



## AlaFile E-Notice

28-CV-2012-900143.00

Judge: SHAUNATHAN C. BELL

To: KILLIAN ROGER GLEN  
RogerKillian@bellsouth.net

---

## NOTICE OF ELECTRONIC FILING

---

IN THE CIRCUIT COURT OF DeKALB COUNTY, ALABAMA

JAMES L. BATES ET AL V. C. ELMO BATES ET AL  
28-CV-2012-900143.00

The following matter was FILED on 8/22/2014 2:00:13 PM

Notice Date: 8/22/2014 2:00:13 PM

PAM SIMPSON  
CIRCUIT COURT CLERK  
DeKALB COUNTY, ALABAMA  
P.O. BOX 681149  
FORT PAYNE, AL 35968

256-845-8525  
pam.simpson@alacourt.gov



**IN THE CIRCUIT COURT FOR DEKALB COUNTY, ALABAMA**

James L. Bates, Jo Ann Bates Bearden, Mabel )  
 Joyce Bates Acton, L.V. Bates, Audrey E.  
 Toms, Diane Sexty Halliwell, Lynn Templeton )

PLAINTIFFS

) CIVIL ACTION NO.  
 VS.) CV-2012-900143

M. Christine Bates, Rosa Lee )  
 Bates Wilson, Roger D. Bates, Marie Brock, J.P.  
 Bates, and Persons Unknown Who May Claim an  
 Interest ) the land the is the subject of this suit

DEFENDANT )

**ORDER AUTHORIZING SALE**

At a hearing held on May 20, 2014 the Court took testimony *ore tenus* from Hazel Bates, wife of one of the plaintiffs. Her testimony is credible and showed a familiarity with the property that is the subject of the action. From the witness' testimony it is clear that the property cannot be equitably divided or partitioned between the respective owners and that the property should be sold at public auction for division of the proceeds between the owners.

The plaintiffs' attorney, Roger Killian, has had representatives of two licensed auction companies each of which has conducted auctions in DeKalb County for more than 30 years, to go the property and to make proposals for auctioning the property. A copy of each of the proposals has been presented to the Court. After comparing the proposals, plaintiff's attorney has recommended that the proposal of Auctions United, Inc. be accepted. The attorney for defendants Rosa Lee Bates Wilson, Roger Bates and Marie Brock does not object and Stanna Guice, the guardian ad litem for Christine Bates, approves the recommendation.

The Court has reviewed the proposals and accedes to counsel's recommendation. It therefore ordered that the proposal of Auctions United, Inc. be accepted. The Court directs as follows:

- └ Plaintiffs' counsel, working with representatives of Auctions United, shall make arrangements to have the place prepared for sale.

- └ Counsel for Plaintiffs is directed to have an examination of the title to the property prior to the sale and to report the results of the examination to the Court and Attorneys Shedd and Guice prior to the property being surveyed as provided herein below.
- └ Counsel and the auction company are to have the property surveyed and submit a plan for offering the property in tracts, combination of tracts as may be feasible and as a whole and to set a date for sale that is mutually agreeable with counsel for the parties.
- └ Advertising for the sale is to be done as outlined in Auction United's proposal.
- └ Plaintiff's counsel shall cause to be published legal notice of the sale in a newspaper of general circulation in DeKalb County once weekly for four successive weeks, beginning at least 30 days before the sale.
- └ Plaintiff's counsel is directed to keep Attorneys Shedd and Guice and unrepresented parties informed as of the arrangements being made for the sale.

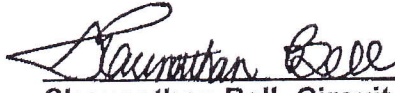
The Court has granted partial summary judgment holding unenforceable a provision in the parties' deed which purported to grant a conditional right to any of the deed grantees who are single "to live on the place as their own, and if more than one is single, they are to share equal."

By agreement of the parties, however, it was agreed that Roger Bates, who is single and has lived on the property since the time of the execution of the deed should be permitted to reside and remain in the dwelling and up to a 1.5 acre tract that surrounds the residence until such time as he is no longer able or no longer desires to do so.

The witness, Hazel Bates, gave testimony about the relationships of the parties and the heirs of those who are deceased. On a later date and prior to distribution of the sale proceeds, the court will take further testimony to as to the ownership interests the respective parties have in the property.

It is further ordered that within 5 days following the sale, Plaintiff's counsel shall make a report of sale to the Court.

Done this the 22nd day of August, 2014.

  
\_\_\_\_\_  
Shaunathan Bell, Circuit Judge

RBW Del. 6/11/14 5:04pm



★ 16 COMMERCE COURT ★ ROME, GEORGIA 30161-6800 ★ PHONE 706-295-7501  
www.auctionsunited.com ★ email: info@auctionsunited.com

June 10, 2014

Roger Killian, Esq.  
Killian and Killian PC  
411 Grand Ave. SW  
Fort Payne, Al. 35967

RE: Auction Proposal for Real Estate known as the Bates property located at 457 County Road 862, Collinsville, Alabama 35961. Being 168.5 acres more or less according to the deed and all lying in Dekalb County, Alabama. Civil Action No. 28-CV-2012-900143.00

Dear Mr. Killian:

We appreciate the opportunity of presenting you with this proposal for the sale of the above referenced property for the Circuit Court.

This proposal is made in conjunction with Randy Wilson of Wilson Realty, Fort Payne, Alabama. We have worked with Randy for over 30 years and we enjoy a very good working relationship.

The following services will be provided by Auctions United, Inc. and Wilson Realty to market, advertise and sell your property at public auction:

- (1) Professionally made auction signs will be placed on the properties identifying the date, time and location of the sales as well as a brief description of the properties. In addition, directional signs will be placed on major roads and intersections leading to the properties. All signs will be erected approximately thirty days prior to the sale.
- (2) Our advertising agency will design a full color brochure with pictures and descriptive information about the properties. The brochure will also include a map and directions to the properties as well as the terms and conditions of the sale.



TOLL FREE 1-800-222-5003

FAX 706-234-7279

FARMS ★ COMMERCIAL ★ LAND ★ ESTATES ★ EQUIPMENT ★ TIMBERLAND



- (3) Our staff will mail and email this brochure to prospective buyers using our local, regional and company mailing and emailing list. We will also distribute brochures in restaurants and banks in the local area.
- (4) Newspapers are a major marketing resource to advertise the property in local and regional areas. Real estate is typically a local product and newspaper advertising provides an excellent source of exposure. Ads will be placed approximately two to three weeks prior to the sale.
- (5) The sale will also be advertised on the internet via our company websites at [www.auctionsunited.com](http://www.auctionsunited.com). The internet is a tremendous advertising vehicle that can reach the largest prospective buyer's market. Information about the sale will be emailed to our electronic mailing list.
- (6) SURVEY and Title Work- After a thorough search of the title to the property has been completed and evidenced by written some documentation from the proposed closing attorney that no title problems exist, Auctions United will coordinate with a surveyor to have all the property surveyed with iron pins set or using existing monuments at all corners. No lines will be blazed or flagged. Any land line issues revealed by the survey must be settled prior to setting an auction date. The auction date will be set by Auctions United at a time sufficient to properly advertise the sale and fit Auctions United sales schedule.

A tract with the house now located on the property is to be surveyed with 1.5 acres more or less to include the use of the well. Auctions United will coordinate setting the lines for this tract for the most practical layout and leaving good access to this tract and adjoining tract.

This house tract will not be sold at the auction.

The cost of the survey, recording the plat and all Dekalb County subdivision fees will be paid from the seller's proceeds at the closing.

We will coordinate the approval process with the County Engineer and surveyor to get the plat approved and signed by the County Engineer prior to setting the auction date.

Attached is a rough drawing with a proposed division of the property into tracts. The final layout may vary from this when the survey is completed.

- (7) Clean up, bush hogging and light dozer work:  
Auctions United and Wilson Realty will get the property prepared to sell by hiring someone to do bush hogging, light dozer work and general clean up as we see necessary and beneficial to the marketing and surveying of this property and to have a suitable area to set the tent and park cars for the auction sale. Auctions United and Wilson Realty will advance the funds to pay for these cost and will be reimbursed for these expenses at the closing of the sale.
- (8) Prior to the sale, Auctions United, Inc. and Wilson Realty representatives will be distributing information and will be available to answer questions about the property and showing the property to prospective buyers. This will allow prospective buyers the opportunity to thoroughly inspect the properties prior to the sale.
- (9) The sale will be conducted on the property under the auction tent.
- (10) Method of Sale: We will offer the property in tracts by the acre and choice of tracts to the high bidder. We may then offer the property in combinations of tracts and as a whole. This gives the most opportunity for a wide range of buyers to bid and ultimately get the most money for the sellers.
- (11) We will collect 10% non-refundable earnest money from each buyer on sale day and the balance will be due at closing within 30 days of confirmation of the sale from the Circuit Court.
- (12) We will deliver copies of the purchase contracts to the closing attorney of your choice. We will assist the closing attorney in

coordinating the closing. Title is to be conveyed by a deed from the Circuit Clerk with the seller paying for the deed preparation.

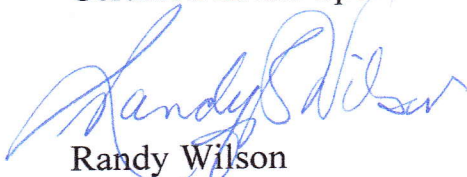
- (13) All other closing costs such as attorney fees, title opinion or title insurance will be at the buyer's expense.
- (14) Property taxes that will be due October 1, 2014 on this property will be paid by the sellers.
- (15) Auctions United, Inc will receive a 10% Buyer's Premium as its commission.

Auctions United, Inc. appreciates the opportunity of presenting this proposal for the sale of your properties. We look forward to the opportunity of working for you.

Sincerely,



Jim Givens  
President  
Auctions United, Inc  
Certified Auctioneers Institute  
Certified Estate Specialist



Randy Wilson  
Wilson Realty



Source of Title

WITNESSETH

Printed by Fort Payne Newspapers, Inc., Fort Payne, Ala.

THIS INDENTURE made this 20 day of November 19 64

Between L. K. Barkley and Wife Florence Barkley  
C. Elmo Bates, Gladys Bates, Audrey E. Bates, M. Christine Bates, Rosa Lee Bates, Roger D. Bates, Steve T. Bates, Mable J. Bates, Jo Ann Bates

of the first part and Sarah C. Bates  
of the second part: WITNESSETH, That the part 100 of the first part, in consideration of the sum of Eight Thousand And No/100 13489 DOLLARS

to them paid by the part 100 of the second part, the receipt whereof is hereby acknowledged, doth hereby grant, bargain, sell and convey unto the said part 100 of the second part, the following described real estate, to-wit:

Correction deed description deed 206-550 .  
The NE 1/4 of the NW 1/4; The SE 1/4 of NW 1/4; the SW 1/4 of NW 1/4 and 6 1/2 acres in the SE corner of the NW 1/4 of the NW 1/4 in Section 7, Township 9 south of Range 8 East, Also the NE 1/4 of the SE 1/4 and Two acres in the SE corner of the SE 1/4 of NE 1/4 Section 12, Township 9 south of Range 7 East .  
All lying and being in DeKalb County, Alabama.  
and Containing 168 1/2 acres

As long as one of the above described heirs is single he or she may live on the place as their own, and if more than one is single, they are to share equal, if all are married and the place is to be sold, therefore it will be divided equal among those that are listed in the deed.

TO HAVE AND TO HOLD to the said Above listed Heirs heirs and assigns, forever. And the part 100 of the first part will forever warrant and defend the title to the same to the said part 100 of the second part and to their representatives and assigns from every lawful claim whatever.

IN TESTIMONY WHEREOF, the part 100 of the first part have signed and sealed on the date above written.

Signed, Sealed and Delivered  
In the Presence of  
G. H. Keener

L. K. Barkley (L. S.)  
Florence Barkley (L. S.)  
(L. S.)  
(L. S.)

THE STATE OF ALABAMA,  
DeKalb County

I, G. H. Keener, Notary Public