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Shelby Cnty Judge of Probate, AL
02/24/2010 11:15:55 AM FILED/CERT



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CV-2009-900480.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

M & F BANK F/K/A FIRST NATIONAL
BANK OF SHELBY COUNTY

PLAINTIFF,

vs.

JOHN DEERE LANDSCAPES, INC.,
FIRST COMMERCIAL BANK, AND
INTERIOR/EXTERIOR BUILDING
SUPPLY

DEFENDANTS.

CASE NO. CV-2009-900480

ORDER

This matter came before the Court on Plaintiff M & F Bank f/k/a First National Bank of Shelby County's Motion for Summary Judgment. After due consideration of all the related pleadings and a hearing was held on the matter with all parties represented, it was shown that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law:

It is hereby ORDERED, ADJUDGED, and DECREED, that the Plaintiff's Motion for Summary Judgment is granted. The Court finds that there was a balance on the Plaintiff's mortgage at the time the Plaintiff erroneously recorded its discharge of said mortgage and there presently remains a balance on the mortgage. Following the precedent set forth by the Court in **Gordon v. Gorman**, 436 So.2d 851 (Ala. 1983), this Court finds that there is no evidence that the Defendants relied upon the satisfaction of the Plaintiff's mortgage in question at the time their judgments were recorded. Furthermore, reinstatement of the Plaintiff's mortgage will in no way prejudice the rights



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of the Defendants as they are in the same position had the Plaintiff's mortgage not been released in error.

Therefore, it is hereby ordered that Plaintiff M & F Bank f/k/a First National Bank of Shelby County's mortgage from Billy R. Brantley and Rhonda B. Brantley dated December 31, 2002 and recorded in Instrument #20030102000003180 in the Probate Office of Shelby County, Alabama to secure property described below is hereby reinstated to a first mortgage and lien position over the recorded judgment liens of John Deere Landscapes, Inc. (Instrument #20090113000010800), First Commercial Bank (Instrument #20090331000117370) and Interior/Exterior Building Supply (Instrument #20080724000298920) all being recorded in the Probate Office of Shelby County, Alabama. The property which is the subject of the Plaintiff's mortgage is described more particularly as follows:

Lot 10, according to the Survey of Fahey's Subdivision, as recorded in Map Book 8, Page 52, in the Probate Office of Shelby County, Alabama.

COST TAXES, PAID

Done this the 18 day of February, 2010.

H. M. M. J.

Circuit Court Judge

This order prepared by:
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