

IN THE COURT OF APPEALS OF MISSISSIPPI

M. L. PULLIAM, ET AL

APPELLANTS

V.

CAUSE NO. 2009-CA-01284

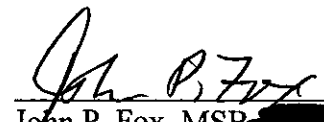
ALPHA BOWEN, ET AL

APPELLEES

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that justices of the Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. M. L. Pulliam, Lonnie Pulliam, Thomas Gene Pulliam, M. Earl Pulliam, Sammy K. Pulliam, & Linda Pulliam Wilson, Appellants.
2. Rex F. Sanderson, Attorney of record for Appellants.
3. Alpha Bowen and Genora Bowen Williams, Appellees.
4. Rita May Bowen Neal joint owner with Appellants.
5. John P. Fox, Attorney of record for Appellee.



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BRIEF OF THE APPELLEES

The first witness called was M.L. *Pulliam*, the principal appellant.

As an adverse witness his testimony begins on page 7 of the trial record. The appellant, testified that he did not live on the land in question; that he lives approximately 17 miles from the property. (R 8.)

When asked what interest *Pulliam* owns in the property he was apparently uncertain. When questioned as to his ownership he stated as follows: "I only own about you say - - you might say 1/6 or better of it by itself." (R 22-24, R 9.)

Mr. *Pulliam* further asserted that a portion of the land which he claims is south of the public road. When asked how much acreage he thought he owned south of the road his answer was that he didn't know the exact amount; that he was just going by what he had learned and was told; that he was told by his uncles that the property did extend across the road. (R 34, 35)

Mr. *Pulliam* was the only witness offered on behalf of the appellants.

Chris Barker, licensed surveyor, testified on behalf of the appellees.

Mr. Barker was tendered as an expert in the area of land surveying and accepted by the court. (R46)

Mr. Barker testified that at the request of Mr. *Bowen* he came out and set the corners to the property. (R48) Mr. Barker became aware of the fact that the *Bowen* description called for a piece of property where the south line did not reach the road and that was shown on the platt where the line comes to. (R49) Mr. *Bowen* apparently owns 109.47 acres. (R 50)

Alpha *Bowen* testified on behalf of the appellees. He now lives in the house where he grew up. His parents were Duffy *Bowen* and Cora *Bowen*. (R 70)

His mother lived until she was 90 years of age; his dad was 93 when he died. They both lived their lives on the property. (R 71)

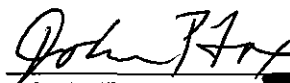
Alpha *Bowen* did have a small amount of timber cut from the property owned by the Bowen's. He cautioned the timber cutter not to get on land to the West of the property owned by the Bowen's. A map was given to the timber cutter. Only 5 to 7 acres of timber was cut. (R73)

Subsequent to the testimony, the Court, in an excellent written opinion points out that both parties and their predecessors in title have been in possession of the respective properties for over 50 years.

The Court went out and inspected the property and found that none of the parties have constructed fences upon the property in recent years nor was there adequate testimony that there was evidence of old fences that would be persuasive in adverse possession proceedings. The court further found that the proof was insufficient as to the location of the cutting of the few trees and that neither party was able to establish that the cutting occurred on their property by an accurate survey or boundary lines. After the inspection of the property the Court entered it's opinion concerning findings of fact and conclusions of law on March 18, 2009, and entered a Final Judgment on July 2, 2009.

The Opinion and Final Judgement of the Court was based on credible evidence presented at trial. The explicit findings of the Court in its opinion and subsequent Final Judgment entered by the Court, should be affirmed.

Respectfully submitted,



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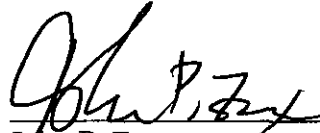
CERTIFICATE OF SERVICE

I, John P. Fox, Attorney for the Appellees, do hereby certify that I have this day mailed by United States mail, postage prepaid, a true and correct copy of the foregoing **Brief of the Appellees** to the following persons at their usual mailing address of:

Judge H. J. Davidson, Jr.
Chancery Judge
P. O. Box 684
Columbus, MS 39703-0684

Mr. Rex Sanderson
Attorney at Law
108-B Jefferson Street
Houston, MS 38851

This the 15th day of ~~May~~^{June}, 2010.



John P. Fox

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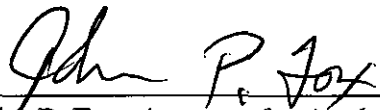
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APPELLEES

CERTIFICATE OF MAILING

I, John P. Fox, certify pursuant to Rule 25(a) of the Mississippi Rules of Appellate Procedure that on the 1st day of June, 2010, I hand delivered, to the Mississippi Supreme Court Clerk the original and three copies of the Brief of Appellee.

SO CERTIFIED, this the 1st day of June, 2010.



John P. Fox, Attorney for Appellee