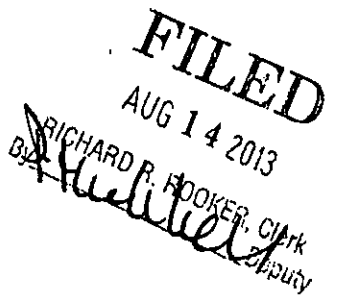
IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
PROBATE DIVISION

| | | |
|---|---|---|
| IN THE MATTER OF:<br>THE ESTATE OF LUCY C. SIMMONS | ) | |
| BOBBY LESTER, | ) | |
| Petitioner. | ) | |
| v. | ) | No. 13P642 |
| J.C. RICE, PEARLINE PARKER, STACY LESTER AND THE UNKNOWN HEIRS AT LAW OF LUCY C. SIMMONS, | ) | |
| Respondents. | ) | |







**FINAL ORDER ESTABLISHING WILL**

This cause came to be heard on the 14th day of August, 2013 in the Seventh Circuit Court for Davidson County, Tennessee before the Honorable D. Randall Kennedy, Jr., Judge, upon the Petition of Bobby Lester to establish a copy of a Last Will and Testament of Lucy C. Simmons, the original of which has been lost, as her Last Will and Testament. The Petitioner, Bobby Lester is named Executor of said Will. The Petition names as Defendants all those who take under the Will and all those who would take if Decedent had died intestate. All Defendants were duly served by either service of process or notice by publication and there were no answers filed. On June 28, 2013, the Court granted the Petitioner's Motion for Default Judgment against all Defendants.

It appearing to the Court, upon the Petition filed by the Petitioner, statements of counsel, and the testimony of Gay Lisa Levine, Patricia Oglesby and Pearline Parker by affidavits; that the Petitioner's efforts to locate the original of the lost will have proved futile. It further appears that the copy of the Last Will and Testament produced with the Petition appears to be a validly

executed Last Will and Testament and is self-proving with an Affidavit of the witnesses attached. From the testimony of the Petitioner, the Court finds that the copy of the Will that was attached to this Order as Exhibit A is in fact the Last Will and Testament of Lucy C. Simmons and the Will was duly executed by her in the presence of two attesting witnesses, Annette Warnke and Trina Scarpetti, that the original has become lost and that it was the intention of the Decedent at the time of her death that the original document be her Last Will and Testament. The Court orders that the Will so established be certified by the Clerk & Master as a Monument of Title to the real estate owned by the Decedent as identified on the attached Exhibit B to this Order, which contains the legal description of the Decedent's real properties.

Entered this 14th day of August, 2013

Hon. D. Randall Kennedy, Jr. Judge

Respectfully submitted,

TUNE, ENTREKIN & WHITE, P.C.

BY: _____
Lesa H. Skoney (#12983)
Attorney for Bobby Lester
315 Deaderick, Suite 1700
Nashville, TN 37238
615-244-2770

**Certificate of Service**

I hereby certify that a true and correct copy of the above Order was sent to the following parties by U.S. mail postage pre-paid:

Pearline Rice Parker
3418 Rosedale Road
Cleveland, OH 44112

Stacy Lester
4239 Fredricksburg Drive
College Park, Georgia 30337

J.C. Rice
909 Selwyn
Cleveland Heights, Ohio 44112

This 14th day of August, 2013.

Lesa H. Skoney

Exhibit A

COPY

FILED
AUG 14 2013
By RICHARD R. ROOKER Clerk
Deputy

LAST WILL AND TESTAMENT OF

LUCY C. SIMMONS

I, LUCY C. SIMMONS, of 1108 Cass Street, Nashville, Davidson County, Tennessee, being of sound mind and disposing memory, aware of the uncertainty of life, do hereby make and publish this my Last Will and Testament, hereby revoking and making void all other and former wills and codicils thereto by me at any time heretofore made.

FIRST: I direct that all my lawful debts, including my funeral expenses and the costs of administration of my estate, be paid by my Executor as soon as practicable after my death. I further direct that my Executor pay all the estate, inheritance, succession and other death taxes which shall become payable by reason of my death, whether in respect of property passing under this will or otherwise, as an expense of administration, without apportionment.

SECOND: Not being unmindful of my relatives and all others who may have any claims on me or my property, by reason of kinship or otherwise, I give, devise, and bequeath all of my property, real and personal, of every kind and description, wheresoever situated, which I may own or have the right to dispose of at my decease, in equal portions among my three nieces and nephews, share and share alike, to-wit: a one-third (1/3) share each to my niece, PEARLINE PARKER, of 3418 Rosedale, Cleveland, Ohio 44112, my great-nephew, BOBBY C. LESTER, of 4210 Dorris Street, Chattanooga, Tennessee 37410, and my great-great-nephew, STACY LESTER, of 2309 Noble Forest Drive, Norcross, Georgia 30092.

THIRD: I hereby nominate, constitute, and appoint my said great-nephew, BOBBY C. LESTER, to be my Executor of this my Last Will and Testament. I direct that no bond or security of any kind whatsoever shall be required of or be given by my said Executor, for any reason or cause whatsoever.

IN TESTIMONY WHEREOF, I, LUCY C. SIMMONS, have hereunto set my hand to this my Last Will and Testament, on this 14 day of March, 1996, and have also signed my name to the one preceding page of this my Last Will and Testament, at Nashville, Tennessee.

Lucy C Simmons

T E S T A T R I X

Signed, signified, published, and declared by the Testatrix, LUCY C. SIMMONS, as and for her Last Will and Testament, in the presence of us, who, at her request, and in her sight and presence, and in the sight and presence of each other, have hereunto subscribed our names as attesting witnesses, the year and date above written.

Annette Warnbo, of Arthur Ct. Pleasant View TN 37146

Lina Scarpelli, of 1119 Stahlman Bldg. Nashville, Tn 37201

This Will Prepared By:

GAY LISA LEVINE (11039)
Attorney at Law
1119 Stahlman Building
Nashville, Tennessee 37201
173:119

STATE OF TENNESSEE )

COUNTY OF DAVIDSON )

# AFFIDAVIT

Personally appeared before me, Gay Lisa Levine, a Notary Public in and for said County and State, Annette Warnke, and Trina Scarpetti, to me known, who made oath as follows:

1. That they were requested by the Testatrix, LUCY C. SIMMONS, to witness Testatrix's signature to the attached Last Will and Testament of Testatrix, and they were further requested by the Testatrix to execute this Affidavit;

2. That the Testatrix signed said instrument and declared the same to be her Last Will and Testament, in the presence of each of the undersigned, on the date set forth therein and herein;

3. That each of the undersigned in turn signed said instrument on the same date, as attesting witnesses, in the sight and presence of the Testatrix and of each other;

4. That the Testatrix was of apparent sound mind and disposing memory at the time of the execution of said instrument; and

5. That this Affidavit is made pursuant to Chapter 568 of the Public Acts of 1972.

Annette Warnke

Trina Scarpetti

Sworn to and subscribed before me this

14 day of March, 1996.

Gay Lisa Levine
Notary Public

My Commission Expires: 5-25-96.

GAY LISA LEVINE NOTARY PUBLIC AT LARGE DAVIDSON COUNTY, TENN.

173:119

FILED
AUG 14 2013
By RICHARD R. ROOKER, Clerk
Deputy

## EXHIBIT B

Legal Description for Decedent's properties

## LEGAL DESCRIPTION 1

**1104 Cass Street, Nashville, TN**

Land in Davidson County, Tennessee, being Lot No. 5 on the Plat of L. G. Noel's Subdivision for Lot No. 23 in Owen's Buena Vista Plan of lots, as of record in Book 57, page 69, said Register's Office.

Said Lot No. 5 fronts 50 feet on the northerly margin of Cass Street and extends back between parallel lines, 150 feet to an alley.

Being the same property conveyed to Lucy C. Simmons and Alfred J. Saffell, Sr. (deceased) by deed from John Robert Boyte, of record in Book 5064, page 545, Register's Office for Davidson County, Tennessee. The said Alfred J. Saffell, Sr. having since died.

## LEGAL DESCRIPTION 2

**1108 Cass Street, Nashville, TN**

Being lot No. 8 and the westerly 5 feet of lot No. 7 on the Plan of L. G. Noel's Subdivision of part of Owen's Buena Vista Plan of lots as of record in book 57, page 69, Register's Office for Davidson County, Tennessee.

Said lot No. 8 and part of lot No. 7 front together 55 feet on the northerly side of Cass Street and run back between parallel lines 150 feet to an alley.

Being the same real property conveyed to Lucy C. Simmons as tenants by the entirety with C.L. Simmons by deed of C.L. Simmons, of record in Book 4215, page 858, said Register's Office. The said C.L. Simmons having predeceased Lucy C. Simmons.

## STATE OF TENNESSEE

**I, RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of Final Order Establishing Will heretofore assigned to Seventh Circuit Court (Probate Division) for Davidson County, Tennessee, Case No. 13P642.

**IN TESTIMONY WHEREOF,** I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 14th day of August in the year Two Thousand and Thirteen.

**RICHARD R. ROOKER,** Clerk

**By:** _____
Deputy Clerk

