

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

QUINCIE A. RANKIN,

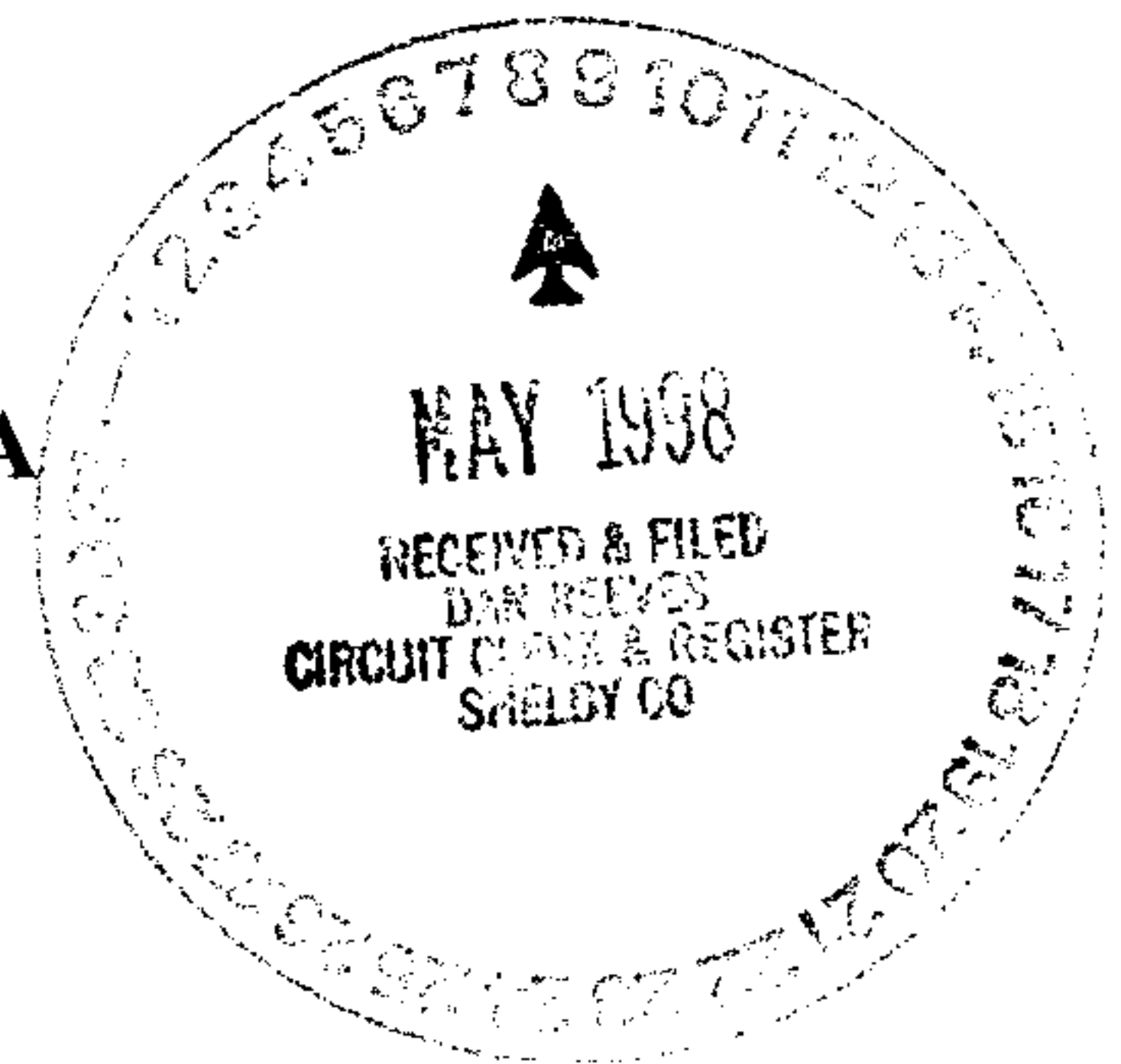
Plaintiff,

v.

SANDRA ANN BALLEW,

Defendant.

CASE NO.: CV 97-814



20091201000442110 1/9 \$35.00
Shelby Cnty Judge of Probate, AL
12/01/2009 03:01:52 PM FILED/CERT

**MOTION FOR REFORMATION OF DEED
AND SUPPORTING EVIDENTIARY SUBMISSION**

COMES NOW, the plaintiff, Quincie A. Rankin, by and through undersigned counsel, and respectfully requests that this Honorable Court reform the certified deed (attached hereto as Exhibit B to Plaintiff's Affidavit) to state that Sandra Ann Ballew ("Ballew") transfers the property that is the subject of said deed to James Rankin and Quincie A. Rankin, as joint tenants with right of survivorship. As grounds for said motion, plaintiff states the following:

1. On or about October 14, 1997, plaintiff filed her Complaint against Ballew requesting that this Honorable Court reform the deed to include Quincie A. Rankin as a joint tenant with right of survivorship.
2. After Ballew failed to answer the Complaint after proper service, Rankin filed a Motion for Default Judgment on December 1, 1997.
3. A default judgment was entered against Ballew on December 3, 1997. This Honorable Court subsequently ordered plaintiff to submit evidence of her damages.
4. As damages in this case, plaintiff only requests that this Honorable Court reform the certified deed attached to her affidavit as Exhibit "B" to state that Ballew transfers the property that is the subject of the deed to James Rankin and Quincie A. Rankin as joint tenants

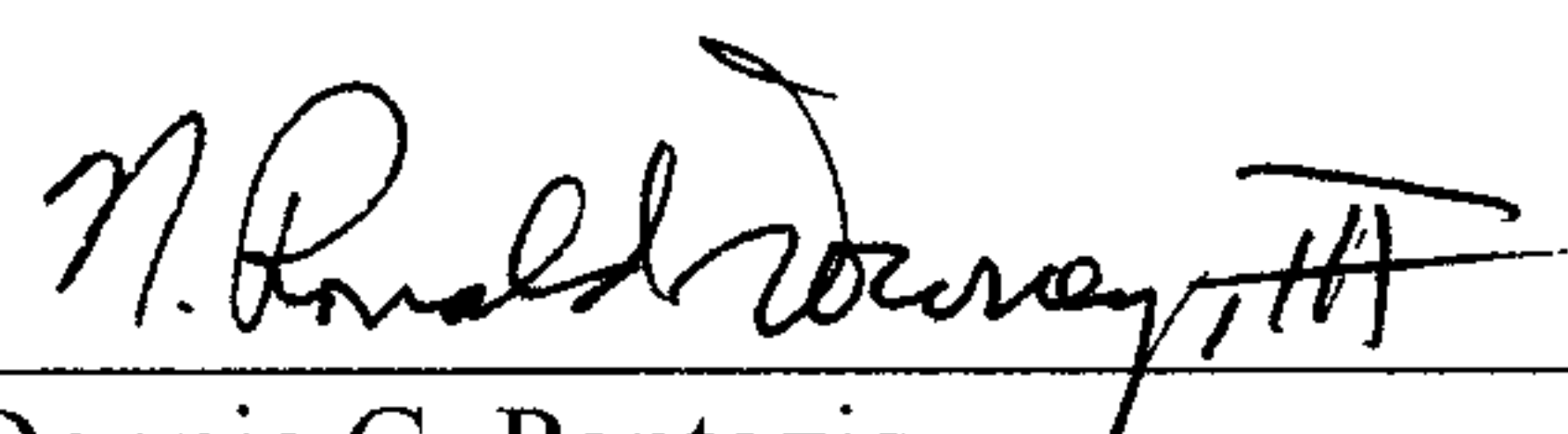
Certified a true and correct copy
Date: 12-1-09
Mary H. Harris JRS
Mary H. Harris, Circuit Clerk
Shelby County, Alabama

with right of survivorship.

5. Plaintiff sets out in specific detail the damages or reformation she seeks and the reasons she seeks said reformation in her affidavit and supporting documentation attached hereto as Exhibit A.

WHEREFORE, premises considered, plaintiff respectfully requests that this Honorable Court reform the deed dated May 20, 1988, (a certified copy is attached hereto as Exhibit B to plaintiff's affidavit) to state that Ballew transfers the property that is the subject of said deed to James Rankin and Quincie A. Rankin as joint tenants with right of survivorship.

Respectfully Submitted,

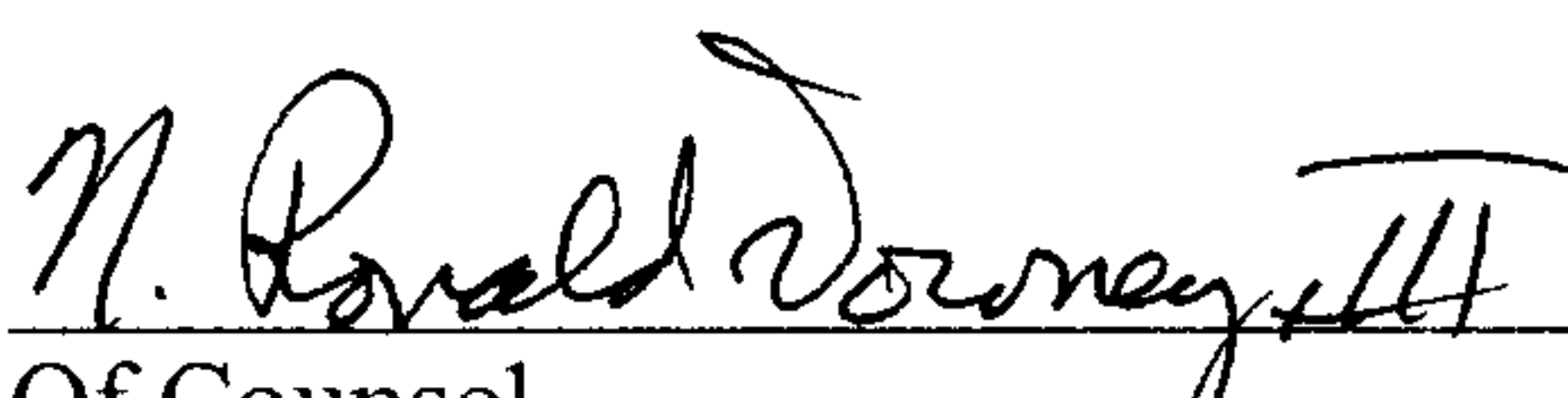

Dennis G. Pantazis
N. Ronald Downey, III
Attorneys for Plaintiff

OF COUNSEL:
GORDON, SILBERMAN, WIGGINS & CHILDS, P.C.
1400 SouthTrust Tower
Birmingham, Alabama 35203
(205)328-0640

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing upon all counsel of record by placing same in the United States Mail on this the 8th day of May, 1998.

Sandra Ann Ballew
4310 Tibbs Bridge Road
Dalton, Georgia 30721-6543


Of Counsel



Shelby Cnty Judge of Probate, AL
12/01/2009 03:01:52 PM FILED/CERT

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

QUINCIE A. RANKIN,

Plaintiff,

V.

SANDRA ANN BALLEW,

Defendant.

CASE NO.: CV 97-814

AFFIDAVIT OF QUINCIE A. RANKIN

COUNTY OF SHELBY)

STATE OF ALABAMA)

Before me, the undersigned authority in and for said County and said State, personally appeared Quincie A. Rankin, who, being duly sworn on oath, deposes and states of her own personal knowledge as follows:

1. My name is Quincie A. Rankin, I am over the age of 19, and a resident of Shelby County, Alabama.
2. My husband, James Rankin, predeceased me.
3. On May 20, 1988, Sandra Ann Ballew (“Ballew”) in consideration of Fifty four thousand five hundred and No/100 Dollars did grant, bargain, sell and convey unto James Rankin and myself, as joint tenants with right of survivorship, the following real estate situated in Shelby County, Alabama:

Lot 11, in Block 2, according to the survey of Meadowgreen, as recorded in Map Book 6, Page 59 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Subject to existing easements, restrictions, set back lines, rights of way, and limitations, if any, of record.

\$55,045.00 of the purchase price recited above was paid from the proceeds of a mortgage loan closed simultaneously herewith.

The property was to be transferred by Ballew to James Rankin and myself as joint tenants, with right of survivorship, their heirs and assigns. Ballew, James Rankin and myself agreed that it was "the intention of the parties to this conveyance, that in the event one grantee survives the other, the entire interest in fee simple shall pass to the surviving grantee, and if one does not survive the other, then the heirs and assigns of the grantees shall take as tenants in common." A copy of said deed that was signed by Ballew and notarized is attached hereto as Exhibit A. This deed that was signed and notarized by Ballew expressed the commitment of the parties to transfer the property to my husband and I as joint tenants with right of survivorship.

4. There was a meeting of the minds between Ballew and James Rankin and myself regarding the transfer of said property to James Rankin and myself as joint tenants with the right of survivorship. Said intent and meeting of the minds was evidenced by the original deed attached hereto as Exhibit A that was signed by Ballew and notarized.

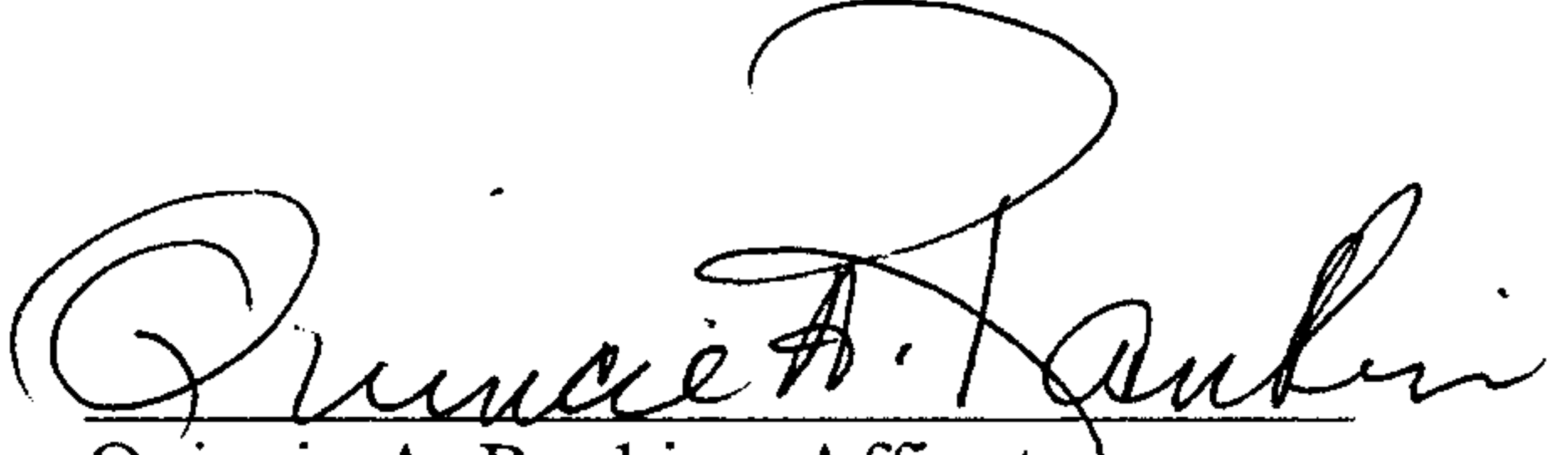
5. Although there was a meeting of the minds that said property was to be passed by Ballew to James Rankin and myself as joint tenants with right of survivorship, there was a mutual mistake in the deed that was filed in the Probate Court of Shelby County, Alabama, and the document that was filed in the Probate Court of Shelby County, Alabama does not express myself, Ballew and James Rankin's common intent to transfer the property as Joint tenants with right of survivorship. A certified copy of the deed that was filed on or about May 25, 1988 in the Probate Court of Shelby County, Alabama is attached hereto as Exhibit B.

6. Due to a mutual mistake, the deed filed on or about May 25, 1988, in the Probate Court of Shelby County, Alabama does not grant, bargain, sell and convey unto James

Rankin and Quincie A. Rankin said property as joint tenants, with right of survivorship as intended by Ballew, James Rankin and myself. Said deed only conveys said property to James Rankin.

7. Therefore, I am requesting that this Honorable Court reform the deed filed with the Probate Court of Shelby County, Alabama on or about May 25, 1988 to include Quincie A. Rankin as a joint tenant with right of survivorship. Said deed should transfer the property to James Rankin and Quincie A. Rankin, as joint tenants, with right of survivorship, "to have and to hold as joint tenants, with right of survivorship, their heirs and assigns, forever; it being the intention of the parties to this conveyance, that in the event one grantee survives the other, the entire interest in fee simple shall pass to the surviving grantee, and if one does not survive the other, then the heirs and assigns of the grantees shall take as tenants in common" as set out in the original deed signed by Ballew and notarized.

8. Due to the mutual mistake of the parties, the deed filed on or about May 25, 1988 with the Probate Court of Shelby County, Alabama does not truly express the intention of the parties and should be reformed to express the intention of the parties to transfer the property from Ballew to James Rankin and myself (Quincie A. Rankin), as a joint tenants with right of survivorship.


Quincie A. Rankin - Affiant

Sworn to and subscribed before me
on this the 6th day of May, 1998.


Notary Public

My commission expires: 5-18-99



20091201000442110 6/9 \$35.00

Shelby Cnty Judge of Probate, AL

12/01/2009 03:01:52 PM FILED/CERT

EXHIBIT “A”

SEND TA NOTICE TO:

(Name) es Rankin

(Address) 202 Meadowgreen Drive
Montevallo, AL 35115

This instrument was prepared by

(Name) Frank K. Bynum
2100 Southbridge Parkway Suite 650
(Address) Birmingham, AL 35209

Form TICOR 5200 1-84
WARRANTY DEED, JOINT TENANTS WITH RIGHT OF SURVIVORSHIP - TICOR TITLE INSURANCE

20091201000442110 7/9 \$35.00
Shelby Cnty Judge of Probate, AL
12/01/2009 03:01:52 PM FILED/CERT

STATE OF ALABAMA }
SHELBY COUNTY } KNOW ALL MEN BY THESE PRESENTS,

That in consideration of FIFTY FOUR THOUSAND FIVE HUNDRED AND NO/100----- DOLLARS

to the undersigned grantor or grantors in hand paid by the GRANTEES herein, the receipt whereof is acknowledged, we,
SANDRA ANN BALLEW, an unmarried woman

(herein referred to as grantors) do grant, bargain, sell and convey unto

JAMES RANKIN and QUINCIE A. RANKIN

(herein referred to as GRANTEES) as joint tenants, with right of survivorship, the following described real estate situated in

SHELBY County, Alabama to-wit:

Lot 11, in Block 2, according to the survey of Meadowgreen, as recorded in Map Book 6, Page 59 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Subject to existing easements, restrictions, set back lines, rights of way, and limitations, if any, of record.

\$55,045.00 of the purchase price recited above was paid from the proceeds of a mortgage loan closed simultaneously herewith.

TO HAVE AND TO HOLD Unto the said GRANTEES as joint tenants, with right of survivorship, their heirs and assigns, forever; it being the intention of the parties to this conveyance, that (unless the joint tenancy hereby created is severed or terminated during the joint lives of the grantees herein) in the event one grantee herein survives the other, the entire interest in fee simple shall pass to the surviving grantee, and if one does not survive the other, then the heirs and assigns of the grantees herein shall take as tenants in common.

And I (we) do for myself (ourselves) and for my (our) heirs, executors, and administrators covenant with the said GRANTEES, their heirs and assigns, that I am (we are) lawfully seized in fee simple of said premises; that they are free from all encumbrances, unless otherwise noted above; that I (we) have a good right to sell and convey the same as aforesaid; that I (we) will and my (our) heirs, executors and administrators shall warrant and defend the same to the said GRANTEES, their heirs and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF, I have hereunto set my hand(s) and seal(s), this 20th day of May, 19 88.

WITNESS:

(Seal) Sandra Ann Ballew (Seal)
(Seal) (Seal)
(Seal) (Seal)

STATE OF ALABAMA }
JEFFERSON COUNTY }

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Sandra Ann Ballew, an unmarried woman whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 20th day of May, A. D., 19 88

Notary Public



20091201000442110 8/9 \$35.00
Shelby Cnty Judge of Probate, AL
12/01/2009 03:01:52 PM FILED/CERT

EXHIBIT “B”

Notas Finales