

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. Hause, *[Signature]* *[Handwritten ID]*  
Mary H. Hause, Circuit Clerk  
Shelby County, Alabama



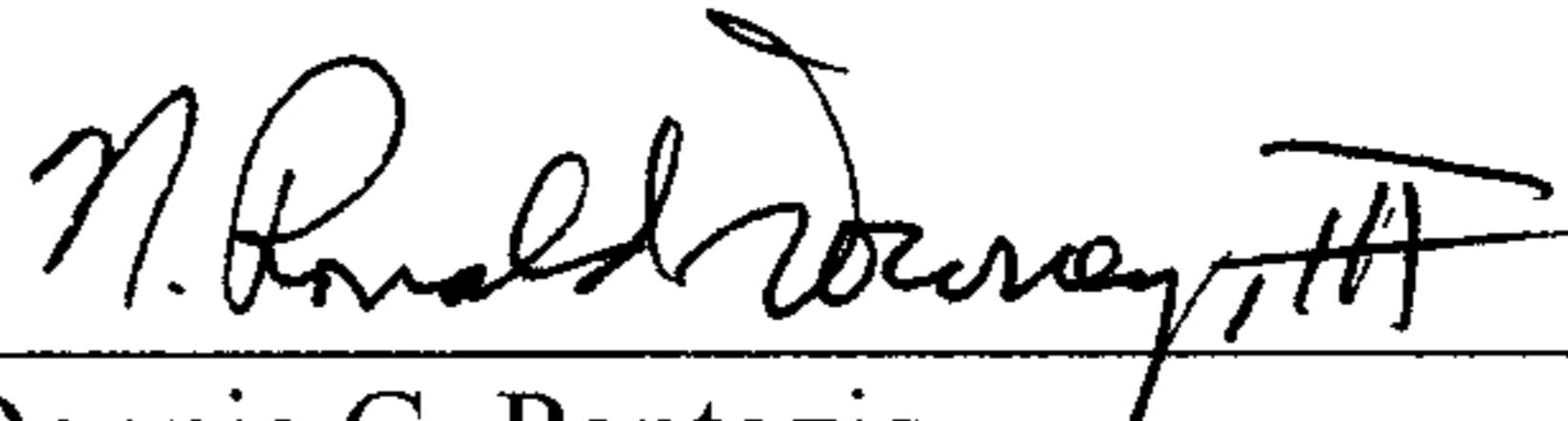
20091201000442110 2/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
12/01/2009 03:01:52 PM FILED/CERT

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,

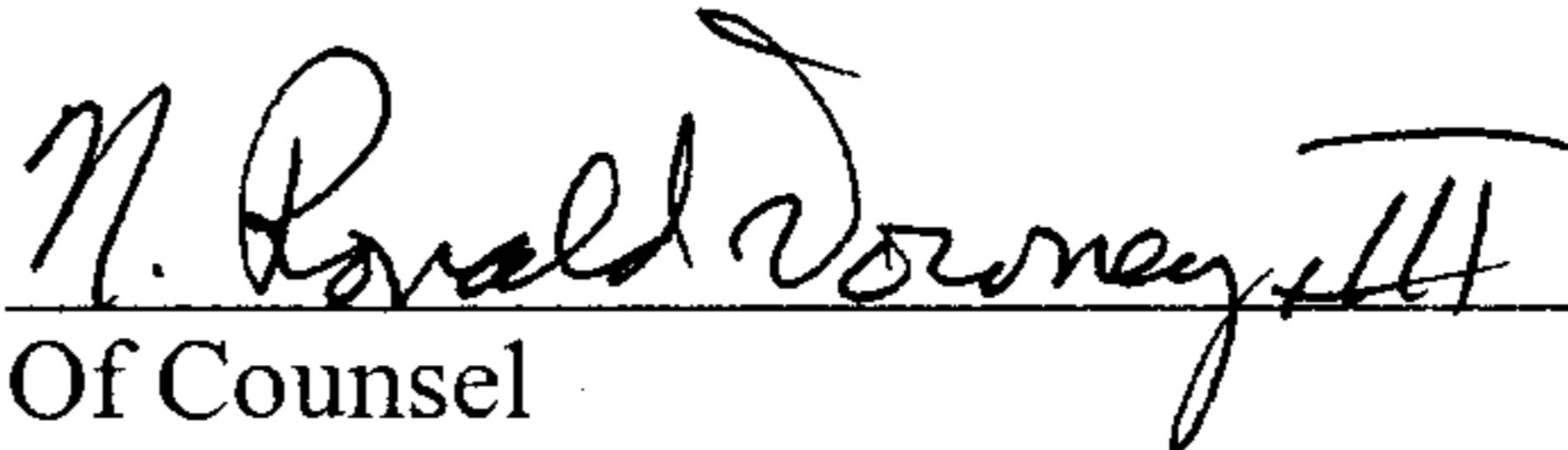
  
\_\_\_\_\_  
Dennis G. Pantazis  
N. Ronald Downey, III  
Attorneys for Plaintiff

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 8<sup>th</sup> day of May, 1998.

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

  
\_\_\_\_\_  
Of Counsel



20091201000442110 3/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
12/01/2009 03:01:52 PM FILED/CERT

**IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA**

# 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.

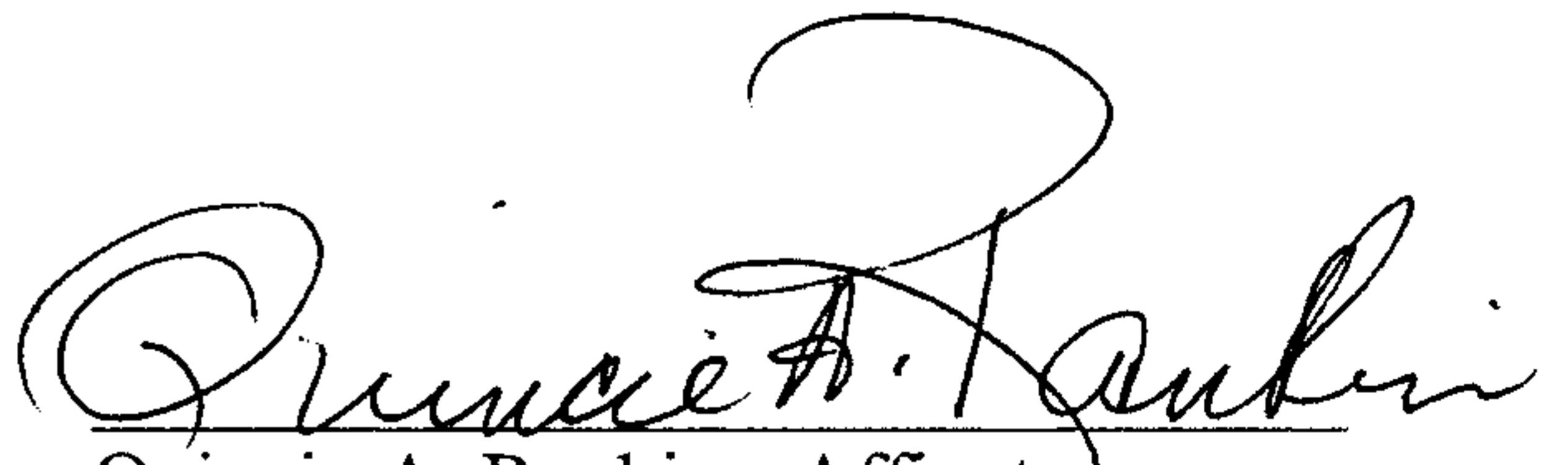
5. Although there was a meeting of the minds that said property was to be passed by Ballew to James Rankin and myself as joint tenants with right of survivorship, there was a mutual mistake in the deed that was filed in the Probate Court of Shelby County, Alabama, and the document that was filed in the 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

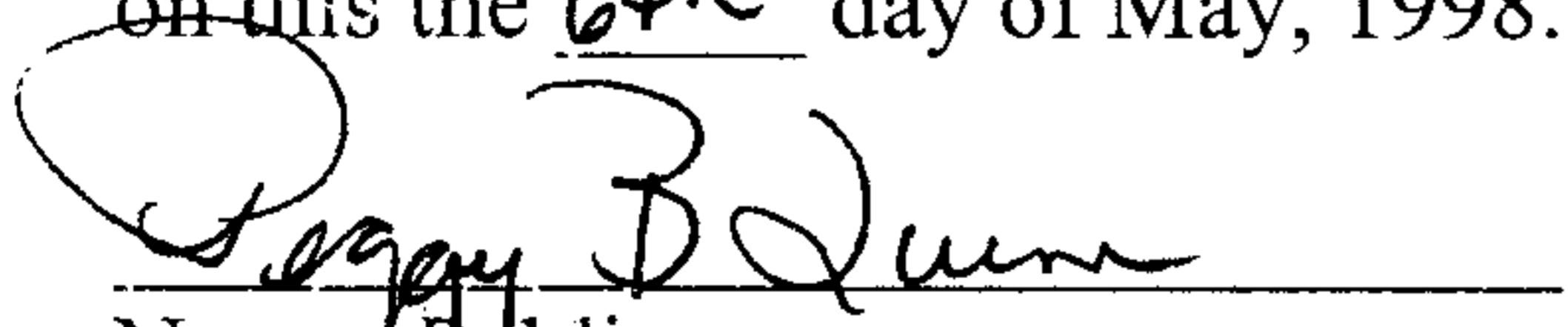
Rankin and Quincie A. Rankin said property as joint tenants, with right of survivorship as intended by Ballew, James Rankin and myself. Said deed only conveys said property to James Rankin.

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 TO: 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  
Birmingham, AL 35209

Form TICOR 5200 1-84

WARRANTY DEED, JOINT TENANTS WITH RIGHT OF SURVIVORSHIP - TICOR TITLE INSURANCE

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 GRANTEEES 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 GRANTEEES) 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 GRANTEEES 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 GRANTEEES, 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 GRANTEEES, 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

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. 1988

Clayton Z. Seeger  
Notary Public



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

## **EXHIBIT “B”**

SEND TAX NOTICE TO:

(Name) James Rankin

This instrument was prepared by

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

(Address) 202 Meadowgreen Drive  
Montevallo, AL 35115

Form TICOR 5200 1-84  
WARRANTY DEED, ~~NO RESERVE, NO COVENANT AGAINST ENCUMBRANCES~~ - TICOR TITLE INSURANCE

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

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

to the undersigned grantor or grantors in hand paid by the GRANTEEES 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

(herein referred to as GRANTEEES) ~~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.

43  
150 PAGE  
BOOK

1. Deed Tax \$ \_\_\_\_\_  
2. Mfg. Tax \_\_\_\_\_  
3. Recording Fee 250  
4. Notary Fee 100  
5. Total 350

STATE OF ALABAMA  
I CERTIFY THIS  
INSTRUMENT WAS FILED

88 MAY 25 AM 11:42

*Thomas P. Sherrill, Jr.*  
JUDGE OF PROBATE

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

TO HAVE AND TO HOLD Unto the said GRANTEEES ~~as joint tenants with right of survivorship~~ the following described real estate including  
the description recited above, and all the rights, title, interest, and estate, now or hereafter in any manner held, claimed, or possessed by me in and to the same, and  
I further covenant and agree to warrant and defend the same unto the said GRANTEEES in fee simple ~~strictly according to the terms and conditions~~ and  
if necessary to do so, to sue, defend, and collect the same, and to pay all taxes and expenses incident thereto, and to do all other acts and things necessary to be done for the quiet enjoyment of the said real estate by the said GRANTEEES.

And I (we) do for myself (ourselves) and for my (our) heirs, executors, and administrators covenant with the said GRANTEEES, 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 GRANTEEES, 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:

*Sandra Ann Ballew* (Seal)  
Sandra Ann Ballew

(Seal) (Seal)

(Seal) (Seal)

STATE OF ALABAMA  
JEFFERSON COUNTY }

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

Clayton L. Ballew  
My Commission Expires May 29, 1991  
Notary Public.