

IN THE MATTER OF THE ESTATE OF

IN THE PROBATE COURT OF  
JEFFERSON COUNTY, ALABAMA

CONNIE A. SIMMONS

CASE NO. **146863**

Deceased

Inst # 1994-32008

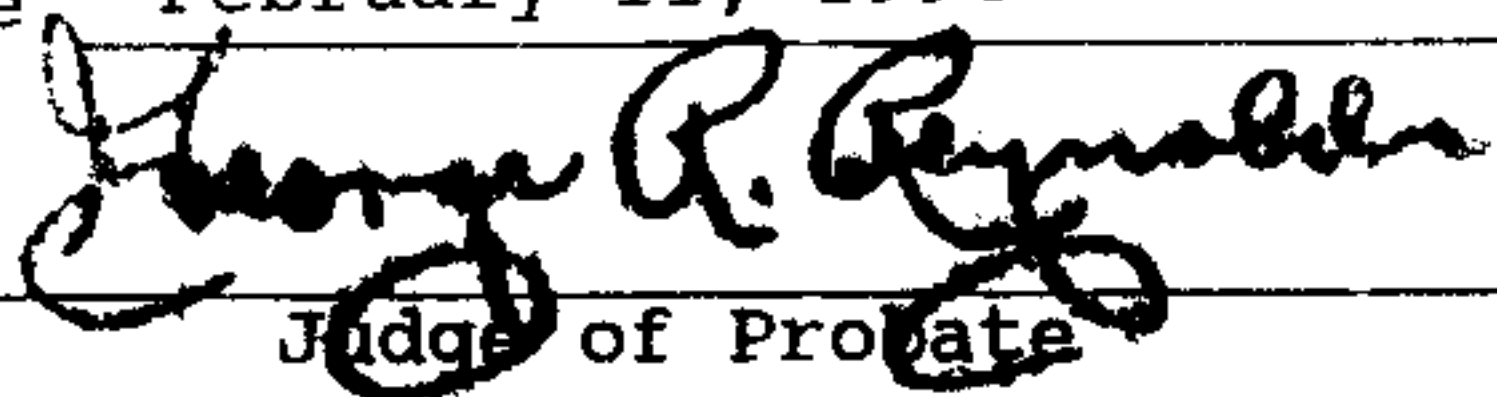
## LETTERS TESTAMENTARY

TO ALL WHOM IT MAY CONCERN:

The Will of the above-named deceased having been duly admitted to record in said county, **Letters Testamentary** are hereby granted to  
Sheryl Stephens

the Personal Representative named in said will, who has complied with the requisitions of the law and is authorized to administer the estate. Subject to the priorities stated in §43-8-76, Code of Alabama (1975, as amended), the said Personal Representative, acting prudently for the benefit of interested persons, has all the powers authorized in transactions under §43-2-843, Code of Alabama (1975, as amended).

WITNESS my hand that date February 11, 1994

  
Judge of Probate

I, Peggy A. Proctor, Chief Clerk of the Court of Probate of Jefferson County, Alabama, hereby certify that the foregoing is a true, correct and full copy of the **Letters Testamentary** issued in the above-styled cause as appears of record in said Court. I further certify that said Letters are still in full force and effect.

WITNESS my hand and seal of said Court this date, \_\_\_\_\_

Inst # 1994-32008

Chief Clerk

10/25/1994-32008  
09:39 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
DIB MCD 51.00

Naffar



IN THE MATTER OF THE ESTATE OF )

PROBATE COURT OF

CONNIE A. SIMMONS, )

JEFFERSON COUNTY, ALABAMA

Deceased )

CASE NO. 146663

**PETITION FOR PROBATE OF WILL AND CODICIL**  
**(Self-Proved Will)**

Comes the petitioner, SHERYL STEPHENS, and shows this Court the following facts:

1. Connie A. Simmons (the "decedent") died testate at 2274 Richmond Circle, Pelham, Alabama on or about December 29, 1993, and, at the time of such death, was an inhabitant of Shelby County, Alabama; provided, however, Item First of the Codicil designates Jefferson County, Alabama as the county in which the Will and Codicil are to be probated. The decedent owned property in Jefferson County at the time of her death.

2. Surrendered herewith is the decedent's Last Will and Testament and First Codicil thereto naming the petitioner as Executor thereof, which were duly signed by the decedent when over eighteen (18) years of age, and were attested by the following witnesses:

**WILL**

**NAME**

**PRESENT ADDRESS**

Douglas Centeno

600 Financial Center  
Birmingham, Alabama 35203

Harry Maring

3469 Fillmore St.  
San Francisco, CA 94123

Marvin E. Franklin

2125 Morris Avenue  
Birmingham, Alabama 35203

**CODICIL**

Frances W. Foreman

1224 Rumson Drive  
Pelham, Alabama 35124

Ruby T. Pitts

1309 Atkins Trimm Blvd.  
Birmingham, Alabama 35226

3. The decedent's Last Will and Testament and First Codicil, thereto, as identified in paragraph 2 hereof, was self-proved in a manner substantially in accordance with the requirements of Ala.



Code §43-8-132. The names and present addresses of the officers authorized to administer oaths before whom said Will and Codicil were acknowledged are as follows:

WILL

NAME

PRESENT ADDRESS

Kathy A. Martin

Unknown

CODICIL

Douglas L. McWhorter

2125 Morris Avenue  
Birmingham, Alabama 35203

4. The following is a true, correct and complete list of the names, ages, conditions, relationships, and addresses of the decedent's next-of-kin (as determined by application of Ala. Code §43-8-42):

NAME, AGE, CONDITION,  
AND RELATIONSHIP

ADDRESS

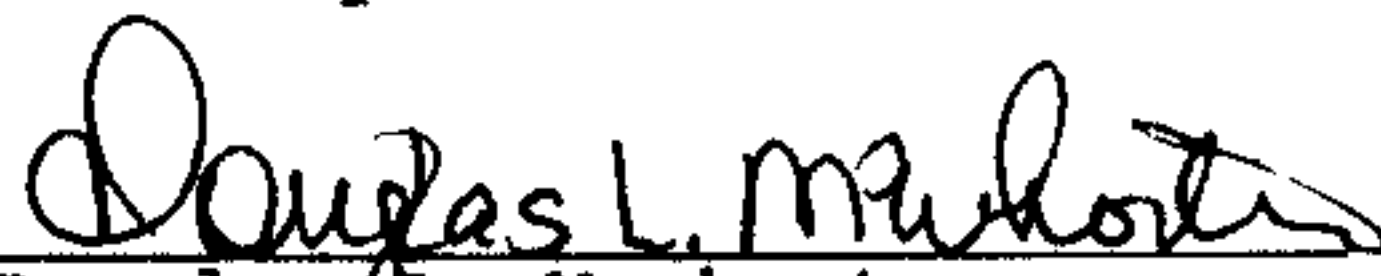
Brandon Todd Simmons, son  
living, sound mind, over 19

2274 Richmond Circle  
Pelham, Alabama 35124

WHEREFORE, the petitioner prays that this Court will take jurisdiction of this petition; will cause all such notice or citations to issue to the said surviving spouse, next-of-kin, attesting witnesses, and oath-administering officer, as may be proper in the premises; and will cause such proceedings to occur and such proof to be taken, and render such orders and decrees as will duly and legally effect the probate and record in this Court of said Will and Codicil as the Last Will and Testament and First Codicil thereto of the decedent. This petition is deemed to be verified pursuant to Ala. Code §43-8-22.

Attorney for Petitioner:

Petitioner:

  
Douglas L. McWhorter  
NAJJAR DENABURG, P.C.  
2125 Morris Avenue  
Birmingham, Alabama 35203  
(205) 250-8400

  
SHERYL STEPHENS  
4072 Glen Meadow Drive  
Norcross, Georgia 30092



BENCH NOTE

Filed in the Probate Court of Jefferson County, Alabama, on  
the 11 day of February 1994 and ~~XXXXXXXXXXXXXXXXXXXX/1994~~  
~~XXXX~~ prayer granted ~~XXXXXX~~ and ~~XX~~ ordered recorded

George L. Reynolds  
Judge of Probate

# Last Will and Testament

146863

OF

CONNIE A. SIMMONS

STATE OF ALABAMA  
JEFFERSON COUNTY

I, CONNIE A. SIMMONS, a resident of Jefferson County, Alabama, being of sound mind and disposing memory, and being over the age of nineteen (19) years, do hereby make, publish and declare this instrument as and for my Last Will and Testament and hereby revoke any and all other testamentary dispositions heretofore made by me.

## ITEM ONE

I direct that all my just debts, including the expense of my last illness and funeral, shall first be paid by my Executrix or Executor, whichever may serve hereunder, as soon as practicable after my death. In the event there is any indebtedness owing by me which is secured by mortgage or any indebtedness owing by me which has not matured, I authorize my Executrix or Executor, whichever may serve hereunder, to pay such mortgage or unmatured indebtedness either in full or according to the terms and tenor of any instrument evidencing such indebtedness as my Executrix or Executor, whichever may serve hereunder, may deem best advisable under the existing circumstances.

## ITEM TWO

I give, devise and bequeath all of my property of whatsoever kind and wheresoever situated, whether real, personal or mixed, of which I die seized and possessed, or in which I hold any interest in my death, or to which my estate may become entitled after my death, to my Trustee, hereinafter named, in trust nevertheless, for the uses and purposes, on the terms and conditions and with the powers and duties hereinafter stated:

(a) The Trustee shall hold said property in trust for the use and benefit of the following persons: My mother, MARY DEAN ANDERSON, and my son, BRANDON TODD SIMMONS, and any child or children born to or adopted by me subsequent to the execution of this Will, if they be living at the time of my death, and any children of a deceased child of mine.

Filed in office this 11<sup>th</sup>  
day of February, 1994  
Probate and Record

*George F. Reynolds*  
Judge of Probate

JR 1283 PG 370



(b) The Trustee shall, during the term of this trust, pay to or for the benefit of any beneficiary such payment for his or her health, proper support, education, welfare and comfort from the net income of the Trust hereby established and in such proportions and in such amounts as the Trustee shall deem advisable in its absolute discretion. Any income not actually distributed by the Trustee shall be accumulated and added to and become a part of the principal of the trust estate.

(c) If at any time the net income from any trust estate shall not be sufficient in the opinion of the Trustee for the proper support, education and comfort of any beneficiary, the Trustee shall pay such additional sums out of the corpus as the Trustee may deem desirable for such purposes.

(d) Upon the death of Mary Dean Anderson, or upon my youngest child or youngest descendant of a deceased child reaching the age of twenty-one (21) years, whichever occurs latest, the following provisions shall apply:

(i) In the event that Mary Dean Anderson dies prior to my youngest child, or youngest descendant of a deceased child, reaching the age of twenty-one years, then upon the attainment of the age of twenty-one (21) years by my youngest living child or the youngest descendant of a deceased child, the Trustee shall divide the trust estate remaining in its hands into so many equal parts so that there will be one part for each of my children then living and one part for the descendants of a deceased child of mine. My Trustee shall then distribute equally to each such part twenty-five percent (25%) of the principal and accumulated income of the trust estate. My Trustee shall continue to hold the remainder of the trust estate in trust until such child, or descendant of a deceased child, attains the age of twenty-five (25) years, at which time my Trustee shall distribute equally to each such part twenty-five percent (25%) of the remaining principal and accumulated income of the trust estate. My Trustee shall continue to hold the remainder of the trust estate in trust until such child, or descendant of a deceased child, attains the age of twenty-seven (27) years, at which time my Trustee shall pay over equally to each such part the trust estate remaining in his hands and the Trust shall terminate.

(ii) Alternatively, in the event that, upon the death of Mary Dean Anderson, I have no descendants then surviving, the principal and accumu-

lated income of the trust estate shall be payable to SHERYL STEPHENS, or her issue, per stirpes; provided, however, that in the event any beneficiary is under the age of 19 years when distribution is to be made, though his or her share shall be fully vested in him or her, his or her share thereof shall be held in a separate trust with all the powers and authority given the Trustee with respect to other trust property held hereunder until he or she shall attain the age of 19 years, in the meantime using or applying for his or her health, maintenance, support and education, so much of the income and principal as the Trustee deems necessary or desirable for said purposes.

ITEM THREE

I hereby name, constitute and appoint SHERYL STEPHENS, of Birmingham, Alabama, as Trustee of the trusts created under this my Last Will and Testament. In the event the above named person shall predecease me, die, resign or be unwilling or unable to serve as Trustee, I appoint KELLY STEPHENS as Trustee hereunder.

In the management and control of any trust estate created hereunder, the Trustee may do and have done with respect to the trust estates, and every part and share thereof, all things which, in the judgment and discretion of the Trustee, may seem necessary, desirable or proper, to promote, protect, or conserve the interests thereof, and of the beneficiaries thereof, and every determination of the Trustee in the construction of powers or in any matters with respect to which the Trustee may be empowered to act or exercise discretion hereunder, whether made upon a question formally or actually raised, or implied in any act or proceeding of the Trustee in relation to the premises, shall be binding upon all persons interested in the trust estates and the beneficiaries and shall not be questioned on any grounds whatsoever. Powers and discretion, however, are vested in the Trustee as fiduciary, in the interest of the trust estates and the beneficiaries, and not the personal advantage of the Trustee. The Trustee shall not be required to give bond or to file an inventory or appraisal of the trust estates or to make an accounting or final settlement or any report to any court except that the Trustee shall be required to make an accounting ordered by a court in assistance of an action brought by a beneficiary against the Trustee for breach of fiduciary duty; and the Trustee shall keep an inventory of the trust estate, and books and records reflecting all principal and income transactions which shall be open at all reasonable times to the inspection of the beneficiaries, guardians of minor beneficiaries, and duly authorized representatives of beneficiaries and the Trustee shall render an accounting at least annually to the adult beneficiaries and to the guardian of any beneficiary who is a minor. The Trustee without notice to anyone or order of court, shall have and may exercise, among others, each and all of the powers following, to be broadly construed, with respect to each trust estate, viz:

(1) To receive additions to the trust estate by will, gift or otherwise, and to hold and administer the same under the provisions hereof.

(2) To sell, exchange, transfer or convey all or any part of the trust estate upon such terms and conditions as the Trustee shall see fit, and to invest and reinvest the trust estate in such property, real or personal, including real estate, undivided interests in real estate, loans, stocks,



bonds or other securities, mortgages, common funds, interests as a partner in the trust capacity hereunder in any partnership or sole proprietorship of any business and other subjects of investment as the Trustee may deem suitable or desirable, and to change investments and make new investments, from time to time, as to it may seem desirable or necessary, regardless of whether or not any thereof are so-called "legal investments of trust funds" under the Constitution or laws of any State or rule of any court.

(3) To improve, repair, lease, rent for improvements or otherwise, for a term beyond the possible termination of the trust, or for any less term either with or without option to purchase, and to let, exchange, release, partition, vacate, dedicate or adjust the boundaries of any real estate constituting a part of said trust estate.

(4) To borrow money for such time and upon such terms as the Trustee shall see fit, without security or on mortgage of any real estate or upon pledge of any personal property held by the Trustee hereunder, and to execute mortgages or pledge agreements therefor.

(5) To hold any property or securities originally received by the Trustee (including any stocks, obligations or securities of the corporate Trustee, if any) as a part of said trust estate so long as the Trustee shall consider the retention thereof for the best interests of said trust estate, irrespective of whether such property or securities are a so-called "legal investment of trust funds" under the Constitution or laws of any State or rule of any court, without liability for depreciation or loss through error of judgment, and in disposing of any property constituting a part of said trust estate to acquire other property which is not a so-called "legal investment of trust funds" under the Constitution or law of any State or rule of any court, where such course is, in the Trustee's opinion, for the best interest of said trust estate; provided that the Trustee shall not retain, beyond a reasonable time, any property which shall become unproductive nor shall the Trustee invest in unproductive property.

(6) To determine whether any money or property coming into the Trustee's hands shall be treated as a part of the principal of said trust estate or a part of the income therefrom, to apportion between such principal and income any loss or expenditure in connection with said trust estate as to the Trustee may seem just and equitable, and to set up reserves out of income to meet such items of depreciation, obsolescence, future repairs or construction, or amortization of indebtedness deemed by the Trustee to be a proper charge against income.

(7) To keep any property constituting a part of said trust estate properly insured against fire and storm, to pay all taxes or assessments, mortgages or other liens now or hereafter resting upon said property, and, generally, to pay all of the expenses of the Trustee incurred in the exercise of the powers herein vested in it which, in the Trustee's judgment, may be proper or necessary.

(8) To determine the identity of persons entitled to take hereunder, and to make divisions and distributions hereunder, provided for either in cash or in kind, or partly in cash and partly in kind, and for that purpose to determine the value thereof, and to select and determine, in its sole discretion, which asset or assets of the trust estate shall be allocated and distributed in satisfaction of any legacy.

(9) To hold any or all securities or other property in bearer form, in the name of the Trustee, or in the name of a nominee, without disclosing any fiduciary relation.

(10) To vote in person or by proxy all corporate securities of any kind held for the trust estate, to unite with other owners of similar property in carrying out any plan for the reorganization of any corporation or company whose securities form a portion of the trust estate, to exchange the securities of any corporation for other securities upon such terms as the Trustee shall deem proper, to assent to the consolidation or merger of any such corporation, to assent to and vote for the sale, mortgage or lease of



any or all of the property of such corporation to any other person, firm or corporation, to pay all assessments, expenses and sums of money as the Trustee may deem expedient for the protection of the interests of the trust estate as the holder of such stocks, bonds or other securities, and generally, to exercise in respect to all securities held for the trust estate the same rights and powers as are or may be exercised by the persons owning similar property in their own right.

(11) To employ such agents, accountants and attorneys as may be necessary or advisable in the administration of this trust; provided that the attorneys to represent the trust shall not be attorneys regularly employed by the Trustee.

(12) At any time, or from time to time, to advance money to the trust estate from the Trustee's funds for any purpose or purposes of the trust, and reimburse itself for the money advanced, and interest thereon, from the trust property or from any funds belonging to the trust property thereafter coming into the Trustee's custody from any source.

(13) To pay from and out of the income of the trust property any and all expenses reasonably necessary for the administration of the trust, including interest, taxes, insurance, including public liability insurance, and compensation to the Trustee, as well as any other expense incurred for the benefit of the trust estate, and in the event the income from the trust property is insufficient for the purpose of paying such expenses, to pay the same from the corpus of the trust estate.

(14) To execute and deliver any and all contracts, conveyances, transfers or other instruments, and to do any acts necessary or desirable in the execution of the powers herein vested.

(15) In the event that, under any of the provisions of this my Last Will and Testament, absolute vesting of any interest is deferred beyond the period allowed by law, then I declare that, upon the expiration of the longest time or upon the latest event allowed by law for the vesting of an interest after my death, the said interest shall vest absolutely in and be forthwith distributable to the person or persons who is or are the beneficiary or beneficiaries thereof, and in the proportion in which each is a beneficiary thereof, whatever his, her or their attained ages.

(16) Any distribution to or for the benefit of a minor hereunder may be paid, in the sole discretion of the Trustee, directly to such minor or may be paid to the parent or custodian or legal guardian of such minor, or to any individual, corporation or organization for the benefit of such minor, and receipt of such minor, or any such individual, corporation or organization whom the Trustee may elect to make such distribution for the benefit of such minor, shall be a complete discharge to the Trustee with respect to the amounts covered by the receipt.

#### ITEM FOUR

The following provisions shall govern for all purposes of this Will wherever they may be applicable:

(a) Any payment of income or discretionary payment of principal authorized hereunder to or for any beneficiary may, in the discretion of the Trustee, be made to any person or organization (including the beneficiary or anyone having custody of him or her) who shall apply such payment for the use and benefit of the beneficiary as provided hereunder.

Upon making any payment or transfer hereunder, the Executor and trustee shall be discharged as to such payment or transaction without liability for the subsequent application thereof, and when the final payment or transfer is made from the principal of any trust estate, such trust shall terminate. The Trustee shall be fully discharged as to such trust.

(c) Whenever the word "Trustee", "Trustees", "Executor" or "Executors" is used, it shall be construed either as a singular or plural and masculine or feminine, whichever is proper in accordance with the context.

(d) It is my intention that any reference herein made to "child" or "children" shall include any child or children born to or adopted by me after the execution of this Will.

#### ITEM FIVE

The Trust created under this Will shall be treated as operating from the date of my decease, whether the trust property shall then be actually paid over to the Trustee and satisfied or not, and I hereby authorize and empower my Executrix or Executor, whichever may serve hereunder, to make any payment which the Trustee is herein authorized to make after the actual establishment of the said Trust.

#### ITEM SIX

I name, constitute and appoint SHERYL STEPHENS as guardian of my minor children living at the time of my death. In the event the above named person shall predecease me, die, resign or be unwilling or unable to serve as guardian, I appoint KELLY STEPHENS as guardian, and said guardian shall not be required to give bond as such.

#### ITEM SEVEN

I hereby nominate, constitute and appoint SHERYL STEPHENS as Executrix of this my Last Will and Testament. In the event the said Sheryl Stephens shall predecease me, die, resign or be unwilling or unable to act as Executrix, I appoint KELLY STEPHENS as Executor with the same powers and duties vested in the original Executrix. I direct that my said Executrix shall not be required to give bond or to file an inventory or appraisal of my estate in any Court, though she shall make out and keep an inventory and shall exhibit the same to any party in interest at any reasonable time. I hereby vest in my said Executrix full powers of management, control and



Will and Testament

distribution of my estate and my Executrix is given full power and authority to transfer and convey all or any part of my estate (both real and personal property) upon such terms and conditions as she sees fit (including credit) and she is authorized to execute any and all contracts, conveyances or transfers and do any acts necessary or desirable for the complete administration of my estate, and I direct that in the exercise of such powers she shall be free from the control and supervision of the Probate Court or any other Court.

IN WITNESS WHEREOF, I, CONNIE A. SIMMONS, do hereunto set my hand and affix my seal to this my Last Will and Testament (containing in all seven pages) on this the 14 day of August, 1984, and I also affix my initials on the margin of each of the pages hereof.

Connie A. Simmons  
CONNIE A. SIMMONS

I, CONNIE A. SIMMONS, the testatrix, sign my name to this instrument this 14 day of August, 1984, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am nineteen years of age or older, of sound mind and under no constraint or undue influence.

Connie A. Simmons  
CONNIE A. SIMMONS, Testatrix

We, Douglas J. Centeno, Marian E. Franklin, and [Signature], the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testatrix signs and executes this instrument as her Last Will and Testament and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the testatrix, hereby signs this will as witness to her signing, and that to the best of our knowledge, the testatrix is nineteen years of age or older, of sound mind and under no constraint or undue influence.

[Signature]  
Witness

Marian E. Franklin  
Witness

[Signature]  
Witness

STATE OF ALABAMA  
JEFFERSON COUNTY

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by CONNIE A. SIMMONS, the testatrix, and subscribed and sworn to before me by Douglas J. Centeno, Marian E. Franklin and [Signature], witnesses, this 14th day of August, 1984.

(NOTARIAL SEAL)

Kathleen J. Mathis  
NOTARY PUBLIC

MY COMMISSION EXPIRES AUGUST 11, 1987

JR 1283 PG 376

146663

## LAST WILL AND TESTAMENT

OF

CONNIE A. SIMMONS

STATE OF ALABAMA     )  
 SHELBY COUNTY        )

I, CONNIE A. SIMMONS, a resident of Shelby County, Alabama, being of sound mind and disposing memory, and being nineteen (19) years of age or older, having made, published and declared my Last Will and Testament on the 14th day of August, 1984, do hereby make, publish and declare this to be the First Codicil to my said Last Will and Testament.

FIRST

Although I am presently a resident of Shelby County, Alabama, I authorize my Executor to probate my will in Jefferson County, Alabama, if I own property in such county at the time of death.

SECOND

I hereby add the following paragraph to Item Two (d) of my Last Will and Testament:

(iii) In the event that Mary Dean Anderson dies after my youngest child, or youngest descendant of a deceased child, reaches the age of twenty-one (21) years, the following provisions shall apply:

(A) Upon the death of Mary Dean Anderson, the Trustee shall apportion the trust estate into so many equal parts that there will be one share for each child of mine then living, and one share for the then living descendants of each deceased child of mine. The Trustee shall transfer and pay over, subject to paragraph (D) below, any share set aside for the living descendants of a deceased child of mine, to such descendants, per stirpes.

(B) The Trustee shall transfer and pay over one-fourth (1/4) of the share allocated to any child of mine to such child free of trust when such child attains the age of twenty-one (21) or at Mary Dean Anderson's death, whichever later occurs. The Trustee shall transfer and pay over one-third (1/3) of the remaining balance of the share allocated to any child of my to such child free of trust when such child attains the age of twenty-five (25)

Filed in office this the  
 day of February, 1994  
 For Probate Court Record

*George R. Reynolds*  
 Judge of Probate

JR 1283 PG 377

146863



at Mary Dean Anderson's death, whichever later occurs. The Trustee shall transfer and pay over the remainder of said share to such child when such child attains the age of twenty-seven (27) years or upon Mary Dean Anderson's death, whichever later occurs. During the continuance of the trust for any child of mine, the Trustee shall pay to or for the benefit of such child so much of the income and principal of such child's share as the Trustee deems necessary or desirable to provide for the health, maintenance, support and education of such child. Any part of the net income not so used shall be accumulated and added to the principal of said share, being thereafter invested and treated in all respects as a part thereof, or may be distributed in such manner as the Trustee deems to be in the best interests of such child.

(C) Upon the death of any child of mine prior to attaining the age for final distribution of such child's share, the Trustee shall transfer and pay over said share to the descendants of such child in such manner and proportions as such child may by last will and testament appoint and direct, making specific reference to this limited power of appointment hereby granted. The Trustee shall transfer and pay over, subject to paragraph (D) below, any unappointed portion of such child's share to the then living descendants of such child, per stirpes, or if none, then to my living descendants, per stirpes, the share of any such descendant to be merged with, administered and disposed of as a part of such other share, if any, as may then be held hereunder for the benefit of such descendant. If any such child is not survived by descendants of such child, or of me, the Trustee shall transfer and pay over the share of said trust then held for such child to such persons as would be entitled to inherit the property constituting said share and in the proportions in which they would be entitled to inherit the same, from me under the laws of Alabama then in force, had I died at said time a resident of Alabama intestate and owned said property.

(D) If any share of my estate or of any trust created hereunder becomes distributable, other than by exercise of a power of appointment granted under the terms of this Will, to any beneficiary who is under the age of twenty-one (21) years and for whom no other share is then being held in trust, then though his or her share shall be vested in such beneficiary, the Trustee shall hold the same in trust with all of the powers and authority given the Trustee with respect to other trust property held hereunder, until he or she shall attain the age of twenty-one (21) years, using and applying for such



beneficiary's support, education, health and welfare such part of the income and principal of such share as the Trustee deems necessary or desirable for said purposes, accumulating and adding to principal any income not so used, and when said beneficiary attains the age of twenty-one (21) years, the Trustee shall pay over the principal, together with any accumulated and undistributed income to such beneficiary, and if such beneficiary shall die before attaining the age of twenty-one (21) years, the principal, together with any accumulated and undistributed income, shall be paid over to the estate of such beneficiary.

### THIRD

I hereby add the following to Item Three of my Last Will and Testament:

(17) No Trustee named herein shall be required to give bond or other security; or to file and inventory, accounting or appraisal in any court; or to render any report in court upon the final settlement of the trust estate or any share thereof.

### FOURTH

I hereby add the following Item to my Last Will and Testament:

**ITEM EIGHT: Savings Clause.** If the happening of any future event may cause the ultimate vesting of any trust or of any share therein to be extended under the provisions hereof to a time beyond that within which the same is required by law to become vested, then such trust or share therein shall continue only for as long a period of time as is allowed by law, at the end of which period the said trust or share therein shall terminate. In such case said trust or share therein shall be vested in and distributed to those persons enjoying the use and benefit of said trust or share therein at the expiration of such period, in the proportion in which they are so enjoying the same, irrespective of their attained ages.

### FIFTH

I hereby add the following sentence to Item Seven of my Last Will and Testament:

During the administration of my estate, I hereby authorize my Executrix to exercise all powers conferred upon my Trustee in Item Three of this Will, regardless of whether or not any trust authorized by this Will shall become operative.



SIXTH

Except as herein modified, I do hereby ratify and confirm my said Last Will and Testament dated the 14th day of August, 1984.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 29<sup>th</sup> day of December, 1993, declaring this instrument on which I have set my signature to be the First Codicil to my said Last Will and Testament.

*Connie A. Simmons*  
*her mark*

CONNIE A. SIMMONS, Testator

I, CONNIE A. SIMMONS, the Testator, sign my name to this instrument this 29<sup>th</sup> day of December, 1993, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as the First Codicil to my Last Will and Testament and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am nineteen (19) years of age or older, of sound mind and under no constraint or undue influence.

*Connie A. Simmons*  
*her mark*

CONNIE A. SIMMONS, Testator

We, the undersigned witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as the First Codicil to her Last Will and Testament and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the Testator, hereby signs this instrument as witness to the Testator's signing, and that to the best of our knowledge, the Testator is nineteen (19) years of age or older, of sound mind and under no constraint or undue influence.

*Stanley A. Freeman*

Address: 1224 Rumson Dr.  
979-0954

*Ruby J. Pitts*

Address: 1309 Athens Trumme Blvd

- 4 - B'ham, AL 35226

205/823-4370

146663



STATE OF ALABAMA )  
SHELBY COUNTY )

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by CONNIE A. SIMMONS, the Testator, and subscribed and sworn to before me by Francis W. Foreman and Ruby T. Pitts, witnesses, this the 29 day of December, 1993.

Douglas L. McArthur  
Notary Public  
My Commission Expires: 5/10/95

(NOTARIAL SEAL)

146863



CERTIFICATE TO THE PROBATE OF WILL AND CODICIL

The State of Alabama

JEFFERSON COUNTY

I, George R. Reynolds, Judge of the Court of Probate, in and for said State and

County, do hereby certify that the foregoing instrument s of writing ha ve this day, in said Court, and before me as the Judge thereof, been duly proven by the proper testimony to be the genuine last Will and Testament and Codicil of Connie A. Simmons Deceased and that said Will and Codicil

together with the proof thereof have been recorded in my office in Judicial Record, Volume 1283 , Page 370-382 .

In witness of all which I have hereto set my hand and the seal of the said Court, this date Feb. 11, 1994 .

PROBATE - 98

*George R. Reynolds*

, Judge of Probate.



**The State of Alabama**  
JEFFERSON COUNTY

**PROBATE COURT**

I, Peggy A. Proctor, Chief Clerk of the Court of Probate, in and for said County in said State hereby certify that the foregoing contains a full, true and correct copy of the Petition for Probate of  
Will of Connie A. Simmons, Deceased; Last Will and Testament of  
Connie A. Simmons, Deceased, together with the Certificate to the  
Probate thereof; Letters Testamentary granted and issued to Sheryl  
as Executrix

in the matter of Connie A. Simmons, Deceased

as the same appears on file and of record, in this office.

Given under my hand and seal of said Court, this  
the 21st day of October, 19 94

Peggy A. Proctor  
Chief Clerk

Inst # 1994-32008  
10/25/1994-32008  
09:39 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
018 MCD 51.00