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Shelby Cnty Judge of Probate, AL
10/21/2024 02:58:53 PM FILED/CERT

STATE OF ALABAMA)
)
SHELBY COUNTY) NOTICE OF LIS PENDENS

REFERENCE TO: Instrument Number 20210818000402600
Instrument Number 20160913000332710

TO THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA:

You are hereby notified that on or about the 15th day of October, 2024, **Teresa Mitchell** filed a Verified Amended Answer and Counterclaim/Third-Party Complaint with Jury Demand in a pending lawsuit styled as *Apple Trucking Corporation v. Teresa Mitchell v. Gerald King III and Erika King*, Civil Action No. 58-CV-2022-900011.00, in the Circuit Court of Shelby County, Alabama, relating to (1) ownership of certain real property described in Exhibit A hereto, which is made a part hereof, and also described in **Instrument Number 20160913000332710** recorded in the Office of the Shelby County, Alabama, Judge of Probate; and (2) the effectiveness of **Instrument Number 20210818000402600** recorded in the Office of the Shelby County, Alabama, Judge of Probate.

The nature of the dispute or claim regarding title to and ownership of the above-referenced property is set out in the Verified Amended Answer and Counterclaim/Third-Party Complaint with Jury Demand attached hereto as Exhibit B, which is made a part hereof, and is further premised on the referenced instruments.

This the 17th day of October, 2024.

Randall D. Quarles (QUA006)
An Attorney for Teresa Mitchell

Instrument Prepared By:

Randall D. Quarles
QUARLES LAW FIRM, LLC
300 Office Park Drive, Suite 100
Mountain Brook, AL 35223
Telephone: (205) 874-7000
Telecopier: (205) 874-7002
rquarles@quarleslawfirm.com

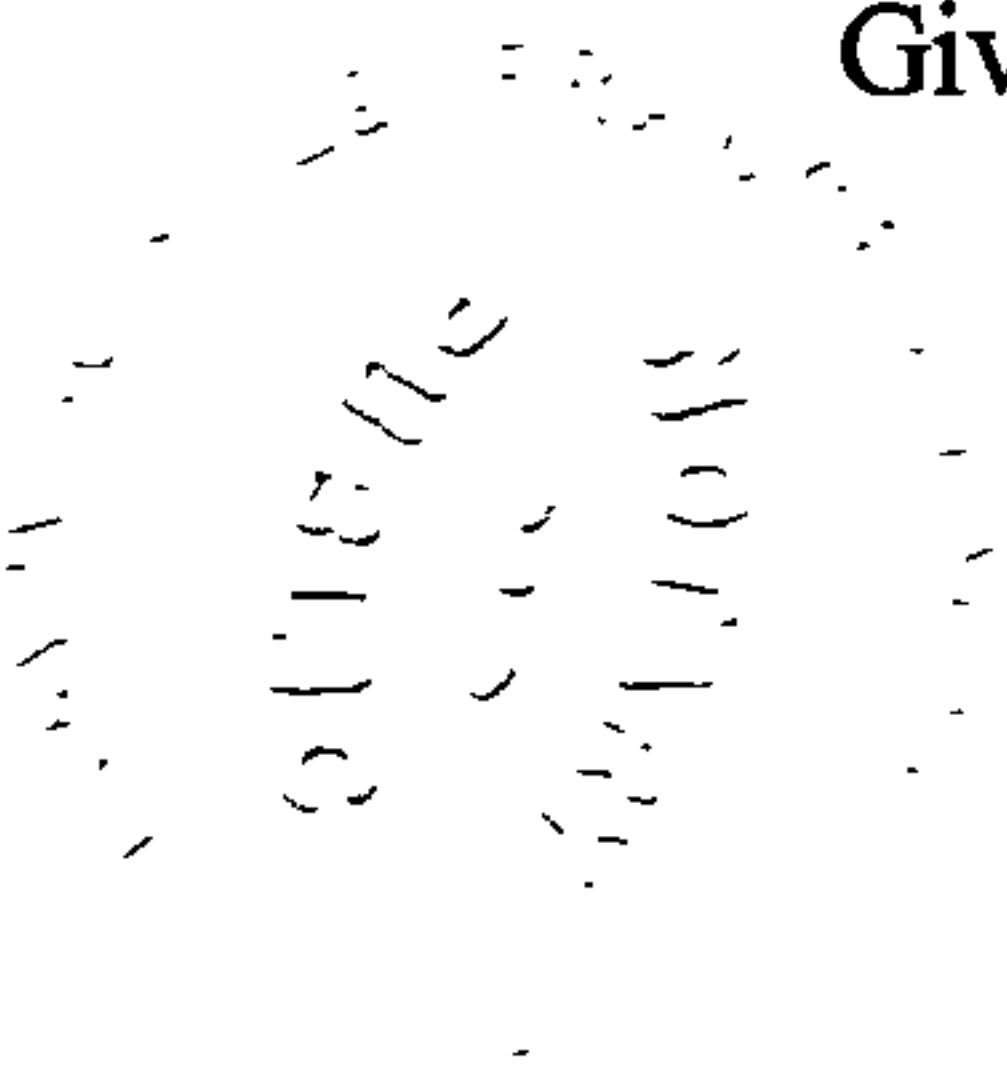


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STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for the State of Alabama At Large, hereby certify that RANDALL D. QUARLES, whose name is signed to the foregoing Notice of Lis Pendens, and who is known to me, and who being by me duly sworn, deposed and said on oath that the facts stated in said conveyance are true, and acknowledged before me on this day that, being informed of the contents of the Notice of Lis Pendens, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 17th day of October, 2024.



NOTARIAL SEAL

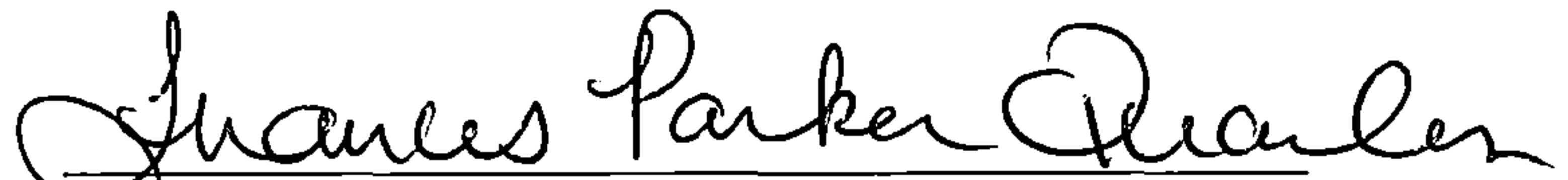

Notary Public
My commission expires: March 12, 2027



EXHIBIT A



20241021000329660 3/15 \$66.00
Shelby Cnty Judge of Probate, AL
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PARCEL ONE

Commence at the Northeast corner of the SE1/4 of the SW1/4 of Section 22, Township 21 South, Range 1 West, Shelby County, Alabama, and run thence westerly along the North line of said 1/4-1/4 Section 434.33' to the point of beginning of the property being described; Thence continue westerly along last described course 225.00' to a point; thence turn 89°41' left and run southerly 579.40' to a point; thence turn 89° 41' left and run easterly 195.00' to a point; thence turn 90°19'right and run Southerly 300.91' to a point in the asphalt of Shelby County Road Number 343; thence turn 123°06'23" left and run northeasterly within the bounds of said public road 30' to a point; thence turn 56°53'37" left and run northerly 880.31' to the point of beginning. Containing 3.2 acres less and except the right of way of the public road. Property is subject to any and all agreements, easements, restrictions and/or limitation of probated record or applicable law.

PARCEL TWO

Commence at the Southeast corner of the SE1/4 of SW1/4 of Section 22, Township 21 South, Range 1 West, being a 1 1/2" iron pipe and a concrete post found in place; thence proceed in a westerly direction along the South boundary of said 1/4-1/4 section for a distance of 435' to a point, being a 4" iron pipe set and being the point of beginning of the parcel of land herein described. Thence continue along said South boundary of said 1/4-1/4 section for a distance of 225.00' to a point being a concrete post found in place; thence turn 90°01' to the right and run northerly to a point in the asphalt of Shelby County road number 343; thence run northeasterly within the bounds of said public road to a point with the East property line of the parcel of land herein described; thence turn 123°06'23" to the right and run southerly 435.86' to the point of beginning containing 1.80 acres less and except the right of way of the public road. Property is subject to any and all agreements, easements, restrictions and/or limitations of probated record or applicable law.

EXHIBIT B

20241021000329660 4/15 \$66.00
 Shelby Cnty Judge of Probate, AL
 10/21/2024 02:58:53 PM FILED/CERT

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA**APPLE TRUCKING CORPORATION,)****Plaintiff,)****v.)****TERESA MITCHELL,)****Defendant/Third-Party)
Plaintiff,)****v.)****GERALD KING III and ERIKA KING,)****Third-Party Defendants.)****CIVIL ACTION NO.:****58-CV-2022-900011.00**

RECEIVED AND FILED
 MARY H. HARRIS

OCT 15 2024

CIRCUIT & DISTRICT
 COURT CLERK
 SHELBY COUNTY

**VERIFIED AMENDED ANSWER AND COUNTERCLAIM/THIRD-PARTY
COMPLAINT WITH JURY DEMAND**

COME NOW defendant Teresa Mitchell ("Mrs. Mitchell") and for her Verified Amended Answer and Counterclaim/Third-Party Complaint with Jury Demand (the "Amended Answer and Counterclaim") says as follows:

This Amended Answer and Counterclaim is substituted for the *pro se* answer filed by Mrs. Mitchell on or about February 11, 2022, and replaces said *pro se* answer with the following:

FIRST DEFENSE

The Complaint filed by plaintiff Apple Trucking Corporation fails to state a claim against Mrs. Mitchell upon which relief can be granted.

SECOND DEFENSE

Mrs. Mitchell responds as follows to the numbered paragraphs of the Complaint:

1. Mrs. Mitchell denies the averments of paragraph 1, or she lacks sufficient



20241021000329660 5/15 \$66.00
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knowledge and information to form a belief as to the truthfulness of said averments and, therefore, she denies the same and demands strict proof thereof. Mrs. Mitchell affirmatively avers that her street address is 386 Highway 343, Columbiana, AL 35051.

2. Denied.

Mrs. Mitchell denies that the plaintiff is entitled to a judgment in its favor or to an award of damages or any other relief demanded in the unnumbered paragraph following paragraph 2 of the Complaint.

Except as expressly admitted hereinabove, Mrs. Mitchell denies the averments of the Complaint and demands strict proof thereof.

THIRD DEFENSE

Mrs. Mitchell pleads failure of consideration.

FOURTH DEFENSE

To whatever extent the Complaint demands an equitable remedy or relief, Mrs. Mitchell pleads that the plaintiff has unclean hands and is not entitled to an equitable remedy or relief.

FIFTH DEFENSE

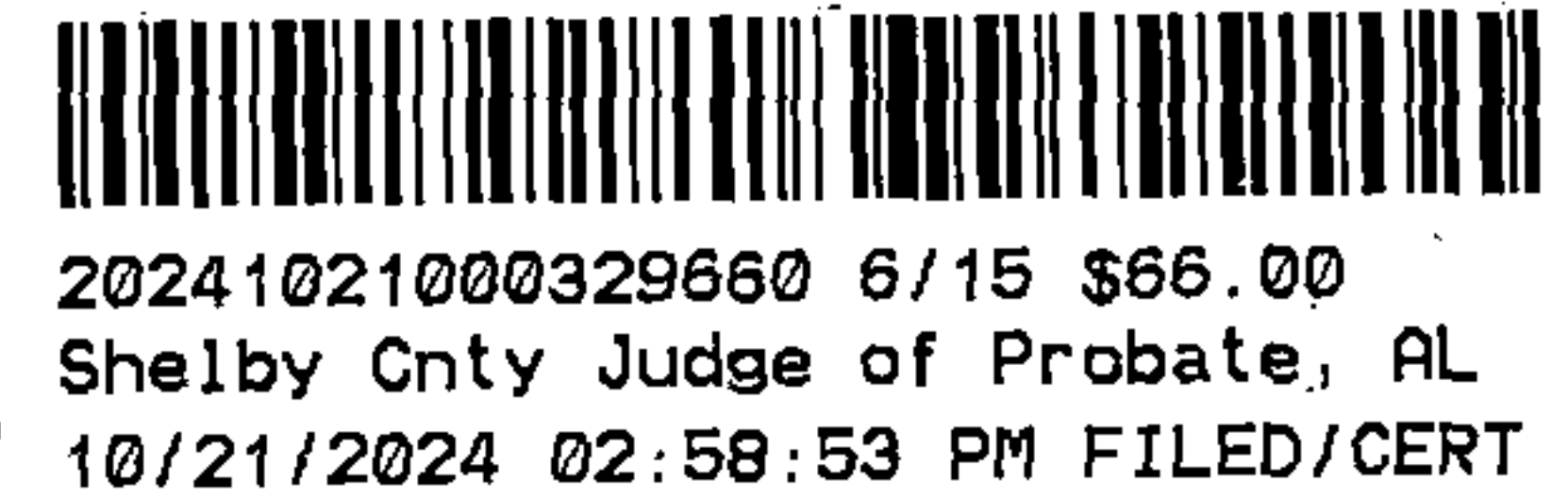
To whatever extent the Complaint demands an equitable remedy or relief, the plaintiff's Complaint lacks equity.

SIXTH DEFENSE

Mrs. Mitchell pleads fraudulent inducement, in that she was fraudulently induced by misrepresentations to execute a purported deed for the alleged conveyance of real property.

SEVENTH DEFENSE

Mrs. Mitchell pleads that at the time she placed her signature on a document alleged to be a deed conveying title to real property, she lacked the mental and legal capacity to convey the



property as a result of her ingestion of certain prescribed medications.

COUNTERCLAIM AND THIRD-PARTY COMPLAINT

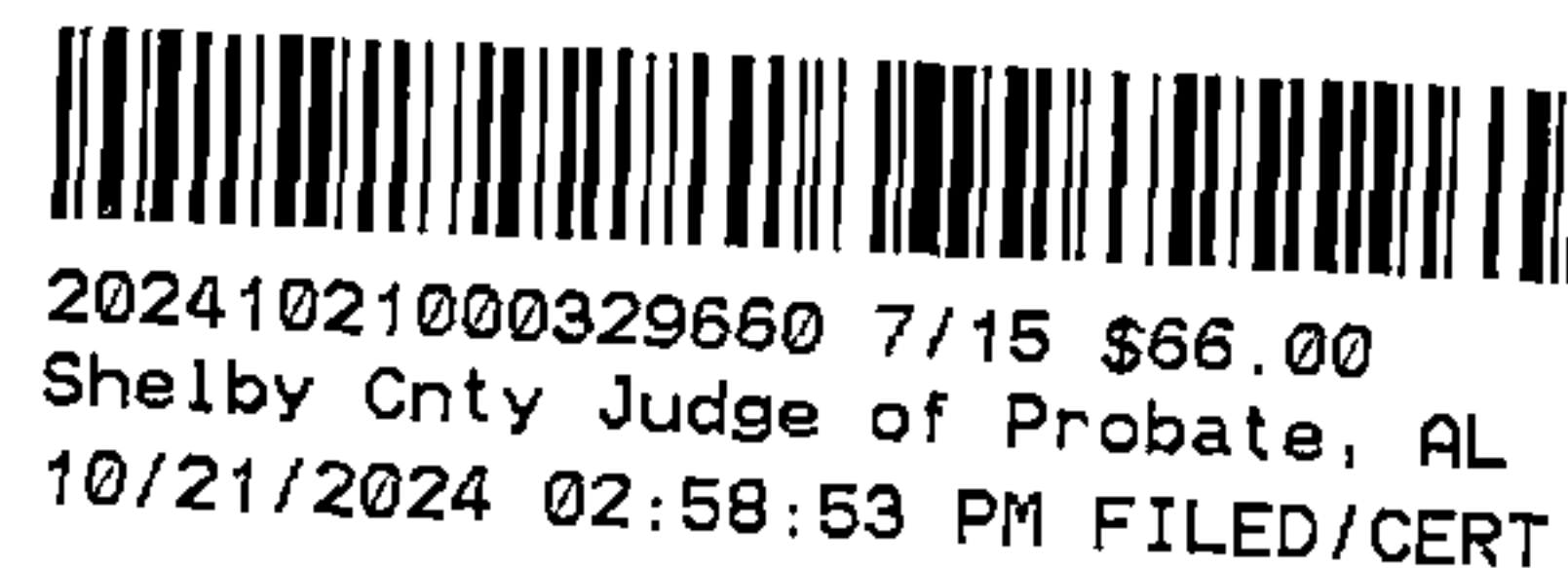
Pursuant to Alabama Rules of Civil Procedure 13 and 14, Mrs. Mitchell says as follows for her Counterclaim and Third-Party Complaint in this action against plaintiff Apple Trucking Corporation ("Apple") and third-party defendants Gerald King III ("Gerald King") and Erika King ("Erika King").

PARTIES

1. Mrs. Mitchell is a resident of Shelby County, Alabama.
2. Upon information and belief, at all times pertinent to this Counterclaim/Third-Party Complaint, Apple was registered with the Alabama Secretary of State's office as a domestic limited liability company.
3. Third-party defendant Gerald King has identified himself in a sworn statement in this action as the "owner" of Apple. Gerald King is the son-in-law of Mrs. Mitchell and the husband of third-party defendant Erika King.
4. Defendant Erika King was an organizer of Apple. She is a daughter of Mrs. Mitchell and the wife of third-party defendant Gerald King.
5. During 2021, and at all times pertinent to this Counterclaim/Third-Party Complaint, Gerald King and Erika King resided in Shelby County, Alabama.

FACTS

6. On or about the evening of August 17, 2021, Gerald King and Erika King visited Mrs. Mitchell in the manufactured home in Columbiana where Mrs. Mitchell resides.
7. Gerald King and Erika King brought with them an instrument titled "Quit Claim Deed" that identifies Gerald King as the preparer of the instrument.



8. Gerald King and Erika King represented to Mrs. Mitchell that the instrument was a will that would convey part of her property upon her death to Erika King. Gerald King and Erika King represented that the property to be willed to Erika King did not include the site of Mrs. Mitchell's home.

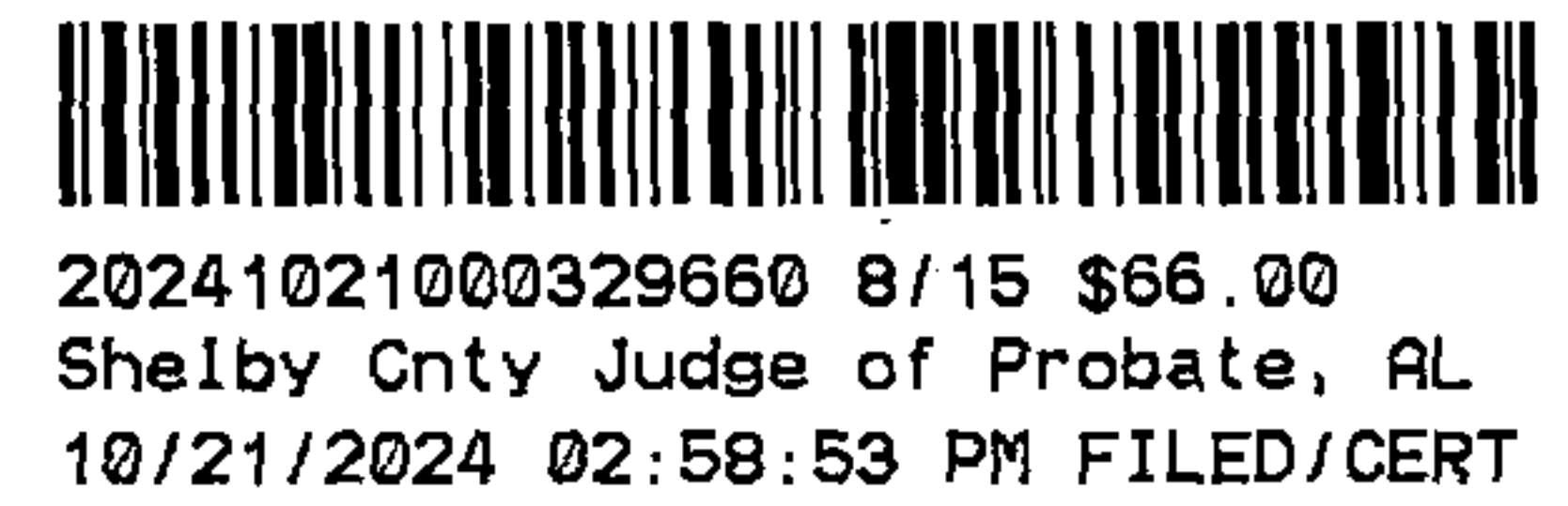
9. Erika King, as Mrs. Mitchell's daughter, and Gerald King, as Mrs. Mitchell's son-in-law, were in positions of trust and confidence with regard to Mrs. Mitchell. Mrs. Mitchell relied on Erika King and Gerald King to act in her best interests, to assist her in good faith with her personal and financial affairs, and to refrain from misleading or deceiving her or acting in other ways that would be detrimental to Mrs. Mitchell's personal and financial interests.

10. Mrs. Mitchell is a survivor of multiple occurrences of breast cancer and other health problems, and she was less than three weeks from her 65th birthday at the time of the visit by Gerald King and Erika King on or about August 17, 2021. Before Gerald King and Erika King arrived at her home, Mrs. Mitchell had taken prescribed medication that affected her judgment and her ability to comprehend the substance of the "Quit Claim Deed." Mrs. Mitchell did not understand that the "Quit Claim Deed" purported to convey to Apple her interest in certain real property. She did not intend to convey any real property to Apple.

11. Mrs. Mitchell acted in reliance on Gerald King and Erika King when she (Mrs. Mitchell) signed the instrument prepared by Gerald King.

12. Contrary to the misrepresentations of Gerald King and Erika King, the instrument that they induced Mrs. Mitchell to sign was a deed that purported to convey Mrs. Mitchell's interest in real property.

13. The "Quit Claim Deed" that Gerald King and Erika King presented to Mrs. Mitchell recited consideration in the amount of \$17,000.00.



14. Mrs. Mitchell did not understand that by signing the "Quit Claim Deed," she was allegedly conveying her interest in real property for the sum of \$17,000.00.

15. The partial legal description of real property that appears in the "Quit Claim Deed" prepared by Gerald King does not describe any real property that was owned by Mrs. Mitchell in 2021 or at any other time. Although it is incomplete, the legal description is actually part of the description of a parcel in which Mrs. Mitchell did not and does not own an interest.

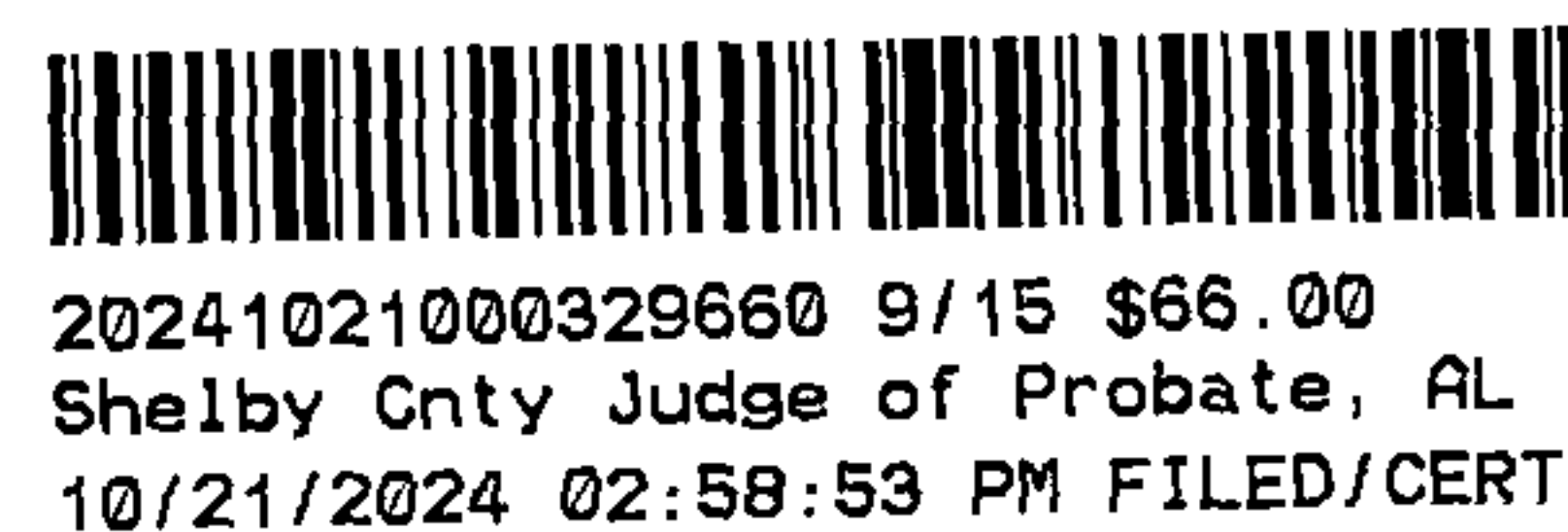
16. Gerald King and Erika King were aware that Mrs. Mitchell did not comprehend the true nature of the "Quit Claim Deed" that they induced her to execute.

17. Gerald King and Erika King, acting through Apple, subsequently insisted that Mrs. Mitchell conveyed her manufactured home and approximately five acres of land to Apple by signing the purported "Quit Claim Deed."

18. The recited consideration in the amount of \$17,000.00 is only a fraction of the actual fair market value of Mrs. Mitchell's home and property.

19. In a sworn statement filed in this action, Gerald King admitted that he and Erika King believed Mrs. Mitchell was being victimized by an "internet scammer" at the time they presented the "Quit Claim Deed" for her execution. Yet, by Gerald King's own admission, they paid the recited \$17,000.00 consideration by sending money to a supposed individual in Georgia as directed by the presumed scammer.

20. Mrs. Mitchell did not receive \$17,000.00 or any other consideration for the conveyance of her home and property, nor was she informed that any other individual ever received the consideration on her behalf.



21. Gerald King and Erika King acted through or on behalf of Apple when they attempted to obtain Mrs. Mitchell's home and the surrounding acreage through the acts averred in this Counterclaim and Third-Party Complaint.

22. On its face, the purported "Quit Claim Deed" prepared by Gerald King was not properly executed.

23. The purported "Quit Claim Deed" did not actually convey to Apple the home and acreage owned by Mrs. Mitchell because the legal description does not describe Mrs. Mitchell's property. Nevertheless, by recording the purported "Quit Claim Deed" that lists Mrs. Mitchell as the grantor in the land records of the Office of the Judge of Probate of Shelby County, Gerald King and Erika King, acting by and on behalf of Apple created an unjustified and illegal cloud on Mrs. Mitchell's title to her own home and land.

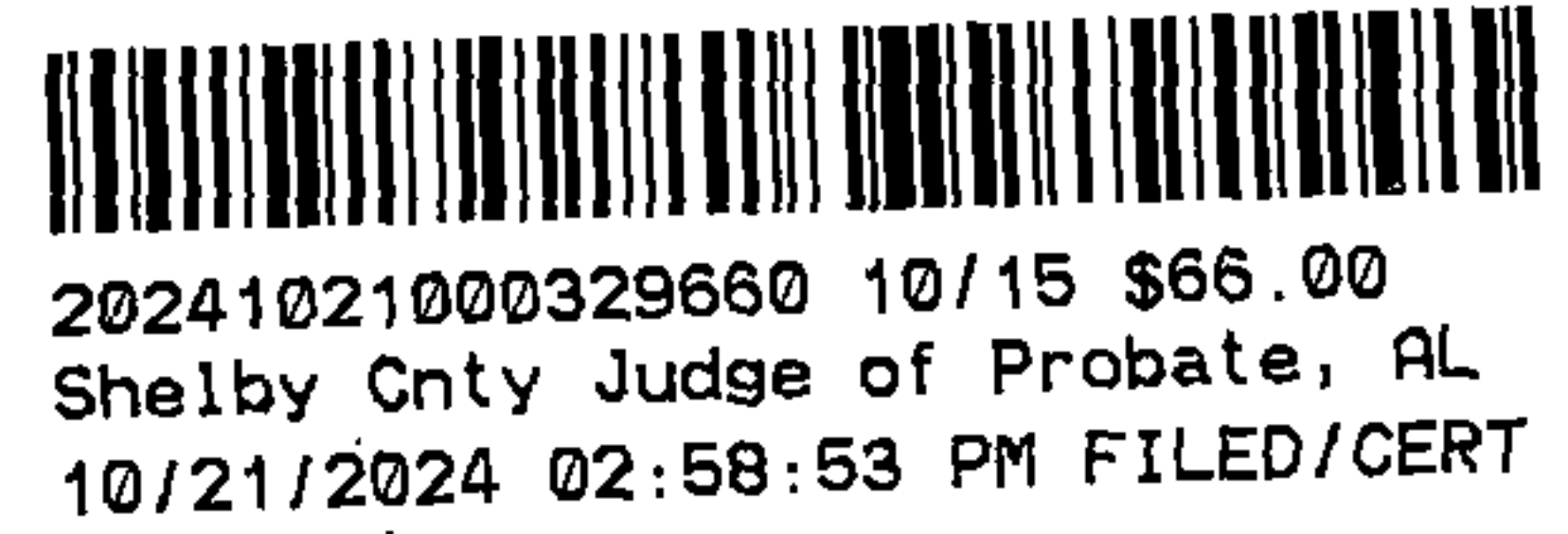
24. The fraud and breach of trust committed by Gerald King and Erika King, for themselves and on behalf of Apple, have financially harmed Mrs. Mitchell and caused her to suffer severe emotional distress, mental anguish, upset, pain, and suffering due to the cloud on her legal title to her home and the threatened taking of her property, which would leave her without a residence and without the only financial asset of any value that she presently possesses.

COUNT ONE—MISREPRESENTATION

25. Mrs. Mitchell incorporates herein by reference the averments of paragraphs 1 through 24 of this Counterclaim and Third-Party Complaint as if set out here in full.

26. Gerald King and Erika King, for themselves and on behalf of Apple, misrepresented the purported "Quit Claim Deed" to Mrs. Mitchell.

27. The misrepresentations by Gerald King and Erika King, for themselves and on behalf of Apple, were material.



28. Mrs. Mitchell reasonably relied on Gerald King and Erika King to deal with her honestly and to truthfully inform her of the nature of the instrument they presented for her execution.

29. Mrs. Mitchell signed her name to the purported "Quit Claim Deed" in reasonable reliance on the misrepresentations by of Gerald King and Erika King.

30. Mrs. Mitchell was damaged as a proximate result of her reliance on the misrepresentations by Gerald King and Erika King, acting for themselves and on behalf of Apple, concerning the nature and effect of the purported "Quit Claim Deed."

WHEREFORE, THE PREMISES CONSIDERED, Mrs. Mitchell demands judgment against Gerald King, Erika King and Apple, jointly and severally, for misrepresentation in the amount of \$100,000.00 in compensatory damages, including but not necessarily limited to damages for her severe emotional distress, mental anguish, upset, pain and suffering, plus punitive damages in an amount to be determined by the trier of fact, rescission of the purported "Quit Claim Deed," and interest and costs as permitted by law. Mrs. Mitchell also demands such further and different relief as the Court may deem just.

COUNT TWO—FRAUDULENT INDUCEMENT

31. Mrs. Mitchell incorporates herein by reference the averments of paragraphs 1 through 30 of this Counterclaim and Third-Party Complaint as if set out here in full.

32. Gerald King and Erika King, acting for themselves and on behalf of Apple, fraudulently induced Mrs. Mitchell to sign the purported "Quit Claim Deed" by misrepresenting the instrument's nature and purpose.

33. Gerald King and Erika King knew that their representations about the "Quit Claim Deed" were false.



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Shelby Cnty Judge of Probate, AL
10/21/2024 02:58:53 PM FILED/CERT

34. Mrs. Mitchell signed the purported "Quit Claim Deed" in reasonable reliance on the foregoing misrepresentations by Gerald King and Erika King.

WHEREFORE, THE PREMISES CONSIDERED, Mrs. Mitchell demands judgment against Gerald King, Erika King and Apple, jointly and severally, for fraudulent inducement in the amount of \$100,000.00 in compensatory damages, including but not necessarily limited to damages for her severe emotional distress, mental anguish, upset, pain and suffering, plus punitive damages in an amount to be determined by the trier of fact, rescission of the purported "Quit Claim Deed," and interest and costs as permitted by law. Mrs. Mitchell also demands such further and different relief as the Court may deem just.

COUNT THREE—BREACH OF FIDUCIARY DUTY

35. Mrs. Mitchell incorporates herein by reference the averments of paragraphs 1 through 34 of this Counterclaim and Third-Party Complaint as if set out here in full.

36. Due to their positions of trust and confidence with regard to Mrs. Mitchell as a result of their family relationship and their knowledge of her susceptibility to financial victimization, Gerald King and Erika King had a fiduciary duty to ensure that their transactions with Mrs. Mitchell were in her best interest and did not unfairly exploit her.

37. Gerald King and Erika King breached their duty to Mrs. Mitchell by inducing her to sign a purported "Quit Claim Deed" based on their misrepresentations and for a stated consideration that was grossly inadequate.

38. Gerald King and Erika King further breached their duty to Mrs. Mitchell when they allegedly sent \$17,000.00, which they allege was the consideration for Mrs. Mitchell's conveyance of real property to Apple, to a mysterious individual in Georgia who Gerald King and Erika King believed was a participant in an internet scam victimizing Mrs. Mitchell.



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Shelby Cnty Judge of Probate, AL
10/21/2024 02:58:53 PM FILED/CERT

WHEREFORE, THE PREMISES CONSIDERED, Mrs. Mitchell demands judgment against Gerald King and Erika King, jointly and severally, for breach of fiduciary duty in the amount of \$100,000.00 in compensatory damages, including but not necessarily limited to damages for her severe emotional distress, mental anguish, upset, pain and suffering, plus punitive damages in an amount to be determined by the trier of fact, and interest and costs as permitted by law. Mrs. Mitchell also demands such further and different relief as the Court may deem just.

COUNT FOUR—DECLARATORY JUDGMENT/QUIET TITLE

39. Mrs. Mitchell incorporates herein by reference the averments of paragraphs 1 through 38 of this Counterclaim and Third-Party Complaint as if set out here in full.

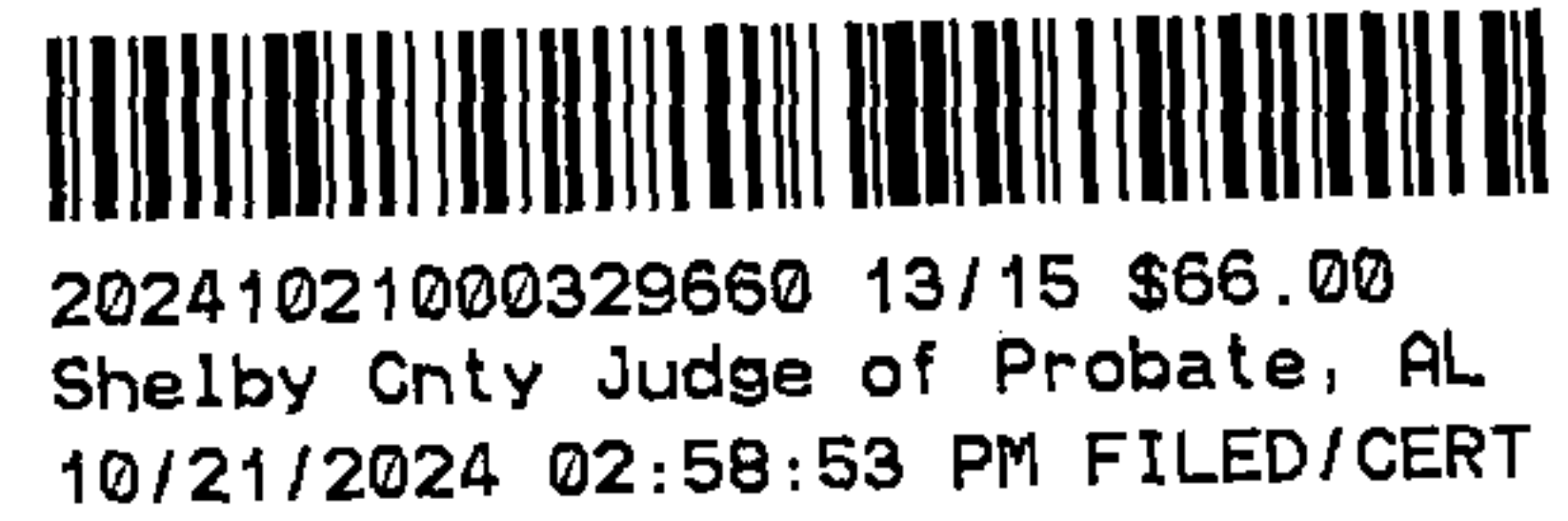
40. This Count is brought against Apple pursuant to Alabama Code § 6-6-220 *et seq.* and Alabama Rule of Civil Procedure 57.

41. A justiciable controversy exists between Mrs. Mitchell and Appel as to the accuracy and enforceability of the purported "Quit Claim Deed."

42. The purported "Quit Claim Deed" was not properly executed and does not contain an accurate legal description of real property owned by Mrs. Mitchell in 2021 or at any other time.

43. The purported "Quit Claim Deed" failed to convey to Apple any interest in property owned by Mrs. Mitchell.

44. Mrs. Mitchell is the lawful owner of real property described in a "Trustee and Beneficiaries Warranty Deed, Jointly for Life with Remainder to Survivor," executed on August 25, 2016, by Richard L. Mitchell as Trustee of the A and B Revocable Trust, Amos L. Mitchell and Betty R. Mitchell, and recorded on September 13, 2016, in the Office of the Judge of Probate of Shelby County as instrument number 20160913000332710, with Mrs. Mitchell being the survivor of grantees "Richard L. Mitchell and wife, Teresa Mitchell."



WHEREFORE, THE PREMISES CONSIDERED, Mrs. Mitchell prays that the Court take jurisdiction over this matter and enter a Final Order determining and declaring that: (a) the purported "Quit Claim Deed" is fraudulent, void or otherwise invalid; (b) Mrs. Mitchell is the lawful owner of the property described in the aforementioned "Trustee and Beneficiaries Warranty Deed, Jointly for Life with Remainder to Survivor"; (c) the purported "Quit Claim Deed" did not convey legal or equitable title to Apple of any property owned by Mrs. Mitchell; and (d) Mrs. Mitchell is entitled to her costs and expenses in bringing this claim, including her reasonable attorney's fees and expenses.

COUNT FIVE—SLANDER OF TITLE

45. Mrs. Mitchell incorporates herein by reference the averments of paragraphs 1 through 44 of this Counterclaim and Third-Party Complaint as if set out here in full.

46. Apple, acting through Gerald King, falsely and maliciously impugned the title of Mrs. Mitchell by recording or causing to be recorded the purported "Quit Claim Deed."

47. The conduct of Apple and Gerald King constitutes slander of title as the tort is defined by Alabama Code § 6-5-211.

48. Apple and Gerald King acted willfully to record or cause the recording of the purported "Quit Claim Deed" and thereby harm Mrs. Mitchell.

WHEREFORE, THE PREMISES CONSIDERED, Mrs. Mitchell demands judgment against Apple and Gerald King for slander of title, an award of compensatory damages to Mrs. Mitchell in an amount to be determined by a jury, an award of punitive damages sufficient to punish and deter such malicious behavior, and an award of costs of court. Mrs. Mitchell also demands such further and different relief as the Court may deem just and appropriate.



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VERIFICATION

Teresa Mitchell
Teresa Mitchell

STATE OF ALABAMA)
SHELBY COUNTY)

Before me, the undersigned authority, personally appeared **Teresa Mitchell**, who, being first duly sworn, deposes and says that, unless otherwise stated, her verification is based upon her personal knowledge of the facts contained in the above and foregoing Verified Amended Answer and Counterclaim/Third-Party Complaint with Jury Demand, and that said facts set forth in said document are true and correct.

SWORN TO AND SUBSCRIBED before me this the 15th day of October, 2024.

NOTARIAL SEAL



Randall D. Quarles
Notary Public
My commission expires: 1/25/2026

Respectfully submitted,

Randall D. Quarles
Randall D. Quarles (QUA006)
An Attorney for Defendant Teresa Mitchell

OF COUNSEL:
QUARLES LAW FIRM, LLC
300 Office Park Drive, Suite 100
Birmingham, AL 35223
Telephone: (205) 874-7000
Telecopier: (205) 874-7002
rquarles@quarleslawfirm.com

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MARY M. MORRIS

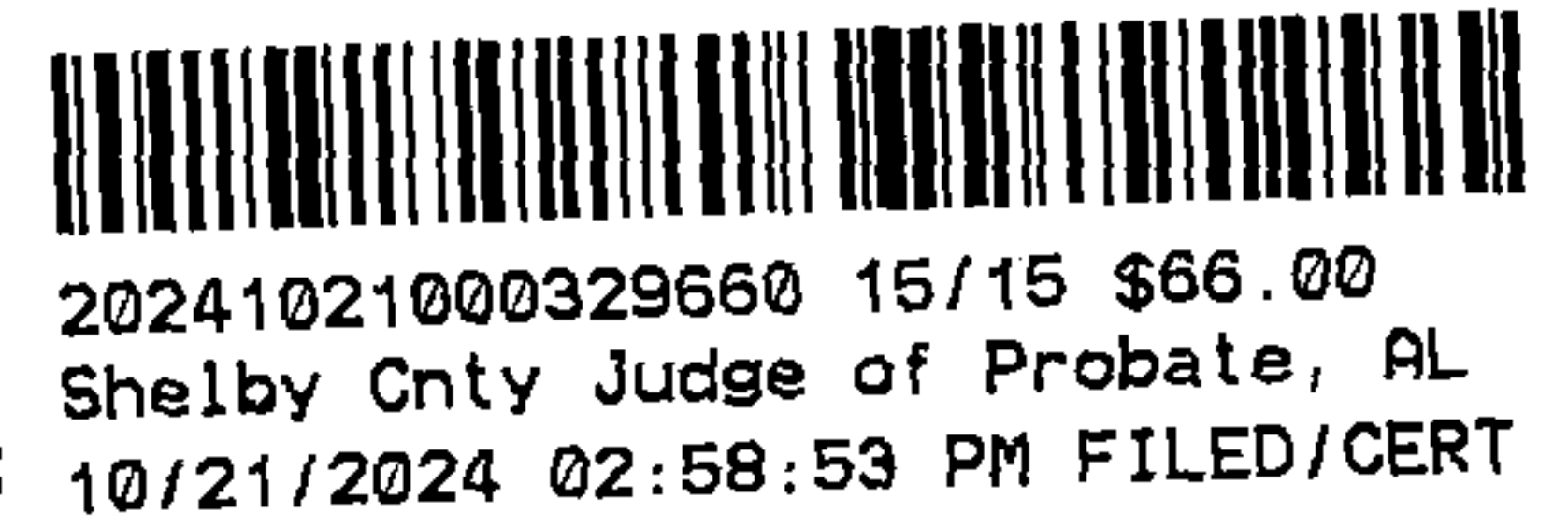
OCT 15 2024

CLERK OF DISTRICT
COURT CLERK
SHELBY COUNTY

JURY DEMAND

Defendant/Third-Party Plaintiff Teresa Mitchell demands a trial by struck jury.

Randall D. Quarles
OF COUNSEL



SERVE THIRD-PARTY DEFENDANTS BY PROCESS SERVER AS FOLLOWS:

Gerald King
10536 Auto Mall Pkwy, Suite A
D'Iberville, MS 39540
Or
12076 Riverbend Dr.
D'Iberville, MS 39540

Erika King
10536 Auto Mall Pkwy, Suite A
D'Iberville, MS 39540
Or
12076 Riverbend Dr.
D'Iberville, MS 39540

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Verified Amended Answer and Counterclaim/
Third-Party Complaint with Jury Demand by placing a copy of the same in the United States Mail,
first-class postage prepaid and properly addressed, as follows:

Foster D. Key, Esq.
KEY GREER HARRISON & CASEY
Post Office Box 360345
Birmingham, AL 35236-0345

Alex R. Hirschfield, Esq.
HIRSCHFIELD LAW GROUP, LLC
P.O. Box 530512
Birmingham, AL 35253
alex@hirschfieldlawgroup.com

This the 15th day of October, 2024.



OF COUNSEL