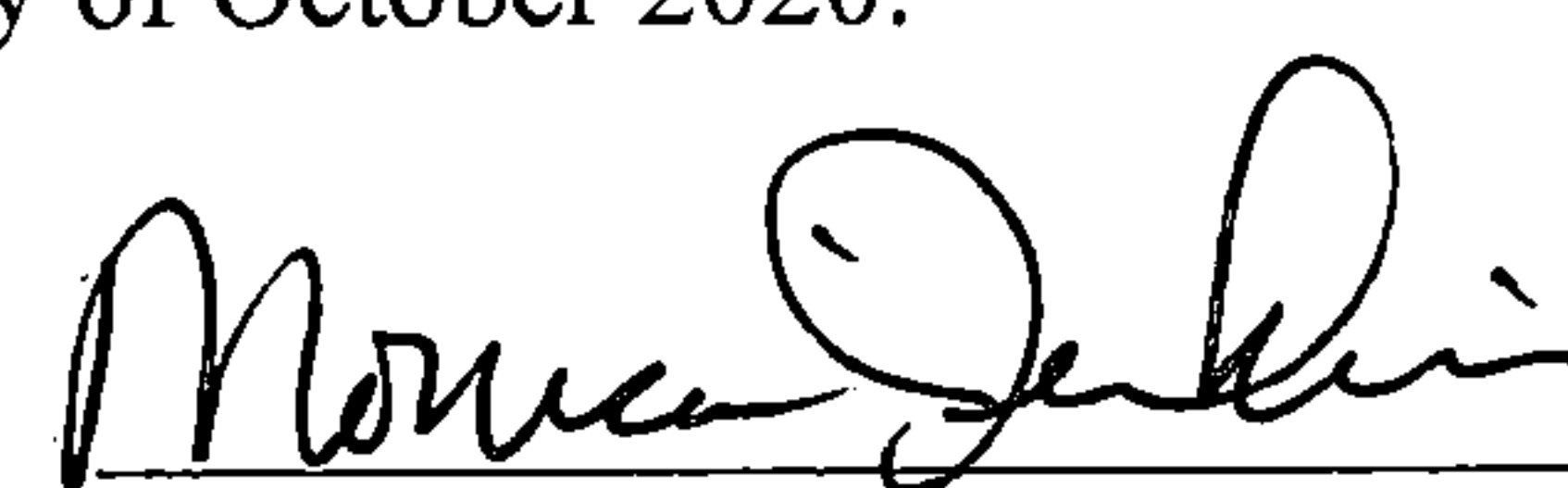

Ronald Brasher

STATE OF ALABAMA
COUNTY OF CALHOUN

I, Monica Jenkins, the undersigned, a Notary Public in and for said State and County, hereby certify that Fred Lawton III and Ronald Brasher whose name(s) is/are signed to the foregoing document, and who is/are known to me, acknowledged before me on this the day, that being informed of the contents of said instrument he/she/they executed the same voluntarily on the date the same bears date.

Given under my hand and seal on this the 19th day of October 2020.




Notary Public

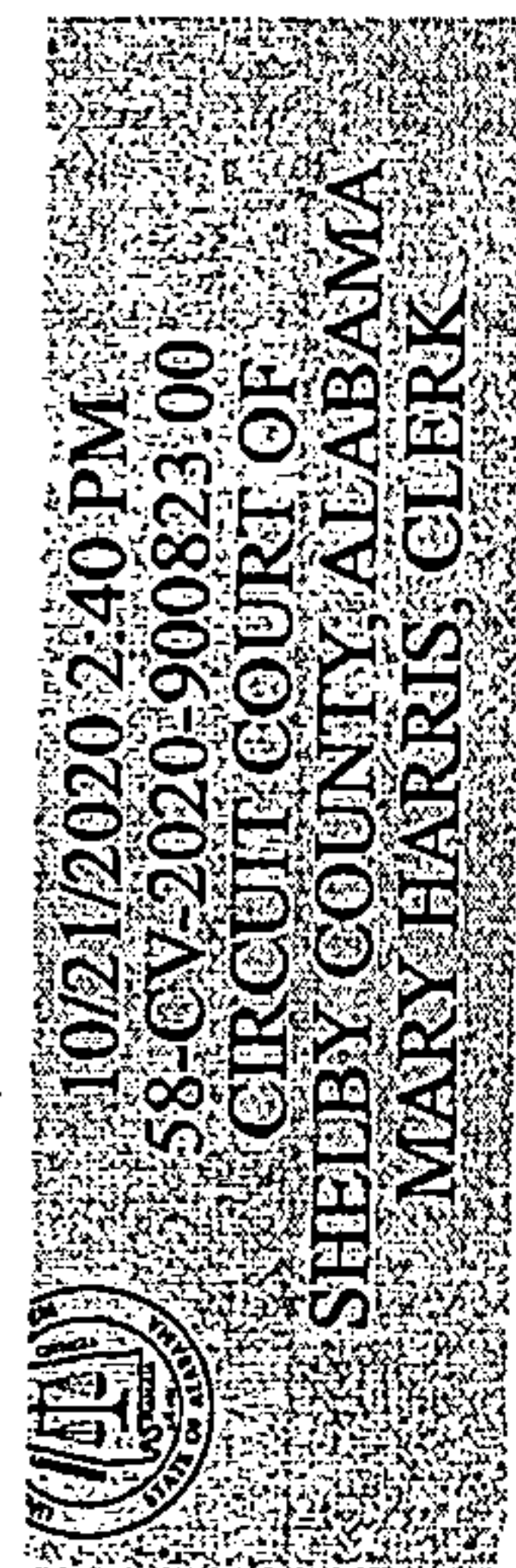
Respectfully submitted this the 21st day of October, 2020.



Fred Lawton III LAW023
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Fax: (256) 238-8577



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IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

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VERIFIED COMPLAINT

Comes now Plaintiff, Ronald Brasher, and complains as follows:

GENERAL ALLEGATIONS

1. Plaintiff Ronald Brasher is over the age of nineteen (19) years and is a resident of Shelby County, Alabama.

2. Defendant Victor Mooney is over the age of nineteen years and is a resident of Shelby County, Alabama.

3. Defendant Henry Higgins is over the age of nineteen years is a resident of Shelby County, Alabama.

4. On July 24, 1995, Alfred Rape and his wife, Nancy Rape, conveyed (Inst#1996-29190) Plaintiff, a parcel of real property (the Dominant Estate) located in Shelby County, State of Alabama, and more particularly described as follows:

The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 32, Township 21 South, Range 1 East, except a strip of land one-acre wide extending from East to West, on the South side of the above described $\frac{1}{4}$ - $\frac{1}{4}$ Section, containing 33 1/3 acres, more or less. Situated in Shelby County, Alabama

5. Prior to January 2, 2000, Plaintiff purchased an easement for ingress and egress to access the Dominant Estate from Mooney Road over and across a parcel then owned by Jimmy Mooney (the Subservient Estate) and now purported to be owned by Defendant Victor Mooney, and more particularly described as follows:



All of Lot 10A lying North of Mooney Road (County Road 78) according to a resurvey of Lot 10 and 11 Mooney Estates as recorded in Map Book 12, Page 92, Probate Office of Shelby County, Alabama.

6. Plaintiff created and has used a road (the Way) across the west side of the Subservient Estate to provide ingress and egress to the Dominant Estate for a period in excess of twenty (20) years.

7. Plaintiff's use of the Way has been adverse to the various owners of the property.

8. Plaintiff claims and has claimed a right to use the Way that has been uninterrupted, exclusive, continuous, uninterrupted and with the actual knowledge of the various owners of the Subservient Estate.

9. In 2013, Defendant Victor Mooney's predecessor in title, Betty Mooney, attempted to thwart Plaintiff's use of the Way.

10. However, Plaintiff asserted his right to use the Way and Betty Mooney abandoned her efforts to thwart Plaintiff's use of the Way.

11. On July 2, 2020, Defendant Victor Mooney damaged the Way by using a tractor dig ruts and crevices therein that rendered the Way unusable by Plaintiff for ingress and egress.

12. On July 2, 2020, Plaintiff confronted Defendant Mooney and Defendant Henry Higgins while Defendant Mooney was damaging the Way.

13. Defendant Higgins informed Plaintiff that he had purchased some portion of the Subservient Estate.

14. During the same encounter, Defendant Victor Mooney ordered Plaintiff to remove himself from the Way and that he wished Plaintiff was dead.

15. Subsequently, Defendants erected a "No Trespassing" sign on the way.

16. Plaintiff is disabled and unable to transport his garbage container to Mooney Road for pickup.

17. During the time since he constructed the Way, Plaintiff has maintained it and repaired it.

18. Since no later than May 16, 2000, Plaintiff has contracted with Waste Management, Inc., a garbage hauler, to collect garbage from containers on his property, with its trucks using the Way for ingress and egress.

19. Since July 2, 2020, Waste Management, Inc., has been unable to access the Dominant Estate in order to collect Plaintiff's garbage.

20. Plaintiff has been damaged by his inability to use the Way to access the Dominant Estate, at which he resides.

21. Plaintiff has suffered severe emotional distress, with profound and serious physical manifestations, as a result of Defendant's actions.

COUNT ONE

ACTION TO ENJOIN OBSTRUCTION OF EASEMENT

22. Plaintiff re-alleges, re-avers, and incorporates herein by reference each of the foregoing allegations as if recited verbatim.

23. Defendant has unlawfully obstructed Plaintiff's use of the Way.

COUNT TWO

ACTION TO QUIET TITLE

24. Plaintiff re-alleges, re-avers, and incorporates herein by reference each of the foregoing allegations as if recited verbatim.

25. Plaintiff claims an easement by prescription over the Way.

COUNT THREE

OUTRAGE

26. Plaintiff re-alleges, re-avers, and incorporates herein by reference each of the foregoing allegations as if recited verbatim.

27. Defendant Victor Mooney's conduct with regard to Plaintiff, in destroying the Way, expressing desire for his murder, and threatening to sabotage the Way, is so extreme that no reasonable person could be expected to endure it.

COUNT FOUR INJUNCTION

28. Plaintiff re-alleges, re-avers, and incorporates herein by reference each of the foregoing allegations as if recited verbatim.

29. Plaintiff seeks a preliminary injunction in this action enjoining Defendants from obstructing the way or otherwise interfering with his right to use the Way for ingress and egress.

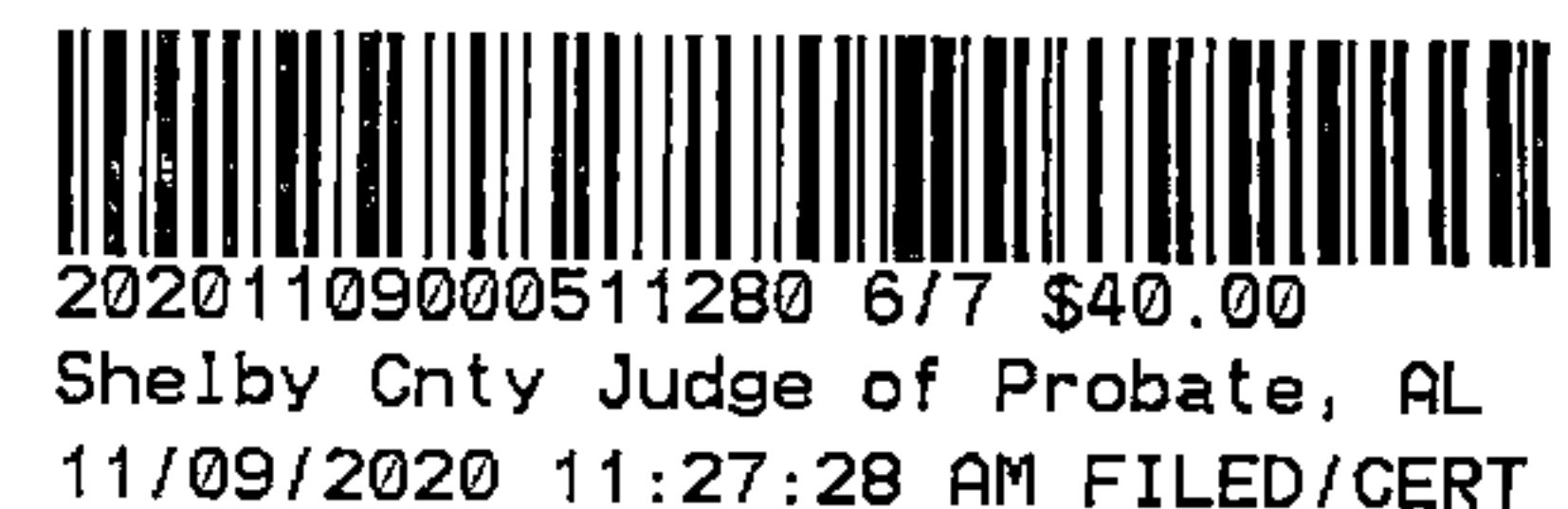
30. Plaintiff further seeks a preliminary injunction enjoining Defendant Victor Mooney from threatening, disturbing, or otherwise molesting him.


31. Plaintiff further seeks a preliminary injunction enjoining Defendant Victor Mooney from vandalizing the way by placing nails thereon with the intention of damaging motor vehicles traveling on it.


32. Immediate and irreparable injury, loss and damage have and will result to Plaintiff by reason of the threat and action of the Defendants as more particularly appears herein and Plaintiff has no adequate remedy at law.

33. If this preliminary injunction be granted, the injury, if any, to Defendants, if final judgment be in their favor, will be inconsiderable and will be adequately indemnified by bond.

Wherefore, on the foregoing grounds, Plaintiff demands judgment in his favor and against Defendants for compensatory, general, nominal, and punitive damages, for a preliminary injunction, for a permanent injunction, and for such other relief as Plaintiff may be entitled.



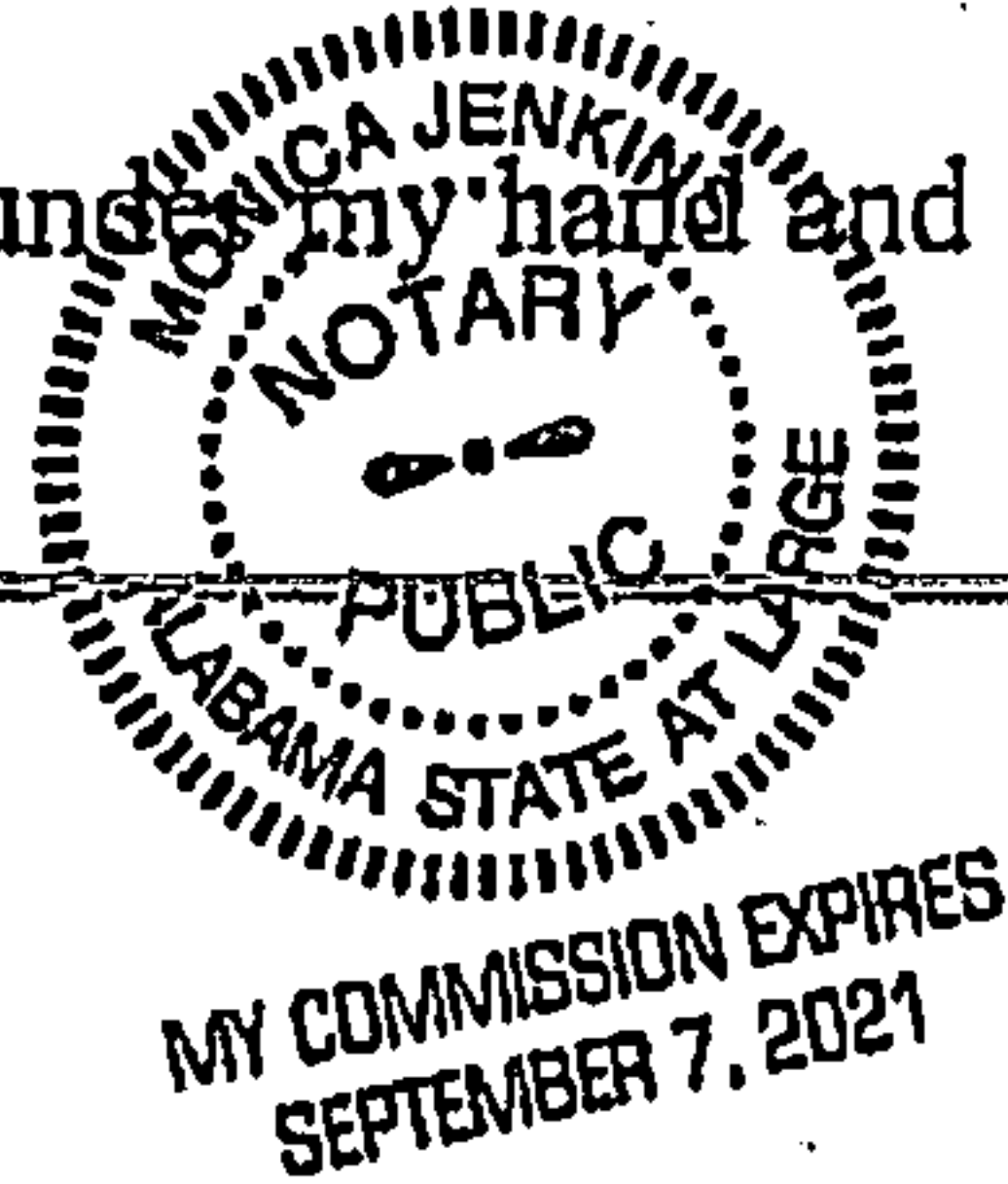

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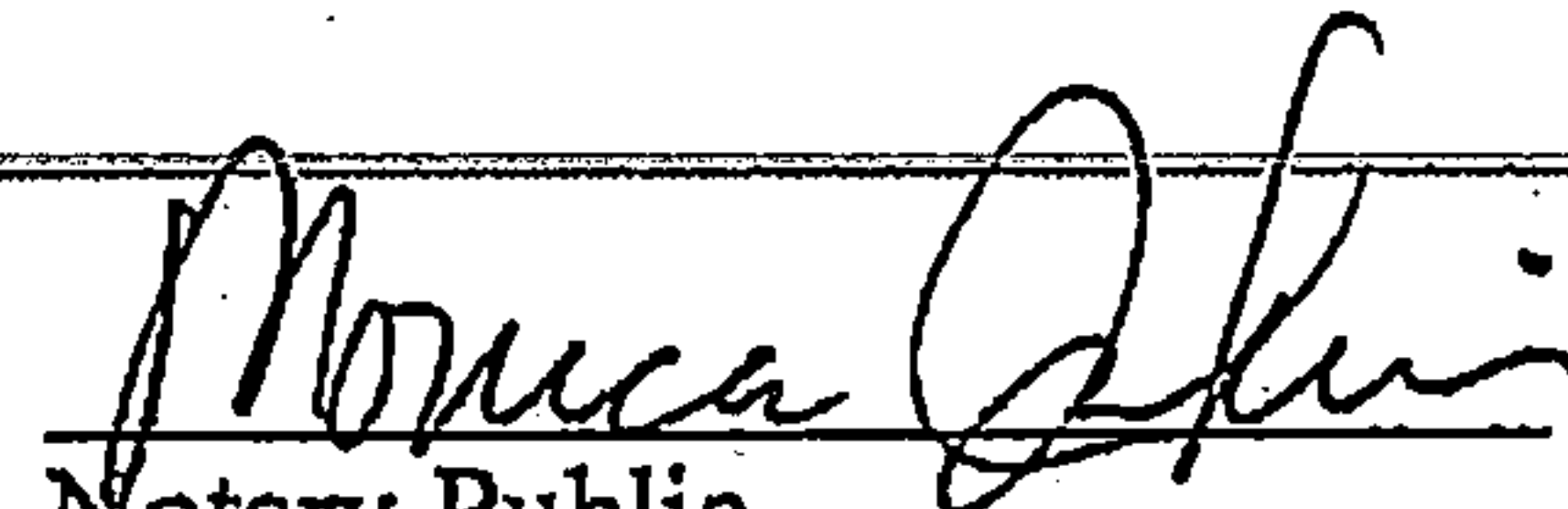

Ronald Brasher

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Given under my hand and seal on this the 19th day of October 2020.




Notary Public

Respectfully submitted this the 21st day of October, 2020.

/s/ Fred Lawton III
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Lawton & Associates
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Anniston, AL 36202
Phone: (256) 238-1984
Fax: (256) 238-8577

CERTIFICATE OF SERVICE

This document has been filed electronically and served upon the listed opposing counsel or parties pursuant to the Administrative Procedure for Filing, Signing and Verifying Documents by Electronic Means in the Alabama Judicial System. For any opposing counsel or unrepresented parties who are not registered to file electronically, a copy of this pleading shall be served via the U.S. Mail, postage prepaid, to the litigants address as maintained in the office of the Circuit Clerk.

/s/ Fred Lawton III
Fred Lawton III (LAW023)
Attorney for the Plaintiff

