

11/03/1992-25639  
04:34 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
017 NJS 46.50

## CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon Defendant by hand delivery addressed as follows:

Mr. Chris S. Christ  
710 Frank Nelson Building  
Birmingham, Alabama 35203

DONE this the 3<sup>rd</sup> day of November, 1992.



Of Counsel

75706.1

THE STATE OF TEXAS, }  
COUNTY OF TARRANT. }

I, R. BRENT KEIS Judge of  
the County Court of said County (which is a Court of Record) do hereby certify that SUZANNE HENDERSON

whose name is subscribed to the annexed Certificate, was at the date of the same, and is now County Clerk in and for said County, duly elected, qualified and acting County Clerk of said Court, and full faith and credit are due to all his official acts as such.

And I do further certify that the signature attached to the annexed Certificate is his proper signature and is genuine, and that said attestation is in due form.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said County Court, at my office, in Fort Worth, Texas this 24TH day of SEPTEMBER A. D. 19 92

  
Judge County Court, Tarrant County, Texas

THE STATE OF TEXAS, }  
COUNTY OF TARRANT. }

I, SUZANNE HENDERSON Clerk of the  
County Court of said County (which is a Court of Record), do hereby certify that R. BRENT KEIS

whose name is subscribed to the annexed Certificate was at the date of the same, and is now County Judge in and for said County, duly elected, qualified and acting County Judge of said Court, and full faith and credit are due to all his official acts as such.

And I do further certify that the signature attached to the annexed Certificate is his proper signature and is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County Court, at my office, in Fort Worth, Texas, this 24TH day of SEPTEMBER A. D. 19 92

  
Clerk County Court, Tarrant County, Texas.

NO. 92-49089-1

FIDELITY BANK, Successor  
in Interest to FORT WORTH  
STATE BANK by Assignment and  
Endorsement from the FEDERAL  
DEPOSIT INSURANCE CORPORATION  
as Receiver of FORT WORTH  
STATE BANK

VS.

DAVID M. MELTON

IN THE COUNTY COURT

AT LAW NO. ONE

TARRANT COUNTY, TEXAS

DEFAULT JUDGMENT

On the 18<sup>th</sup> day of August, 1992 came on to be heard the above-entitled and numbered cause wherein Fidelity Bank, Successor in Interest to Fort Worth State Bank by Endorsement and Assignment from the Federal Deposit Insurance Corporation as Receiver of Fort Worth State Bank, is Plaintiff and David Melton is Defendant. The Plaintiff appeared by its attorney of record and announced ready for trial. The Defendant, although having been duly and legally cited to appear and answer, failed to appear and answer, and wholly made default.

Citation was served according to law and returned to the clerk where it remained on file for the time required by law. The Court has read the pleadings and the papers on file, and is of the opinion that the allegations of Plaintiff's Petition have been admitted and that the cause of action is liquidated and proven by an instrument in writing, and on good and sufficient evidence presented to the Court, finds that:



- (1) Defendant is indebted to Plaintiff, by reason of the Note attached to and incorporated as Exhibit "A" in Plaintiff's Original Petition, in the amount of \$25,754.24, principal, \$6,211.00 prejudgment interest through July 15, 1992, plus a per diem thereafter of \$10.50 until the date of judgment; and
- (2) Defendant is indebted to Plaintiff for reasonable attorney fees in the amount of \$3,500.00.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Fidelity Bank, Plaintiff, have and recover of and from David Melton:

- (1) \$ 32,311.74, principal and interest through the date of judgment by reason of the Note;
- (2) postjudgment interest thereon at the rate of TEN percent per annum from the date of this judgment until paid;  
~~\$ 1,000.00~~
- (3) ~~\$3,500.00~~ as attorney fees; and
- (4) all costs of court in this behalf expended.

Plaintiff is allowed such writs and processes as may be necessary in the enforcement and collection of this judgment.

SIGNED this 18<sup>th</sup> day of August, 1992.

  
JUDGE PRESIDING

NO. 92-49089-1

FIDELITY BANK, Successor  
in Interest to FORT WORTH  
STATE BANK by Assignment and  
Endorsement from the FEDERAL  
DEPOSIT INSURANCE CORPORATION  
as Receiver of FORT WORTH  
STATE BANK

VS.

DAVID M. MELTON

IN THE COUNTY COURT

AT LAW NO. ONE

TARRANT COUNTY, TEXAS

**AFFIDAVIT IN SUPPORT OF DEFAULT JUDGMENT**

THE STATE OF TEXAS

COUNTY OF TARRANT

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BEFORE ME, the undersigned authority, on this day personally appeared Bruce Davis, known to me to be the person whose name is subscribed below, who, being by me duly sworn, on his oath stated the following:

1. "My name is Bruce Davis and I am a resident of Tarrant County, Texas. I am over the age of twenty-one (21) years and, as Vice President of Fidelity Bank, am fully qualified to make this Affidavit. I have read this Affidavit and have personal knowledge of each and every fact set forth herein. Each and every fact in this Affidavit is true and correct.

2. "Fidelity Bank is the owner and holder of the note subject of this suit by endorsement and assignment from the Federal Deposit Insurance Corporation, as receiver of Fort Worth State Bank.

3. "I am a custodian of records for Plaintiff and have knowledge of Fidelity Bank's records concerning David Melton, Defendant in this case.

4. "Fidelity Bank's records show that David Melton executed a note dated March 14, 1990, in the original principal amount of \$33,591.91. A true and correct copy of the note is incorporated in Plaintiff's Original Petition as Exhibit "A," (the "Note").

5. "Exhibit "A" incorporated in Plaintiff's Original Petition is a true and correct copy from the records of Fidelity Bank and are kept in the regular course of business.

6. "Defendant defaulted in making the payments under the Note.

7. "After all just payments, credits, and offsets, a principal balance of \$25,754.24 plus accrued but unpaid interest is due and owing to Fidelity Bank on the Note. The accrued but unpaid interest on the Note is \$6,211.00 through July 15, 1992, and continues to accrue at the rate of \$10.50 per diem.

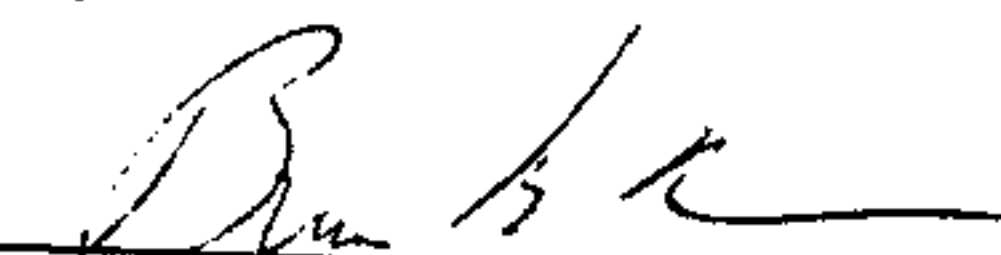
8. Defendant, David Melton, has failed and refused to pay any part of the outstanding principal or interest due on the Note.

9. "On or about December 12, 1990, Fidelity Bank made demand upon Defendant for payment of the outstanding balance due on the Note. A copy of the December 12, 1990 demand letter is attached hereto as Exhibit "A." Defendant, however, continues to fail and refuse to make such payment.

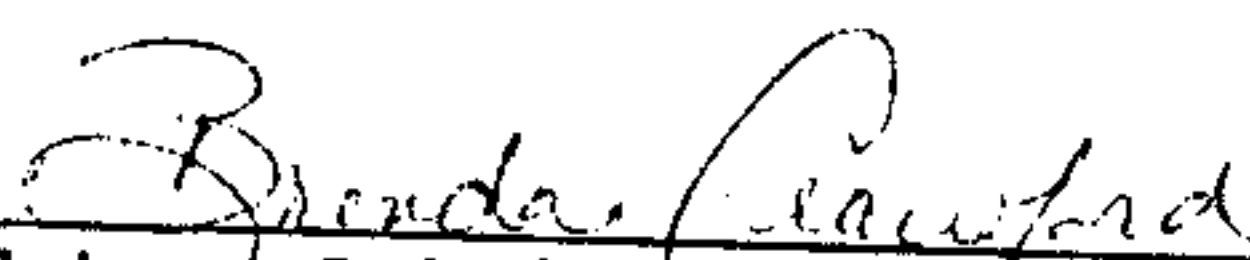
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10. "As a result of Defendant's failure and refusal to pay the sums due, Fidelity Bank was required to retain the services of the law firm of McLean & Sanders, a Professional Corporation, to assist it in the collection of the sums due Fidelity Bank. Plaintiff has agreed to pay McLean & Sanders reasonable fees and expenses incurred in the collection of this Note.

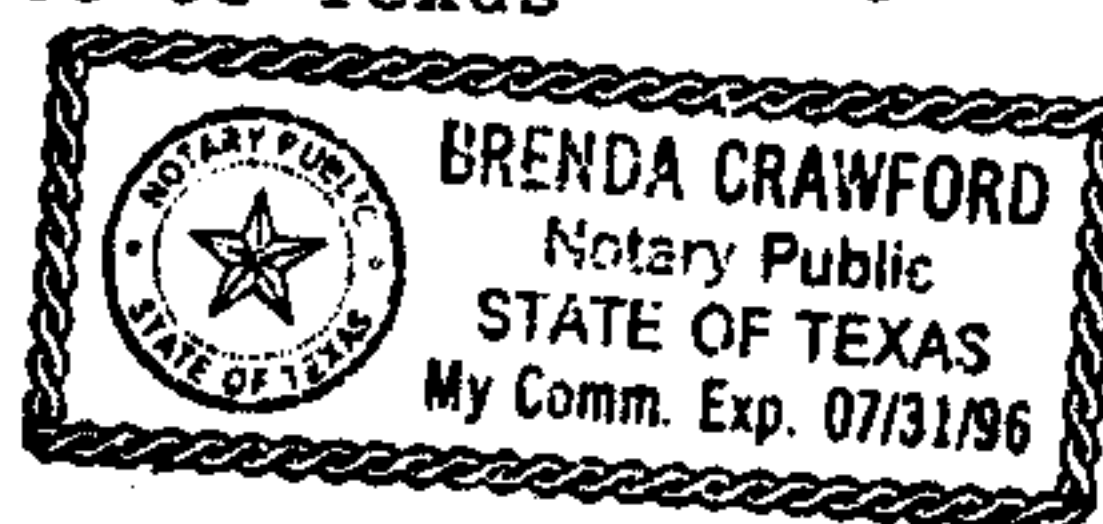
AFFIANT SAITH NOTHING FURTHER."

  
\_\_\_\_\_  
BRUCE DAVIS

SUBSCRIBED AND SWORN TO BEFORE ME on this the 20th day of July, 1992, to certify which witness my hand and seal of office.

  
\_\_\_\_\_  
Notary Public in and for the  
State of Texas

MMC/236



00100



# McLean & Sanders

A PROFESSIONAL CORPORATION  
ATTORNEYS

RONALD L. ADAMS  
RANDY L. AGNEW  
KATHLEEN W. BILLINGSLEY  
WILLIAM H. BLAIR  
ROBERT A. BODON  
A. WILLIAM BRACKETT  
HARRY M. BRANTS  
BRUCE S. CAMPBELL  
EDGAR O. COBLE  
DENISE J. COLLINS  
HENRY J. DUSSAULT

100 MAIN PLACE  
FORT WORTH, TEXAS 76102-3090  
(817) 338-1700  
METRO 429-9181  
FACSIMILE (817) 870-2265

LUTHER W. ELLIS  
DANIEL A. FOSTER  
RICHARD H. GATELEY  
FRANCISCO HERNANDEZ, JR.  
RONALD G. KNIGHT  
JOHN B. LAY  
FORREST MARKWARD  
KATHERYN M. MILLWEE  
R. BRUCE MOON  
RUSSELL J. NORMENT  
RICHARD U. SIMON, JR.  
JAMES M. WHITTON

December 12, 1990

**CERTIFIED MAIL - RETURN  
RECEIPT NO. P 540 428 859  
AND FIRST CLASS MAIL**

Mr. David M. Melton  
4908 Branch Mill Circle  
Birmingham, AL 35223

**CERTIFIED MAIL - RETURN  
RECEIPT NO. P 450 518 860  
AND FIRST CLASS MAIL**

Mr. David M. Melton  
P. O. Box 130310  
Birmingham, AL 35213

Re: Delinquency in payments of monies  
due on Promissory Note held by Fidelity  
Bank as Holder pursuant to endorsement  
from and as Assignee of the Federal  
Deposit Insurance Corporation as Receiver  
of Fort Worth State Bank in the original  
principal amount of \$33,591.91 dated March  
14, 1990, executed by David M. Melton

Dear Mr. Melton:

We have been retained by Fidelity Bank as Holder pursuant to an endorsement from and as Assignee of the Federal Deposit Insurance Corporation as Receiver of Fort Worth State Bank to assist it in the collection of the above-described Promissory Note. Pursuant to the terms of the Promissory Note, you agreed to make certain payments. As you are aware, you have defaulted in that obligation and the Promissory Note remains unpaid and is now past due.

As a result of the delinquency and the payment of the Promissory Note in accordance with its terms, this letter is formal notice to you that your indebtedness to Fidelity Bank as Holder of the Promissory Note has been accelerated.

Demand is herewith made for immediate payment in full of the entire outstanding balance due on the Promissory Note and all accrued interest due to date of payment. Unless the entire

**Exhibit "A"**

Mr. David M. Melton  
December 12, 1990  
PAGE 2

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amount is received within thirty (30) days of your receipt of this letter, we shall advise our client to exercise its legal remedies which include filing suit for collection of the note and applicable attorneys' fees. Because you currently reside in Alabama and the Bank is located in Texas, we intend to refer the matter to local counsel in Birmingham, Alabama for collection.

You are hereby advised that you have thirty (30) days after your receipt of this notice to dispute the validity of the debt or any portion thereof. If you fail to dispute the validity of this claim within the thirty (30) day period, we will assume that you agree that the debt is valid, just and true. You are further advised that, if you notify this office in writing within thirty (30) days after your receipt of this notice that the debt or any portion thereof is disputed, verification of the will be forwarded to you.

You are further advised that any information furnished to our client will be used in the collection of the sums due and owing.

I hope that you will wish to avoid the additional expenses involved in defending a lawsuit. Therefore, please comply with the demand set forth above and forward the payment of all sums on the note to Fidelity Bank c/o of the undersigned at the address set forth above.

If you wish a payoff "with respect to the Promissory Note" please contact Mr. Greg Wilemon, President, Fidelity Bank South, 6320 South Freeway, Fort Worth, TX 76134, 817/293-7239.

Your prompt attention to this demand is expected.

Yours very truly,

A. William Brackett

AWB/je

cc:

Mr. Greg Wilemon, President  
Fidelity Bank South  
6320 South Freeway  
Fort Worth, TX 76134

Mr. Beall D. Gary  
Steiner Byars Haskell Slaughter  
Young & Johnston  
800 AmSouth-Sonat Tower  
Birmingham, AL 35203

**SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.**  
 Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:  
*David M. Melton*  
*4908 Brand Mill Circle*  
*Birmingham, AL*  
*35223*

4. Article Number:  
*P540-528-859*

Type of Service:  
☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee  
*X*

6. Signature — Agent  
*X [Signature]*

7. Date of Delivery  
*12-15-90*

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Apr. 1989

DOMESTIC RETURN RECEIPT

P 540 528 859

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)

Sent to  
*David M. Melton*  
 Street and No.  
*4908 Brand Mill Circle*  
 P.O. State and ZIP Code.  
*Birmingham AL*  
*35223*

Postage *35223*

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing to whom and Date Delivered

Return Receipt showing to whom, Date, and Address of Delivery

TOTAL Postage and Fees \$

Postmark or Date

PS Form 3800, June 1985

Fold at line over top of envelope to the right of the return address

P 540 528 860...

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED  
 NOT FOR INTERNATIONAL MAIL  
 (See Reverse)

Sent to  
*David M. Melton*  
 Street and No.  
*4908 Brand Mill Circle*  
 P.O. State and ZIP Code.  
*Birmingham AL*  
*35223*

Postage *35223*

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt showing to whom and Date Delivered

Return Receipt showing to whom, Date, and Address of Delivery

TOTAL Postage and Fees \$

Postmark or Date

PS Form 3800, June 1985

Fold at line over top of envelope to the right of the return address



NO. 92-49089-1

FIDELITY BANK, Successor  
in Interest to FORT WORTH  
STATE BANK by Assignment and  
Endorsement from the FEDERAL  
DEPOSIT INSURANCE CORPORATION  
as Receiver of FORT WORTH  
STATE BANK

IN THE COUNTY COURT

AT LAW NO. ONE

VS.

DAVID M. MELTON

TARRANT COUNTY, TEXAS

AFFIDAVIT IN SUPPORT OF FEES

STATE OF TEXAS

COUNTY OF TARRANT

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BEFORE ME, the undersigned authority, on this day personally  
appeared the undersigned Affiant, who, after being by me duly  
sworn, on his oath stated:

1. "My name is Francisco Hernandez, Jr. I am at least  
eighteen (18) years of age, of sound mind, capable of making this  
Affidavit and am fully competent to testify to the matters stated  
herein, and I have personal knowledge of each of the matters  
stated herein.

2. "I am the attorney of record for Plaintiff in the  
above-entitled and numbered cause. I am duly licensed to  
practice law in the courts in the State of Texas, and have been  
so licensed since November, 1990. I have handled other cases  
similar to this case and am familiar with the fees charged by  
members of the Bar in Tarrant County for the work on cases  
similar to this case.



3. "McLean & Sanders' representation of Plaintiff in this matter is on a non-contingent fee basis.

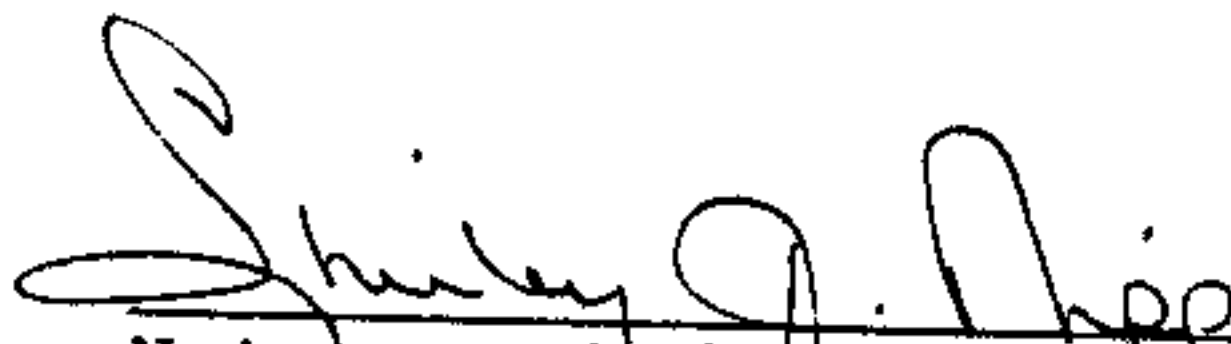


4. "McLean & Sanders has spent time working on this case including prosecuting an action in Birmingham, Alabama, the preparation of demand letters, Plaintiff's Original Petition, researched county records, and prepared Default Judgment and accompanying Affidavits. Additionally, the Defendant in this cause is an individual and the proposed time and effort to be expended in collecting the Default Judgment will increase the amount of time to be devoted to this matter. McLean & Sanders has devoted fourteen (14) hours to this matter and anticipates spending an additional ten (10) hours in collecting the Judgment. McLean & Sanders' current billing rates range from \$90.00 to \$175.00 per hour. The sum of \$3,500.00 is a reasonable fee for the prosecution of this suit involving the amount of indebtedness forming the foundation of Plaintiff's suit including additional work to be conducted in the post-judgment phase of this matter to collect the Default Judgment; and

5. "Over thirty (30) days have elapsed since Plaintiff's demand for payment was presented to Defendant and Defendant still has not paid the amount owed to Plaintiff or any part thereof.

**FURTHER AFFIANT SAITH NOT."**

  
FRANCISCO HERNANDEZ, JR.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 21st day  
of July, 1992, which witness my hand and seal of  
office.

  
Notary Public in and for the  
State of ~~Texas~~  
 SHIRLEY J. NIPP  
NOTARY PUBLIC  
STATE OF TEXAS  
Typed or Printed  My Comm. Exp. 2-19-93

MMC/236

STATE OF TEXAS     )  
COUNTY OF TARRANT)

I, SUZANNE HENDERSON, Clerk of the County Court at Law of Tarrant County, Texas, do hereby certify that the above and foregoing pages contain a true and correct copy of the judgment rendered in Cause No. 92-49089-1, styled FIDELITY BANK, SUCCESSOR IN INTEREST TO FORT WORTH STATE BANK BY ASSIGNMENT AND ENDORSEMENT FROM THE FCIC AS RECEIVER OF FORT WORTH STATE BANK

vs. DAVID M. MELTON

the 18TH day of AUGUST A.D., 19 92, as the same appears of record in Civil Minutes Volume 163, Page 312, in my said office.

Given under my hand and Seal of said County Court at Law of Tarrant County, Texas, at office in Fort Worth, Tarrant County, Texas, this the 24th day of SEPTEMBER, A.D., 19 92.

SUZANNE HENDERSON, County Clerk  
County Courts at Law,  
Tarrant County, Texas  
Tarrant County Courthouse, #250  
Fort Worth, Texas 76196-0401

By: Carla Braden  
CARLA BRADEN Deputy

**IN THE CIRCUIT COURT  
JEFFERSON COUNTY, ALABAMA**

**FIDELITY BANK,**

**Plaintiff,**

**v.**

**DAVID M. MELTON,**

**Defendant.**

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**Civil Action**

**No. CV 91-0678**

**AFFIDAVIT OF DANIEL B. FELDMAN**

Before the undersigned notary, personally appeared Daniel B. Feldman, who, having been duly sworn, does declare the following:

1. My name is Daniel B. Feldman and I am over the age of 19 years and suffer from no legal disability.
2. I am one of the attorneys for the judgment creditor, Fidelity Bank and I make this affidavit in support of Fidelity Bank's execution on the attached foreign judgment.
3. Fidelity Bank avers that Defendant, David M. Melton is not an infant, is not incompetent and is not in the military.
4. The current address of Fidelity Bank is 6320 South Freeway, Fort Worth, Texas 76134.



5. David M. Melton's last known address is 4908 Branchmill Circle, Birmingham, Alabama 35223. His last known post office box address is Post Office Box 130310, Birmingham, Alabama 35213.

6. The foreign judgment attached as Exhibit A to the notice of filing is valid, enforceable and unsatisfied.

7. This Affidavit is executed by Daniel B. Feldman in accordance with Alabama Code §§ 6-9-230 et seq. for the purpose of enabling Fidelity Bank to execute the exemplified foreign judgment attached as Exhibit A to the notice of filing.

Respectfully submitted,


  
Daniel B. Feldman

STATE OF ALABAMA     )  
                                  :  
JEFFERSON COUNTY    )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that DANIEL B. FELDMAN, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and seal, this 3rd day of November, 1992.

[ NOTARIAL SEAL ]

  
Notary Public

My Commission Expires: June 13, 1996

Inst # 1992-25639

75710.1

11403/1992-25639  
04:04 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

017 MJS

46.50