

M. W. BARBER and
MAXINE BARBER,

IN THE CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA

PLAINTIFFS,

vs

CASE NO CV-2001-984

RALPH BINES KIMBLE and
TAWANAH B. KIMBLE,

DEFENDANTS.



PAUL D. BARBER and
RUTH ELLEN BARBER,

IN THE CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA

PLAINTIFFS,

vs.

CASE NO. CV-02-236

RALPH BINES KIMBLE and
TAWANAH B. KIMBLE,

DEFENDANTS.

Sut

MOTION TO ALTER, AMEND, OR VACATE DECREE,
OR IN THE ALTERNATIVE, FOR A NEW TRIAL

Come now the Defendants, Ralph Bines Kimble and Tawanah B. Kimble, by and through their attorney of record, and pursuant to Rule 59 of the *Alabama Rules of Civil Procedure*, and move this Honorable Court to alter, amend, or vacate the Decree heretofore entered by this Court on August 23, 2004, or in the alternative, to grant a new trial, and as grounds therefor, state as follows:

1. That this Honorable Court's Decree in this cause is contrary to the great weight of the evidence and testimony presented in this case and the law of the State of Alabama.
2. That the Decree of this Honorable Court is not supported by the evidence presented in this matter.
3. That the Decree of this Honorable Court is not supported by the law of the State of Alabama.

4. That the Decree of this Honorable Court is inconsistent with the weight of the evidence and testimony presented and the law of the State of Alabama.

5. That this Honorable Court's location of the true and correct boundary line between the properties of the parties hereto is in error and is not supported by the evidence and testimony presented in this case and the law of the State of Alabama.

6. That the award of damages and compensation to the Plaintiff, M. W. Barber, is contrary to the evidence and testimony presented in this case and is not supported by the law of the State of Alabama.

7. That the Plaintiff, M. W. Barber, is not entitled to recover any damages and compensation from the Defendant, Ralph Bines Kimble, and the award of damages and compensation to the Plaintiff, M. W. Barber, by this Honorable Court is error.

WHEREFORE, PREMISES CONSIDERED, the Defendants respectfully request this Honorable Court to grant a new trial, or in the alternative, to alter, amend, or vacate the Decree entered in this cause on August 23, 2004, and grant relief consistent with the request herein. This Honorable Court should amend its Decree by relocating the boundary line between the properties of the parties hereto consistent with the testimony and evidence presented in accordance with the law of the State of Alabama. This Honorable Court should further amend or vacate its Decree by denying any award of damages and compensation to the Plaintiff, M. W. Barber. The Defendants request such other, further, and different relief to which they may be entitled under the premises, whether specifically prayed for herein or not.

CONRAD M. FOWLER, JR. (FOW 004)

Conrad M. Fowler Jr

Attorney for Defendants, Ralph Bines Kimble
and Tawanah B. Kimble

WALLACE, ELLIS, FOWLER & HEAD
P. O. Box 587
Columbiana, AL 35051
Telephone: (205) 669-6783

Mary A. Harris, Jr
1/8/08


20080108000009540 3/3 \$19.00
Shelby Cnty Judge of Probate, AL
01/08/2008 10:44:19AM FILED/CERT

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have mailed a true and correct copy of the foregoing Motion by United States mail, postage prepaid, to Mr. Hewitt L. Conwill, Attorney at Law, at P. O. Box 557, Columbiana, Alabama 35051 and to Mr. Michael T. Atchison, Attorney at Law, at P. O. Box 822, Columbiana, Alabama 35051, on this the 07 day of September, 2004.

Conrad N. Fowler Jr.
Attorney