



ELECTRONICALLY FILED
3/15/2017 12:14 PM
58-CV-2014-900593.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE EIGHTEENTH JUDICIAL CIRCUIT COURT OF ALABAMA
SHELBY COUNTY

KIMBERLY D. ORSINI,

Plaintiff,

v.

SMW ENGINEERING GROUP, INC.; *et al.*,

Defendants.



20170321000094800 1/16 \$60.00
Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

Case No. CV 2014-900593.00

FINAL ORDER

This Court enters this Final Order so as to adjudicate fully Plaintiff's *in rem* quiet title action as follows:

As shown by the partial release of judgment executed by defendant Lake Mitchell Construction, Inc. ("LMC") which is recorded in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office") at Instrument 2017022100061550 (see Exhibit A), LMC has released its judgment lien¹ *solely* as to the real property which is the subject matter of this litigation and which is more particularly described as:

The East ½ of the SE quarter of the SW quarter, Section 22, Township 21 South, Range 1 East, and all that part of the East ½ of the NE ¼ of the NW ¼ of Section 27, Township 21 South, Range 1 East, lying North of Lay Lake, Shelby County, Alabama (the "Property").

Previously on December 28, 2016 this Court entered a default judgment against defendants Regions Bank and Centennial Bank (see Exhibit C). On September 19,

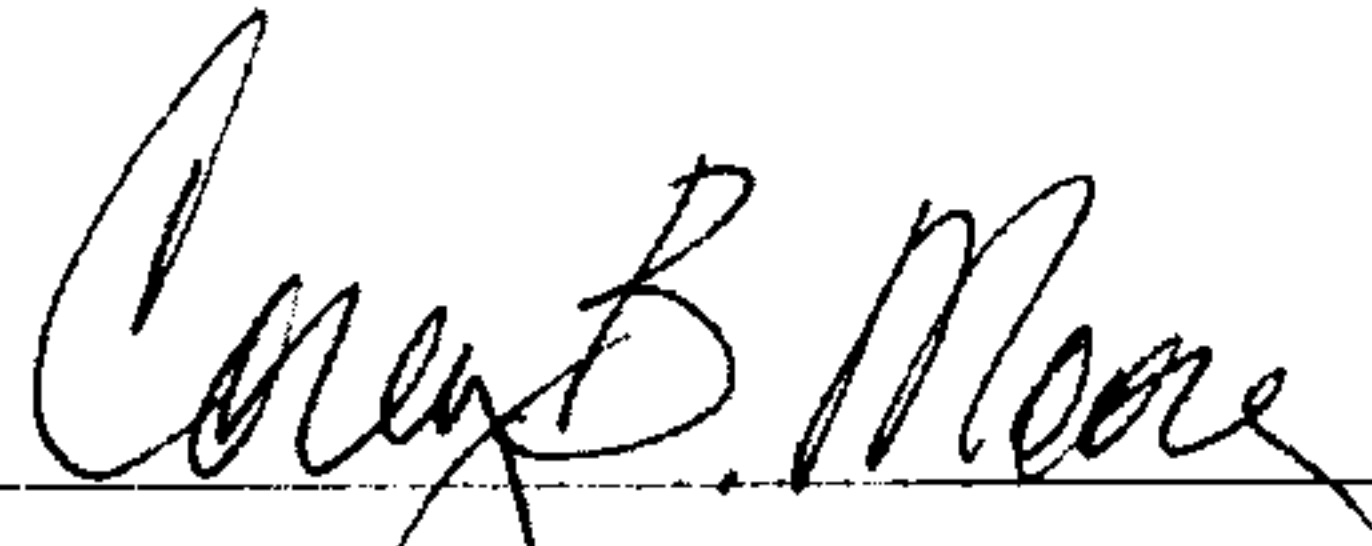
¹ The lien is pursuant to a November 16, 2009 judgment against James R. Payton for which a certificate of Judgment is recorded in the Probate Court in Instrument 20091223000467890 (see Exhibit B).

2014, defendant Alabama Power Company was dismissed as a defendant given that Alabama Power Company's right-of-way in the Property predated the interest of plaintiff Kimberly D. Orsini ("Plaintiff") in the Property (see Exhibit D). Plaintiff acknowledges her ownership right in the Property is subject to the ownership rights of Alabama Power Company.

Defendant and former judgment creditor SMW Engineering Group, Inc. has no interest in the subject property as evidenced by the Satisfaction of Judgment it signed and recorded on July 1, 2014 in Instrument # LR20140702000199850 (see Exhibit E).

Given the foregoing, based upon its review of the pleadings, submissions and applicable law, this Court finds that full fee title to the Property is due to be and is hereby vested in Plaintiff Kimberly D. Orsini, who was substituted as plaintiff for the original plaintiff, First Commercial Bank, by order of this Court on October 28, 2014 (see Exhibit F). All matters in this matter have now been adjudicated fully and Plaintiff Kimberly D. Orsini is hereby ordered and declared to be the fee simple owner of the Property, subject however to (i) *ad valorem* taxes thereon, whether same are yet due and payable, and all prior recorded rights of way and easements in favor of defendant Alabama Power Company. Costs are taxed as paid.

DONE this 15th day of March, 2017.




Corey B. Moore
Circuit Court Judge

c: All counsel and *pro se* parties of record

Certified a true and correct copy

Date: 03-21-17

Mary H. Harris Rhs
Mary H. Harris, Circuit Clerk
Shelby County, Alabama



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Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

EXHIBIT A



20170321000094800 3/16 \$60.00
Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

STATE OF ALABAMA)
 ;
 JEFFERSON COUNTY)

~~This Instrument Was Prepared By:~~
 Frank C. Galloway III
 GALLOWAY, SCOTT, MOSS & HANCOCK, LLC
 2200 Woodcrest Place, Suite 310
 Birmingham, AL 35209

PARTIAL RELEASE OF JUDGMENT

KNOW ALL MEN BY THESE PRESENTS, that Lake Mitchell Construction, Inc. does hereby certify that the below described Certificate of Judgment against James R. Payton is released as being any form of encumbrance of lien upon the real property located in Shelby County, Alabama which is more particularly described as:

The East ½ of the SE ¼ of the SW ¼, Section 22, Township 21 South, Range 1 East, and all that part of the East ½ of the NE ¼ of the NW ¼ of Section 27, Township 21 South, Range 1 East, lying North of Lay Lake, Shelby County, Alabama

Date of Judgment:	November 16, 2009
County and State Recorded In:	Shelby County, Alabama
Date Recorded:	December 23, 2009
Recording Information:	20091223000467890

SUCH PARTIAL RELEASE DOES NOT ALTER OR IN ANY WAY AMEND THE ENCUMBRANCE SUCH JUDGMENT LIEN EFFECTS ON OTHER PROPERTY.

Done as of this 15th day of February, 2017.

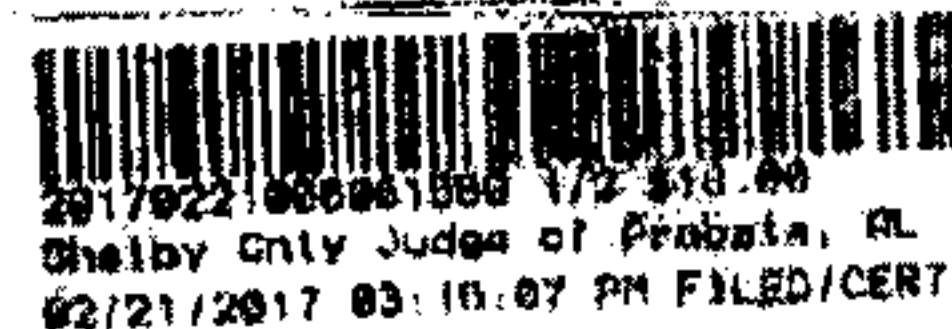
LAKE MITCHELL CONSTRUCTION, INC.

By: Kim Moore
 Kim Moore
 Its: Vice President



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 Shelby Cnty Judge of Probate, AL
 03/21/2017 12:45:18 PM FILED/CERT

Page 1 of 2




20170221000001000 1/2 \$18.00
 Shelby Cnty Judge of Probate, AL
 02/21/2017 03:10:07 PM FILED/CERT

STATE OF ALABAMA)
 :
 CHILTON COUNTY)

I, the undersigned notary for said County and in said State, hereby certify that Kim Moore, whose name as vice president of Lake Mitchell Construction, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my official hand and seal this the 15th day of February, 2017.


 Notary Public
 My Commission Expires: 11-18-17


 201702210000094800 2/2 \$16.00
 Shelby Cnty Judge of Probate, AL
 02/21/2017 03:16:07 PM FILED/CERT

Page 2 of 2



 201703210000094800 5/16 \$60.00
 Shelby Cnty Judge of Probate, AL
 03/21/2017 12:45:18 PM FILED/CERT

EXHIBIT B



20170321000094800 6/16 \$60.00
Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

AV80312

ALABAMA JUDICIAL DATA CENTER
CHILTON COUNTY
CERTIFICATE OF JUDGMENT

20170321000094800 7/16 \$60.00
Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

CV 2008 000209.00

JOHN B. BUSH

IN THE CIRCUIT COURT OF CHILTON COUNTY
LAKE MITCHELL CONSTRUCTION, INC. VS. COASTAL CONNECTION, LLC, ET AL.

DEFENDANT

PARTY'S ATTORNEY:

PAYTON JAMES R.
1 LAKE FOREST LANE

WILSONVILLE, AL 35186-0000

I, GLENN MCGRIFF, CLERK OF THE ABOVE NAMED COURT HEREBY
CERTIFY THAT ON 09/03/2009 PLAINTIFF, LAKE MITCHELL CONSTRUC RECOVERED
OF DEFENDANT IN SAID COURT A JUDGMENT WITHOUT WAIVER OF EXEMPTIONS FOR THE
SUM OF \$11,209.75 DOLLARS PLUS \$285.00 DOLLARS COURT COSTS, AND
THAT THE PLAINTIFF'S ATTORNEY(S) OF RECORD WAS:
GARRETT ALISHA UPCHURCH

GIVEN UNDER MY HAND THIS DATE 11/16/2009

Glenn McGriff
CLERK: GLENN MCGRIFF
CIRCUIT CLERK
CLANTON AL 35045
(205) 755-4275

OPERATOR: MIP
PREPARED: 11/16/2009

I, Glenn McGriff, Clerk of the Circuit Court of Chilton County, Alabama,
do hereby certify that the within and foregoing is a true and correct copy.
Glenn McGriff
Clerk of the Circuit Court of Chilton County, Alabama
11/16/2009

PLAINTIFF'S ATTORNEY:

GARRETT ALISHA UPCHURCH
P O BOX 2663
CLANTON AL 35046

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Shelby Cnty Judge of Probate, AL
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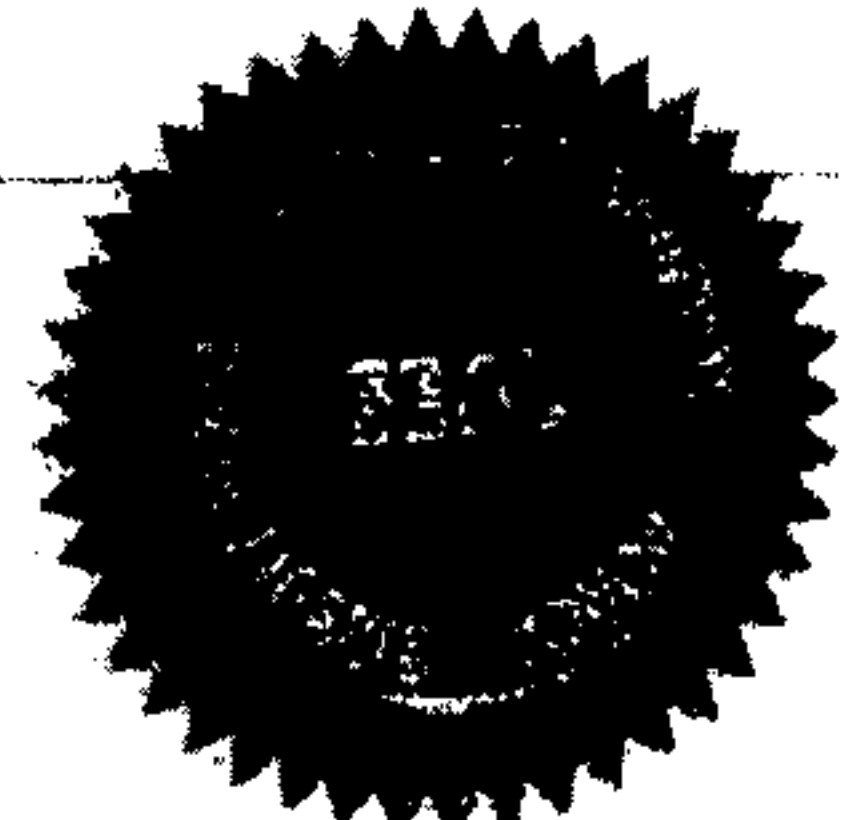
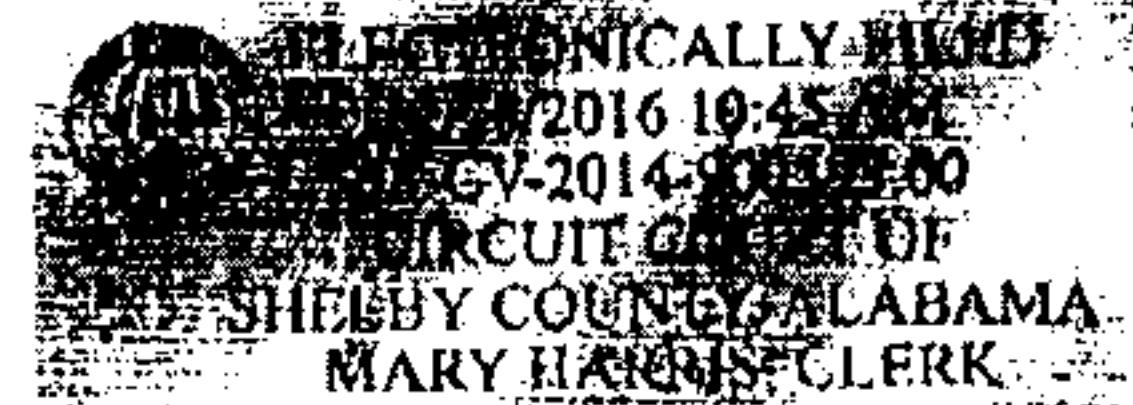


EXHIBIT C



20170321000094800 8/16 \$60.00
Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT



**IN THE EIGHTEENTH JUDICIAL CIRCUIT COURT OF ALABAMA
SHELBY COUNTY**

KIMBERLY D. ORSINI,

Plaintiff,

v.

SMW ENGINEERING GROUP, INC.; *et al.*,

Defendants.

Case No. CV 2014-900593.00

**ORDER GRANTING DEFAULT
AGAINST CERTAIN DEFENDANTS**

THIS CAUSE came upon the motion of plaintiff Kimberly D. Orsini, for default against defendants Regions Bank ("Regions"), and Centennial Bank ("Centennial"); and

IT APPEARING TO THE COURT that the Verified Bill to Quiet Title *in Rem* was filed with the Court by Plaintiff's predecessor in interest, First Commercial Bank on May 30, 2014, seeking to quiet title to certain real property located in Shelby County (the "Property") having Parcel ID Nos. 20-5-22-0-000-015.005 and 20-8-27-0-000-011.000; and a legal description of:

The East ½ of the SE ¼ of the SW ¼, Section 22, Township 21 South, Range 1 East, and all that part of the East ½ of the NE ¼ of the NW ¼ of Section 27, Township 21 South, Range 1 East, lying North of Lay Lake, Shelby County, Alabama

and

IT FURTHER APPEARING TO THE COURT that (i) Regions and Centennial were formally and properly served with the Complaint by certified mail on June 9, 2014 and June 18, 2014, respectively; (ii) more than thirty days have elapsed since such service was completed, and neither Regions nor Centennial have filed an answer, plead, or otherwise defended against Plaintiff's claims despite having received notice of Plaintiff's motion; and (iii) Plaintiff's Complaint is duly verified and complies in all respects with Ala. Code Section 6-6-561 and the requirements for an *in rem* quiet title proceeding; it is therefore



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Shelby Cnty Judge of Probate, AL
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ORDERED ADJUDGED AND DECREED that judgment by default is hereby granted in favor of Plaintiff as owner of fee simple title to the Property against defendants Regions and Centennial. Any right, title, liens, or other interest in the Property claimed by Regions and Centennial is hereby quieted in favor of Plaintiff as against and to the exclusion of Regions and Centennial. Regions and Centennial have no further right, title, or interest in the Property. Plaintiff's claims against any remaining known or unknown defendant are set for a status conference on February 1, 2017 as prescribed by this Court's prior order dated November 29, 2016.

DONE this 28th day of December, 2016.



Corey B. Moore
Circuit Court Judge



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Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

EXHIBIT D



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Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

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 9/22/2014 4:30 PM
 CV-2014-900593.00
 CIRCUIT COURT OF
 SHELBY COUNTY, ALABAMA
 MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

FIRST COMMERCIAL BANK,
Plaintiff,

V,

Case No.: CV-2014-900593.00

SMW ENGINEERING GROUP, INC. C/O
 WILL SOMMERVILLE,
 REGIONS BANK C/O CSC LAWYERS,
 INC SERV,
 LAKE MITCHELL CONSTRUCTION,
 INC.,
 CENTENNIAL BANK ET AL,
 Defendants.

ORDER

Pursuant to Joint Pro Tanto Dismissal filed by the parties, all claims against defendant Alabama Power are hereby dismissed with prejudice. Costs are taxed as paid. Case remains pending against all other Defendants.

DONE this 22nd day of September, 2014.

/s/ COREY B MOORE
 CIRCUIT JUDGE



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 Shelby Cnty Judge of Probate, AL
 03/21/2017 12:45:18 PM FILED/CERT

EXHIBIT E



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Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT

STATE OF ALABAMA

SHELBY COUNTY

THIS INSTRUMENT WAS PREPARED BY:

Frank C. Galloway III
 Galloway, Scott, Moss & Hancock, LLC
 2200 Woodcrest Place, Suite 310
 Birmingham, AL 35209

SATISFACTION OF JUDGMENT

KNOW ALL MEN BY THESE PRESENTS, that SMW ENGINEERING GROUP, INC., plaintiff/judgment creditor in SM 2005-000344 in the District Court of Shelby County, Alabama which judgment is reflected in the Certificate of Judgment reflected below, and for payment of \$3,500.00 received, the receipt and sufficiency of which is hereby acknowledged, does cancel, discharge, release and satisfy the following judgment:

20140701000094800 1/1
 Bk: LR201414 Pg: 16177
 Jefferson County, Alabama
 I certify this instrument filed on
 07/01/2014 03:28:39 PM RJ
 Judge of Probate: Alan L. King

Certificate of Judgment:

Plaintiff: SMW Engineering Group, Inc.
Defendant: James R. Payton a/k/a Robby Payton
Lien Amount: \$2,933.33 plus court costs of \$122.00
Date Recorded: September 11, 2006
Place Recorded: Shelby County and Jefferson County
Recording Information: Instrument #20060911000448110, in the Probate Office of Shelby County, Alabama
ALSO Recorded: Bk: LR200615 Pg 4324, in the Probate Office of Jefferson County, Alabama

IN WITNESS WHEREOF, the said Claimant is signing this Release of Certificate of Judgment on this the 1 day of July, 2014.

CLAIMANT**SMW ENGINEERING GROUP, INC.**By: Its: CEO

20140701000094800 1/1
 Bk: LR201414 Pg: 16177
 Jefferson County, Alabama
 07/01/2014 03:28:39 PM RJ
 Fee - \$10.00


STATE OF ALABAMA

Jefferson COUNTY

Total of Fees and Taxes - \$10.00
 LYNN

Before me, the undersigned authority, a notary public in and for said County and State, personally appeared Will Somerville, whose name as CEO of SMW Engineering Group, Inc., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she as such officer and with full authority executed the same voluntarily as and for the act of said corporation.

Given under my hand and official seal, this 1st day of July, 2014.

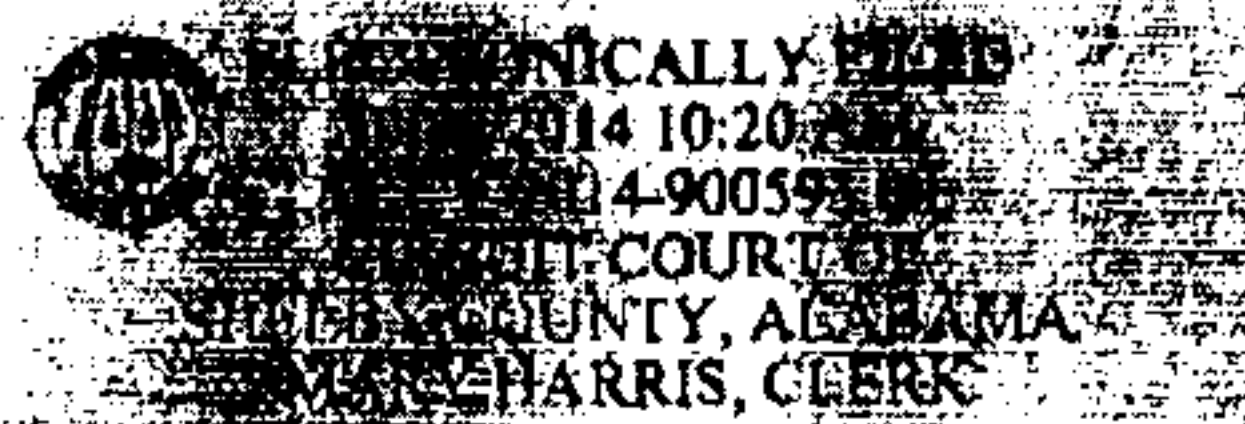
 (SEAL)
 Notary Public
 My commission expires: April 19, 2018

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 Shelby Cnty Judge of Probate, AL
 03/21/2017 12:45:18 PM FILED/CERT

EXHIBIT F



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Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT



**IN THE EIGHTEENTH JUDICIAL CIRCUIT COURT OF ALABAMA
SHELBY COUNTY**

FIRST COMMERCIAL BANK,)

Plaintiff,)

v.)

Case No. CV 2014-900593.00

SMW ENGINEERING GROUP, INC.; *et al.*,)

Defendants.)

**ORDER GRANTING MOTION FOR PARTIAL DISMISSAL
AND TO SUBSTITUTE KIMBERLY D. ORSINI AS PLAINTIFF**

THIS CAUSE came upon the Plaintiff's Motion to dismiss First Commercial Bank and to substitute Kimberly D. Orsini as plaintiff pursuant to *Ala. R. Civ. P. 25(c)*; and

IT APPEARING TO THIS COURT that Kimberly D. Orsini is a proper party to this matter; it is therefore

ORDERED ADJUDGED AND DECREED that First Commercial Bank is hereby dismissed as plaintiff in this matter, and Kimberly D. Orsini is substituted in its place. The Clerk shall cause First Commercial Bank to be dismissed, and Kimberly D. Orsini substituted as plaintiff.

DONE this 28th day of OCTOBER, 2014.


Corey B. Moore, Circuit Court Judge



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Shelby Cnty Judge of Probate, AL
03/21/2017 12:45:18 PM FILED/CERT