

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA


LUTHER H. DEVORE et al.,

Plaintiffs/Counter- Defendants,

vs.

D & D, L.L.C.,

Defendant/Counter-Plaintiff.


20070806000366250 1/3 \$17.00
Shelby Cnty Judge of Probate, AL
08/06/2007 02:08:17PM FILED/CERT

CIVIL ACTION#: CV05-1291

NOTICE OF LIS PENDENS

Notice is hereby given that "Luther H. Devore and Donna Porter d/b/a Donna's Café" as Plaintiffs commenced an action against "John Albert Daugherty and Cheryl Ann Daugherty" as Defendants on Dec. 1, 2005 in which the plaintiffs claim a right, title, interest or claim in and to the following described property:

Legal Description: Commence at the SE corner of the SW 1/4 of the SE 1/4 of Section 4, Township 22 South, Range 2 West, and thence run W along the S line of said quarter-quarter section a distance of 804.14 feet to a point on the W ROW line of a paved road; thence continue in the same direction 130.06 feet to the SE corner of property known as the Mose Cook lot; thence turn an angle of 94 degrees 30 minutes to the right and run along the E line of said Mose Cook lot a distance of 126.60 feet to the NE corner of said Mose Cook lot; thence turn an angle of 92 degrees 25 minutes to the left and run along an old fence ROW and along the N line of said Mose Cook lot a distance of 352.00 feet to the W line of said 1/4 - 1/4 section and an old fence ROW; thence turn an angle of 86 degrees 27 minutes to the right and run N along the W line of said 1/4 - 1/4 section and along said old fence ROW a distance of 116.92 feet; thence turn an angle of 107 degrees 33 minutes to the right and run a distance of 302.62 feet to the POB of the lot herein described; thence continue in the same direction along the S property line of the lot herein described a distance of 210.00 feet to a point on the W ROW line of said paved road; thence run NLY along the W ROW line of said paved road a distance of 105.00 feet; thence run in a WLY direction parallel with the S property line of the lot herein described a distance of 210.00 feet to a point; thence run in a SLY direction parallel with the W ROW line of said paved road a distance of 210.00 feet to the POB contained in Shelby County, Alabama.

The above legal description is also set out in the Probate records of Shelby County, Alabama, as Instrument #: 2002-01766 which was executed on Jan. 4, 2002 and filed of record on Jan. 10, 2002 listing the grantors as Randy Trice and wife, Joyce Trice, Harold Leon Trice and wife, Julie Ann Trice and the grantee as Luther H. Devore.

In the aforesaid civil action, the above Plaintiffs alleged, among other things, the following:

- (1) that the above Defendants were guilty of "trespassing" on the above described real property;
- (2) that the above Defendants were guilty of "interference of business operation;" and
- (3) That the above Defendants were guilty of "nuisance" with regard to the above described property.

The Defendants listed above filed an action to dismiss the above styled action based on the fact that these Defendants claimed no part of the above described real property. The above Plaintiffs then filed a Motion to Amend the pleadings in order to substitute "D & D, L.L.C." in the place of the above listed Defendants.

D & D L.L.C. then filed an answer and counterclaim on April 20, 2006 alleging, among other things, the following:

- (1) That the above Plaintiffs/Counter-Defendants were guilty of "Breach of Contract;"
- (2) That the above Plaintiffs/Counter-Defendants were guilty of "trespassing;" and
- (3) That the above Plaintiffs/Counter-Defendants were guilty of "nuisance."

RESPECTFULLY SUBMITTED,
ATTORNEY FOR THE DEFENDANTS

BY:


JOHN A. DAUGHERTY, ESQ. (DAU003)

of DAUGHERTY & DAUGHERTY

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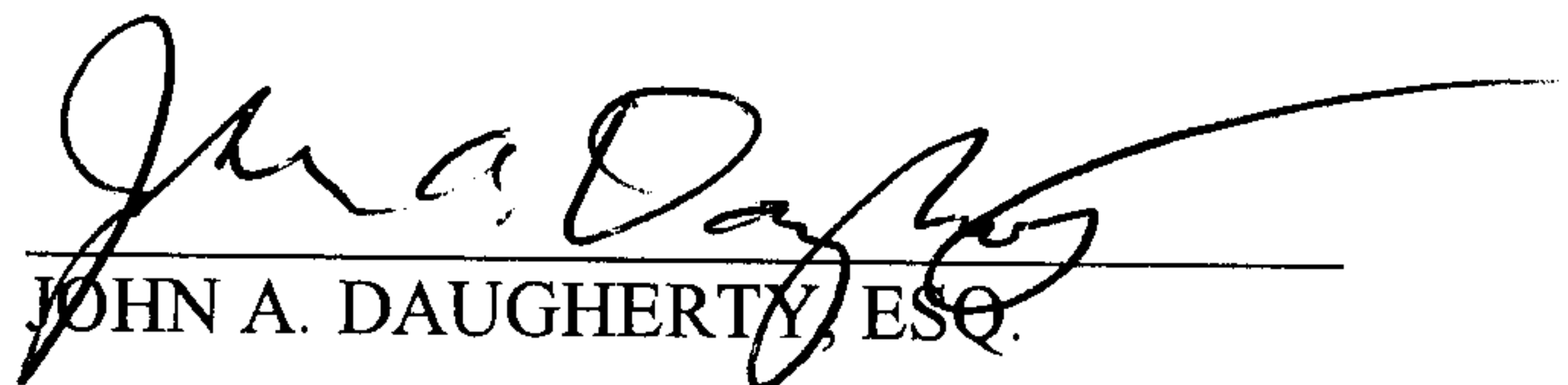
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CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served a true and accurate copy of the above and foregoing on all counsel of record by placing a true and accurate copy of the same in the U.S. Mail, postage prepaid and properly addressed on this the Second (2nd) day of August, 2007:

MAILED TO THE OFFICE OF:

ATTN: DOUGLAS L. KEY, ESQ.
ATTN: MARGARET M. CASEY, ESQ.
KEY, GREER, FRAWLEY, KEY & HARRISON
2163 HIGHWAY 31 SOUTH, SUITE 102
PELHAM, AL. 35124
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JOHN A. DAUGHERTY, ESQ.