BLAKE DUBROC, ET UX.	:	**16TH JUDICIAL DISTRICT COURT**
VS.	:	**DOCKET 81472**
DEEP SOUTH FOREST PRODUCT, INC.:		**ST. MARTIN PARISH, LOUISIANA**

JUDGMENT

This matter came before the Court on October 27, 2016.

Present in open court were the plaintiffs, **BLAKE DUBROC and MELISSA DUBROC**, and their attorney of record, **MICHAEL DASPIT**, and the defendant, **DEEP SOUTH FOREST PRODUCT, INC.**, and its counsel of record, **KEITH THIBODEAUX.**

After considering the law and evidence, the court hereby renders judgment as follows:

IT IS ORDERED, ADJUDGED, AND DECREED that the property line between the property of the parties be established as shown on the plat of survey by Michael J. Breaux dated February 1, 2016, a copy which is attached hereto.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff's requests for mandatory injunctions requiring defendants to remove a levee and construct a bulkhead be DENIED.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the plaintiffs remove the fence composed of T-bars and barbed wire located on the property of Deep South Forest Product, Inc.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendant's claim for damages caused by the construction of the T-bar and barbed wire fence be DENIED.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the expert witness fee of Michael J. Breaux be set at $2500.00 to be paid one-half by the plaintiff and one-half by the defendant.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the plaintiff pay all court costs related to these proceedings.

JUDGMENT RENDERED AND SIGNED, this 4th day of November, 2016, at St. Martinville, Louisiana.

DISTRICT JUDGE
Paul J. deMahy

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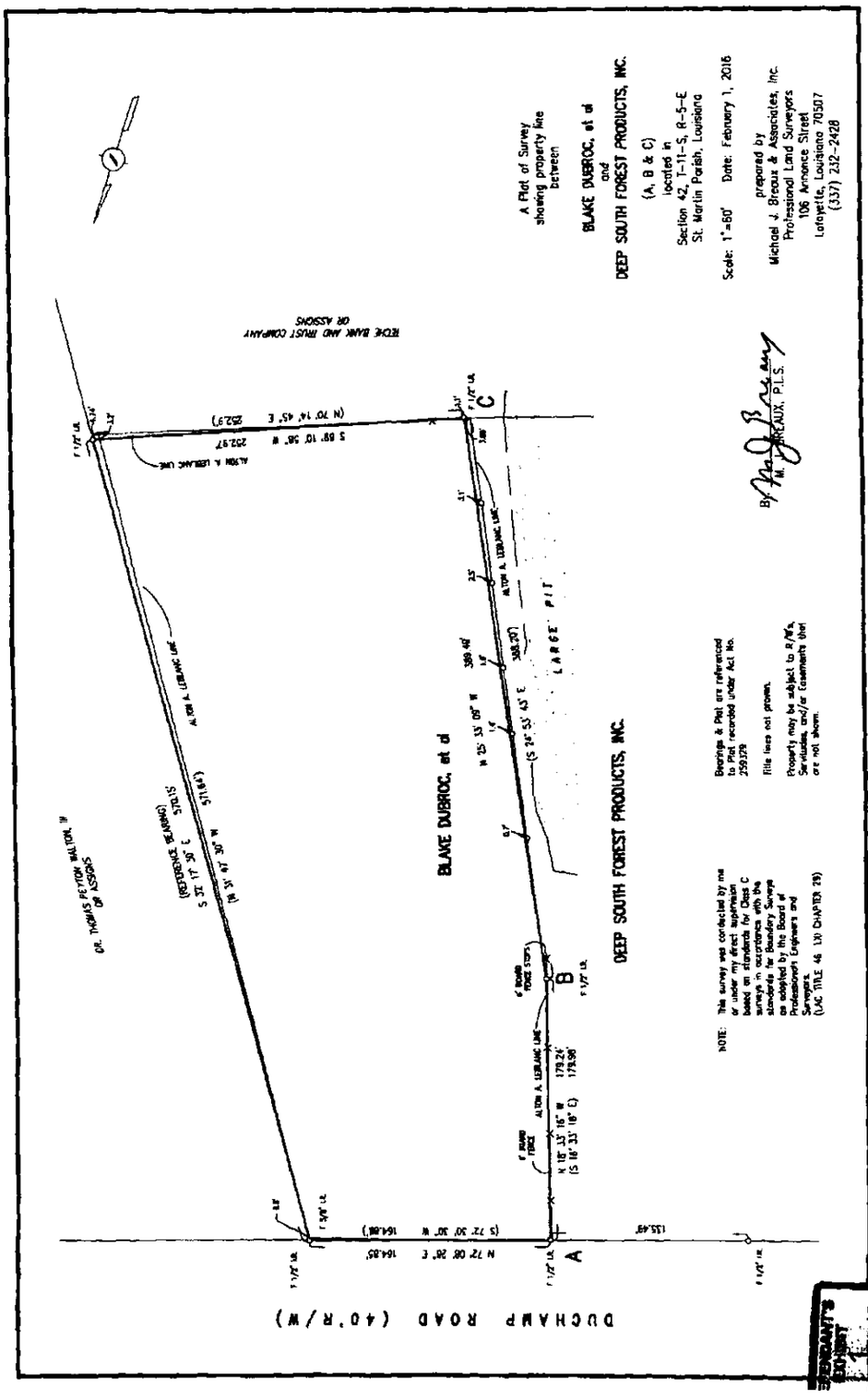
2016 NOV -4 PM 1:23


A Plat of Survey
showing property line
between
BLAKE DUBROC, et al
and
DEEP SOUTH FOREST PRODUCTS, INC.
(A, B & C)
located in
Section 42, T-11-S, R-5-E
St. Martin Parish, Louisiana
Scale: 1"=80'
Date: February 1, 2016
prepared by
Michael J. Breaux & Associates, Inc.
Professional Land Surveyors
106 Arnoose Street
Lafayette, Louisiana 70507
(337) 232-2428
BLAKE DUBROC, et al
DEEP SOUTH FOREST PRODUCTS, INC.
LARGE PIT
DUCHAMP ROAD (40' R/W)
ALTON A. LEBLANC LINE
(REFERENCE BEARING S 51°E)
S 51° 17' 50" E 511.84'
(N 51° 47' 30" W)
DR. THOMAS PEYTON WALTON, III
OR ASSIGNS
TEXAS BANK AND TRUST COMPANY
OR ASSIGNS
S 89° 10' 30" W 252.97'
(N 70° 14' 45" E 252.97')
N 25° 53' 09" W 389.46'
(S 24° 53' 45" E 388.97')
N 72° 08' 26" E 164.85'
(S 72° 30' 30" W 164.88')
N 18° 33' 16" W 179.24'
(S 18° 33' 16" E) 179.98'
155.49'
A
B
C
NOTE: This survey was conducted by me or under my direct supervision based on standards for Class C surveys in accordance with the standards for Boundary Surveys as adopted by the Board of Professional Engineers and Surveyors (LAC TITLE 46 LXI CHAPTER 29)
Bearings & Plat are referenced to Plat recorded under Act No. 259329
Title lines not shown.
Property may be subject to R/W's, Servitudes, and/or Easements that are not shown.
By: Michael J. Breaux, P.L.S.

KEITH E. THIBODEAUX, LTD.
A PROFESSIONAL LAW CORPORATION
422 SOUTH MAIN STREET
ST. MARTINVILLE, LOUISIANA 70582

KEITH E. THIBODEAUX
Bar Roll No. 19182

Keith.Thib@cox-internet.com

TELEPHONE
(337) 394-3034
(337) 394-3035

FACSIMILE
(337) 394-3518

March 17, 2015

Honorable Judge Paul J. deMahy
415 South Main Street
P. O. Box 7
St. Martinville, LA 70582

HAND DELIVERED MARCH 17, 2015

Subject: CIVIL ACTION NUMBER 81472-B
DEEP SOUTH FOREST PRODUCTS, INC. ADV. BLAKE DUBROC, ET AL
KEITH E. THIBODEAUX FILE NUMBER K-356-A

Dear Judge deMahy:

In accordance with your ruling in this matter on March 2, 2015, please find attached the proposed Judgment in this matter executed by all counsel of record.

Please execute this Judgment and forward to the St. Martin Clerk of Court for processing.

Thanking you in advance, I remain

Sincerely,

Keith E. Thibodeaux

KET/ccb

Attachment

RECEIVED AND FILED
2015 MAR 18 PM 1:06
CLERK OF COURT
ST. MARTIN PARISH

CIVIL ACTION NO. 81472-B

SIXTEENTH JUDICIAL DISTRICT COURT IN AND FOR THE

PARISH OF ST. MARTIN

STATE OF LOUISIANA

BLAKE DUBROC AND MELISSA B. DUBROC

VS

DEEP SOUTH FOREST PRODUCTS, INC.

FILED:_____, 2015 _____Dy. Clk.

JUDGMENT

The above entitled matter came on for hearing on the 2ND day of MARCH, 2015 upon the Exception of Prescription filed herein by Deep South Forest Products, Inc. with Deep South Forest Products, Inc. and its attorney of record, Keith E. Thibodeaux, as well as Michael J. Daspit, attorney for Blake Dubroc and Melissa B. Dubroc, present and participating. The Court having considered the entirety of the record and the evidence adduced at the hearing of this matter it is,

ORDERED, ADJUDGED AND DECREED that the peremptory Exception of Prescription filed herein by Deep South Forest Products, Inc. in response to the Petition To Fix Boundary, For Injunctive Relief, and For Damages filed herein by Blake Dubroc and Melissa B. Dubroc be and the same is hereby granted and maintained. It is further,

ORDERED, ADJUDGED AND DECREED that in accordance with the granting of said Exception of Prescription all claims for damages of Blake Dubroc and Melissa B. Dubroc as plead within said Petition To Fix Boundary, For Injunctive Relief, And For Damages be and the same are hereby dismissed with prejudice. It is further

ORDERED, ADJUDGED AND DECREED that all costs of these proceedings to date are assessed to Plaintiffs herein.

THUS DONE AND SIGNED, at St. Martinville, St. Martin Parish, Louisiana this 18th day of March, 2015.

JUDGE

RESPECTFULLY SUBMITTED:

KEITH E. THIBODEAUX, LTD.
A PROFESSIONAL LAW CORPORATION
422 SOUTH MAIN STREET
ST. MARTINVILLE, LA. 70582
PH: 337-394-3034

BY: KEITH E. THIBODEAUX, (# 19182)
ATTORNEY FOR DEEP SOUTH FOREST PRODUCTS, INC.

MICHAEL J. DASPIT
ATTORNEY AT LAW
107 E. CLAIBORNE STREET
ST. MARTINVILLE, LA. 70582
PH: 337-394-3290

BY: MICHAEL J. DASPIT (#21351)
ATTORNEY FOR BLAKE DUBROC AND MELISSA B. DUBROC

RECEIVED AND FILED
2015 MAR 18 PM 1:06
DEPUTY CLERK OF COURT
ST. MARTIN PARISH

I HEREBY CERTIFY, before the undersigned Notary Public, that the above and foregoing *Consent Judgment* is in accordance with the mutual agreements and joint stipulations into which I have entered with the other party to this proceeding. I hereby approve said *Consent Judgment*, agree to the submission of same for execution and filing, and indicate my approval, below, on March 4, 2015, in the Parish of St. Martin, State of Louisiana. **Plaintiff** **Notary Public**	**I HEREBY CERTIFY**, before the undersigned Notary Public, that the above and foregoing *Consent Judgment* is in accordance with the mutual agreements and joint stipulations into which I have entered with the other party to this proceeding. I hereby approve said *Consent Judgment*, agree to the submission of same for execution and filing, and indicate my approval, below, on March 4, 2015, in the Parish of St. Martin, State of Louisiana. **Defendant** **Notary Public**

APPROVED AS TO FORM AND CONTENT:

Name of Attorney **Bar Roll #** 21551 **Counsel for Plaintiff**	

04 - Joint Stipulation and Consent Judgment

RECEIVED AND FILED
2015 MAR 18 PM 1:06
DEPUTY CLERK OF COURT
ST. MARTIN PARISH

CERTIFICATE

BLAKE DUBROC AND MELISSA B. DUBROC	STATE OF LOUISIANA
Vs. NO. 81472-B	16th JUDICIAL DISTRICT COURT
DEEP SOUTH FOREST PRODUCTS, INC.	PARISH OF ST. MARTIN

THIS IS TO CERTIFY that on MARCH 19, 2015, Notice of the signing of the JUDGMENT in this case was mailed to all parties and/or counsel interested therein.

WITNESS my hand at St. Martinville, Louisiana, on MARCH 19, 2015.

CLERK OF COURT

BY: _____
DEPUTY CLERK OF COURT

MR. MICHAEL J. DASPIT
ATTORNEY AT LAW
107 E. CLAIBORNE STREET
ST. MARTINVILLE, LA 70582

MR. KEITH E. THIBODEAUX
ATTORNEY AT LAW
422 SOUTH MAIN STREET
ST. MARTINVILLE, LA 70582

SIXTEENTH JUDICIAL DISTRICT COURT IN AND FOR THE PARISH OF ST. MARTIN, STATE OF LOUISIANA

BLAKE DUBROC

-VS- No. 81,472

DEEP SOUTH FOREST PRODUCT, INC.

APPEARANCES:

Representing the Plaintiff:

Michael Daspit

Representing the Defendant:

Keith Thibodeaux

TRIAL ON THE MERITS

**** October 27th, 2016 ****

*** HON. PAUL J. deMAHY, Judge Presiding ***

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PROCEEDINGS:

Reporter's Note: All parties and The Court made an inspection of the property in question. Below is when everyone returned to the courtroom to begin the trial.

BY THE COURT:

Are you ready to continue?

BY MR. THIBODEAUX:

Yes, Your Honor. Your Honor, I have the original DEFENDANT'S EXHIBIT NO. 1 and NO. 2, the two plats of survey which were introduced out in the field this morning.

I also have marked as DEFENDANT'S EXHIBIT NO. 3 the invoice of Mr. Breaux for his services rendered in the surveying duties.

BY THE COURT:

Okay.

BY MR. THIBODEAUX:

And we also have some JOINT EXHIBITS we'd like to introduce?

BY THE COURT:

All right. You have no objection to those three (3)?

BY MR. DASPIT:

No, objection, Your Honor.

BY THE COURT:

All right. Let me marked and entered.

COURT REPORTER:

What number is that?

BY MR. DASPIT:

That would be PLAINTIFF'S EXHIBIT NOS. 1 and 2.

Your Honor at this time I would call Mr. Craig Girouard to the stand.

BY THE COURT:

Mr. Girouard. *(Complies.)*

If I recall correctly, this is the gentleman we weren't sure could make it.

BY MR. DASPIT:

That is correct, Your Honor.

BY MR. THIBODEAUX:

Right.

BY THE COURT:

Okay, thank you for coming.

CRAIG GIROUARD,
HAVING BEEN CALLED TO TESTIFY, AND AFTER HAVING BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP HIM, GOD, DID DEPOSE AND SAY:

DIRECT EXAMINATION

BY MR. DASPIT:

Q. Mr. Girouard, would you please state full name and address for the record?

A. Craig Michael Girouard, Sr., 508 Oak Manor Drive, New Iberia, Louisiana.

Q. And by whom are you employed?

A. Coastal Timbers, Inc.

Q. And what is your job title with Coastal Timbers?

A. I am V.P. of construction and also one of the owners. It is a family business.

Q. Okay. And what kind of work does Coastal Timbers do?

A. A little bit of everything. We are General Contractors. We do bulkheads, we do timber bridges, we do a lot of oilfield-related work, drive pilings, and various other things. We have carpenter crews and stuff, so we do a bit of everything.

Q. How long have you been associated with Coastal Timbers?

A. Really all my life. It is a family business. But when I graduated college, I started working full-time in '88, so I have been in there, you know, 30-plus years.

Q. And you mentioned that some of what y'all do is bulkheads. What exactly is that?

A. Correct. A bulkhead is basically also called contricating walls built to stop erosion. But the ones that we mainly do are ones that are involved that are on the water. They are not normally all built on land. They are built on the water with piles, timbers and sheet piles, driven in the ground and anchored back to secure the wall from falling over. So that's the majority of the bulkheads. And now you can use vinyl as an option to wood. It is something that has been out about the last ten (10) years.

Q. And in your experience with the company, you have personally overseen some of the projects that do the bulkheading?

A. I have actually built the pilings myself, yes.
Q. Okay. Have you had occasion -- do you know Blake and Melissa Dubroc?
A. I have met them one time when I went to look at the location.
Q. Okay. So you are familiar with the property they own on Duchamp Road?
A. I have walked the property one time to look at it and kind of get an assessment at that point in time.
Q. And what did they ask you to come to assess?
A. Basically to, you know, give them a price on building a wall to stop the erosion.
Q. So it is your, it is your understanding that their property was experiencing some kind of erosion?
A. Yes. I mean they are holes where the water is tumbling through. I don't know what happens when you have a strong wind if you have wave action that develops in that pond that could, you know, deteriorate the banks. I mean I have seen that happen in little ponds when the water is not deep. So I really don't know what happens in adverse conditions, so that I can't really tell you.
Q. And in your capacity with Coastal Timbers, what would you recommend be done to stop the erosion if it is occurring?
A. All that I can offer is build a wall. You know, it is hard to determine where the wall is going to be built. I mean you have to figure out if it is going to be -- more than likely it is doing to be build on the property line, I would think, or whoever's paying for it's side of the property. I would recommend constructing -- the most economical thing to do would be to construct a timber wall. It is basically what I quoted was a Navy-style wall. Basically it is piles driven approximately every 6'8" on center across the entire width, and then we hang a timber that is called a "whale top", and

then a lower area and then we drive boards in the ground. The depth of penetration of the boards just depends on how deep the water is. I was under the impression that that pond is pretty deep, and I don't know how quickly it drops off, but when I quote a job, I have to kind of think of the worst case because I can't give somebody a low price, and then I get the job and then I have to go up on my price. I'd rather -- you know, if I am going to build it, I am going to build it, you know, thinking even that one part might may not be bad, but this part is going to be bad. You have to kind of average out to determine the best price.

Q. Now, you referred to it as a "pond". Did you ever see any standing water?

A. On the land you mean?

Q. In the dirt pit.

A. I mean there was water in it when I went and looked at it.

Q. Okay. And what you are recommending is something that could be done, would that be something reasonably calculated to prevent any future erosion?

A. Yes. I mean it should stop it because basically you're putting a continuous wall. And what I was going to propose was driving the boards, and then again, depending on where the bulkhead would be placed in proximity on the bank. The further out you go down to the bottom of the bank, the longer the sheet is going to have to be. I don't know how, like I said, how deep the pond is, so I don't know if you have erosion going down -- you know, occurring deeper, which I wouldn't think. So basically, I am putting a wall up to stop the dirt from going into -- back into the pond.

Q. So there is a solution you would think?

A. I mean from my standpoint, you know, building a bulkhead would be a solution.

Q. Okay.

A. The water wants to find the path of least resistance, so once you put a wall in you are basically stopping it from the dirt from wanting to go through. So it should, you know, solve the problems.

BY MR. DASPIT:

All right, sir.

I have no further questions, Your Honor.

CROSS-EXAMINATION

BY MR. THIBODEAUX:

Q. Mr. Girouard, you were not consulted as an engineer on this particular matter?

A. No, sir.

Q. Do you have any engineering expertise concerning what you have testified to?

A. No, sir.

Q. You testified that you have no idea the depth of the pond. Is that correct?

A. That is correct.

Q. Did you take any soil analysis?

A. No, I did not.

Q. Who would normally handle that for you? That is those engineering aspects?

A. Most of the jobs that, the bulkheads that I do, I just do it from, we have been doing it for 60 years. I have been doing it 30 years, but we just go with the "rule of thumb." The normal "rule of thumb" is, you know, you measure from the dredge line up and you get at least that much into the ground. That is the just the standard rule of thumb.

Q. And again, in your analysis of this project, have you conducted any particular elevations? Conducted any? So you don't have any idea of the drain of the waters of either of the two

adjoining properties?
A. No, sir.

BY MR. THIBODEAUX:
No further questions, Your Honor.
BY THE COURT:
Okay.
BY MR. DASPIT:
We are done with that witness, Your Honor.
BY THE COURT:
You can go. Thank you.
BY THE WITNESS:
Thank you.
BY MR. DASPIT:
Your Honor, I would call Mr. Davis Dubroc.
BY THE COURT:
Okay.

DAVIS DUBROC,
HAVING BEEN CALLED TO TESTIFY, AND AFTER HAVING BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP HIM, GOD, DID DEPOSE AND SAY:

DIRECT EXAMINATION
BY MR. DASPIT:
Q. Good afternoon, Mr. Dubroc.
A. Good afternoon.
Q. Mr. Dubroc, would you please state your full name for the record?
A. Davis Dubroc.
Q. And what is your address?

A. P. O. Box 1071, Honeycomb Drive.
Q. Okay. And what is your relationship with Blake Dubroc?
A. My son.
Q. Okay. Now, you are familiar with the property that we are here about?
A. Yes. I had bought it. That was my property before.
Q. When you say "my property", are you referring just to Mr. Blake's property?
A. Yeah. The one he ended up with. He had bought it through a Bankruptcy Court from the bank.
Q. Did you own any of the other property in that area?
A. Yes. I owned that whole section. It was 30-some odd acres.
Q. So would that ownership have included the property that now belongs to Deep South Forest Products?
A. Yes.
Q. And how long ago did you acquire that property?
A. That was in the early 70's.
Q. And what did you use that property for?
A. Saw milling.
Q. Did you use just a certain section of the property, or did you use it for anything else besides the sawmill?
A. Well, we had needed a big yard for the lumber, we needed a big yard for the log yard. We used up, I'd say, about 26 acres of it that ran from the pasture.
Q. Now, the sawmill, was that located on either of the properties that we are here about? On Mr. Blake's property, or on Deep South?
A. Yes. On Deep South. It was right at that -- I'd say about in the middle. That is where the sawmill was.
Q. At the time you owned that property, was there a dirt pit?
A. Was there a what?
Q. A dirt pit.

A. No. I would not have allowed it on the property.
Q. Now, when we went out to the property today, I believe you were there, correct?
A. Yes.
Q. And when we walked down the property going from Duchamp Road towards the rear, to the west or to the east, there was the pasture. Is that correct?
A. Right.
Q. And between the pasture and the dirt pit, there's evidence of an old barbed wire fence, correct?
A. Correct.
Q. What was the purpose of that barbed wire fence?
A. Well, I put one up when I used to have a couple of horses to keep the horses from getting into the wooded part, and that's the only reason that was there. But the boundaries were further in.
Q. At the time that you owned the property was there a boundary line that you have --
A. Oh yes, there was a boundary line. I bought it with Dr. Walton, he was the owner of the whole thing.
Q. But the boundary line that exits today between Mr. Blake's property, your son's property and Deep South, that boundary line wasn't there when you owned the property?
A. Yes, it was there.
Q. But I thought you owned one big piece?
A. That's two separate things.
Q. Okay?
A. Now, that was a corporation. That was Louisiana Sawmill. This was my private owned. I bought that from Dr. Walton, the one that owned the whole thing. He sold me that separate from the corporation.
Q. And this piece that you owned separate from the corporation, was that Mr. Blake's piece, or did it include both

Q. On the south is Duchamp Road, on the north is Duchamp, on the west is Deep South, on the east is other property. Where on this survey would be the levee that you just referred to?
A. Right here. (Indicating.)
Q. It would be on the southern end of Blake's property?
A. Right.
Q. Is that, is that levee on Blake's property, or is it on the other property?
A. It is on the other property.
Q. Which is, to your knowledge, is owned by Deep South?
A. Well, it was built by Raymond. I saw him with a dozer and built that thing.
Q. And it is your testimony that the water for Mr Blake's lot used to drain back towards the south, and it can't now?
A. It can't now. He built a levee to keep it out. When he was digging his dirt pit so that water wouldn't interfere with his project of digging dirt.
Q. But prior to that levee, you owned the property and it is your testimony that from your memory, that that lot -- the natural drain of that lot was to the south where the levee is now?
A. Yes.
Q. And that levee is blocking what you know to be the natural --
A. The natural slope.
Q. Again, Mr. Davis, I'd like to show you PLAINTIFF'S EXHIBIT NO. 1 where Mr. Breaux set forth with three letters the boundary line between your son, Blake's property and that of Deep South. It is identified as "A", "B", and "C".
A. Uh-hum. (Affirmative response.) Now, this pipe is still visible. (Witness indicating.) And this is all washed out and caved in this back corner. (Witness indicating.) This is all visible here. (Witness indicating.)

Q. To the west of that boundary line that Mr. Breaux set forth and that we walked along this morning --
A. Yes.
Q. -- to the west of that is a fence -- some barbed wire fences and some posts that I believe Mr. Blake put up, correct?
A. Right. It was to keep the horses from going into that.
Q. Not the one on the pasture, but the one closer to Deep South, do you remember seeing -- extending from Mr. Blake's wooden fence, do you remember seeing that there was some barbed wire that was close to the dirt pit?
A. Well, not real close to it because I had put a wire there to keep my horses out of there. That didn't mean there was a lot in there. It was just some wire that I put to keep the horses in.
Q. And when you owned that property --
A. I did.
Q. -- Mr. Davis --
A. Plus the surrounding property too I owned at that time.
Q. Did you maintain that property?
A. Yes.
Q. Did you keep it clean?
A. I used it to have animals on it.
Q. But between where your animals -- where the pasture is now and the dirt pit, did you also maintain that strip where we walked today?
A. Yes. We cleaned it out once in a while. I mean we didn't take a broom and clean it every other day.
Q. When you say "we", who are you referring to?
A. My family. I had five (5) kids.
Q. And you did that from when you acquired the property originally?
A. Yes.
Q. And you kept doing that until you lost it to the bank?

A. I kept it up.
Q. And you would clear underbrush?
A. We'd clear the underbrush. Hopefully we wouldn't have tooken so much, maybe it would have saved some erosion.

BY MR. DASPIT:

Excuse me, Your Honor.

BY THE COURT:

Uh-hum. (Affirmative response.)

(Reviewing his notes.)

BY MR. DASPIT:

I have no further questions, Your Honor.

CROSS-EXAMINATION

BY MR. THIBODEAUX:

Q. Good afternoon, Mr. Dubroc.
A. Good afternoon.
Q. Mr. Dubroc, you testified that you were the original owner -- was it 30 acres the entire tract you owned?
A. Well, the whole block including -- no, there was house was included that was bought first from Dr. Walton. Dr. Walton owned the whole thing when we first moved there. And we bought some property -- 30 or 36 acres with Dr. Walton. So I moved there and that's when I bought that three acres right next to him but we were discussing -- where Blake lives right now.
Q. Okay. And you testified that there was no fences, other than the one pasture fence that you had put up. Is that correct?
A. Yes. To keep the horses.
Q. Okay.
A. I always had a couple of horses.
Q. And that one pasture fence, that was an old barbed wire

fence. Is that right?
A. There was an old barbed wire, but I mean it was not a straight fence. It was somebody that put a wire just weaving in and out.
Q. Right. And that was the one and only fence within the property boundaries, is that correct?
A. Yes.
Q. So there was no dividing line between Blake's, as you mentioned, Blake's house lot and the property next door because you owned it, correct?
A. I owned both sides. I didn't have to separate.
Q. Okay. So you had no lines separating Blake's house --
A. I had no reason.
Q. Now, you mentioned that the levee on the southern line of Blake's present property, your son, Mr. Dubroc's present property, where is that levee situated?
A. Right on the back where there is an old fence all along blocking this property.
Q. Okay.
A. They took a dozer and pushed and elevated at least a 2 or 3-foot levee.
Q. Okay. So that 2 or 3-foot levee is the only thing, according to your knowledge, your history of the drain flow is the only thing preventing the flow from going past Blake's property?
A. Well, it has two ways to go, into the pit or it would go straight in the back.
Q. Right.
A. But when he built that levee, it couldn't go way in the back, so it put all the water on one place to go out.
Q. Okay. And again, it is your testimony that that levee on the southern line is what prevents the flow from the pasture area. Is that correct?

A. Not all of it, but a good percentage of it.
Q. Okay.
A.

BY MR. THIBODEAUX:

No further questions, Judge.

BY MR. DASPIT:

I have no additional questions, Your Honor.

BY THE COURT:

Okay Mr. Dubroc, you may step down.

(Witness complies.)

BY MR. DASPIT:

Your Honor, I could call Mr. Blake Dubroc.

BLAKE DUBROC,

HAVING BEEN CALLED TO TESTIFY, AND AFTER HAVING BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP HIM, GOD, DID DEPOSE AND SAY:

DIRECT EXAMINATION

BY MR. DASPIT:

Q. Mr. Blake, would you state your full name for the record?
A. Blake Paul Dubroc.
Q. What is your address?
A. 1669 Duchamp Road.
Q. Is that address the property where you live?
A. Yes, sir.
Q. And where you have your shop?
A. Yes, sir.
Q. Your business?
A. Yes, sir.

Q. And is that the same property that we went out to today?
A. Yes, sir.
Q. When you purchased that property -- when did you purchase that property?
A. I want to say -- I am not 100% sure. I want to say it was in the late 90's or 2000. Late 90's.
Q. Well, Mr. Dubroc, if I told you that, according to the records that were filed with the Court, you purchased that property in 1991, would that sound correct?
A. In the 90's. Yeah, I was off. I know it was in the 90's.
Q. Now, on the boundary line between your property and that of Deep South, there is a fence that starts on Duchamp Road, correct?
A. Yes, sir.
Q. Is that a wooden fence?
A. Yes, sir.
Q. And who erected that fence?
A. My father put the actual fence up back in '74.
Q. And you witnessed him put up the fence?
A. Yes, sir. I even helped.
Q. How far did that fence extend down the property?
A. It went all the way almost to where -- all the way back to where it is at now.
Q. And you re-did the fence later?
A. Yes, sir. The boards were rotten and we had to re-do it.
Q. Now, your property though extends, the property line between you and that of Deep South extends beyond that wooden fence though? It goes beyond that all the way to the back?
A. Yes, sir.
Q. Now, there is some evidence of an old barbed wire fence on the property, is there not?
A. Yes, sir.

Q. Was that old barbed wire fence your boundary line between your property and that of Deep South?
A. No, sir.
Q. What was the purpose of that fence?
A. Well, since I was a kid my father put that there and we just left it there. We never moved it over, which we should have years ago.
Q. Now, when we walked out on the property, there is a fence that is erected. There is some posts and some barbed wire that extend, I think, from your wooden fence. Is that correct?
A. Yes, sir. Yes, sir.
Q. And that extends towards the rear of the property?
A. Yes, sir
Q. Now, that fence, I think in fairness, goes close to the edge of the dirt pit, does it not?
A. It never used to, but it is now. Yes.
Q. Who put that fence up?
A. I did. My daughter and I.
Q. And when did you put that fence up?
A. A year and a half ago -- a year ago.
Q. Now, why did you put it on that particular location?
A. Because that was the pipes where we always thought the boundary lines was from Fuselier many years ago.
Q. Now, I would like to show you PLAINTIFF'S EXHIBIT NO. 1 which is a plat of survey by Mr. Breaux. You are familiar with that survey?
A. Yes, sir.
Q. In fact, this is similar to another exhibit that was introduced by the Plaintiff and Defendants for an earlier survey by Mr. Breaux?
A. Yes, sir.
Q. The lines shown -- the dividing line, the boundary line

shown on Mr. Breaux's survey, that doesn't match up with the fence that you just described that you put a year and a half ago?
A. Yes, sir.
Q. Do they match?
A. From, from what?
Q. From what Mr. Breaux has as the line, does that run even, or along with where you put your fence up?
A. It don't look like it.
Q. Now, between the pasture and where you think the line is that you put, there is a nice little side strip --
A. A little gap, yes, sir.
Q. Has that property always been overgrown?
A. No, sir. My daughter and I -- well really, since I was 12 years old we have always kept that up.
Q. So this little strip between the barbed wire fence from the pasture and where y'all thought the line was, that's something y'all maintained?
A. Yes, sir.
Q. And is this something that your dad did when he owned it way back when?
A. Yes, sir. Back in the early 70's.
Q. And he maintained that little strip up until the time that he lost it?
A. If he didn't do it, him or his workers did it.
Q. Is this something that he maintained up until the time that he lost it to the bank?
A. Yes, sir.
Q. And then you acquired it in '91, correct?
A. Yes, sir.
Q. Did you continue to maintain that little strip?
A. Even harder than ever.
Q. And why did you maintain it?

A. Because we were intending -- the old fence was bad and we had plans on moving the fence all the way up to pipe that was in the ground. The property pipe that was coming out the ground. And we saw that there were no way of putting the fence there because the ground was eroded so bad, you know. So we never figured out how to put a fence, you know, without any roping because every time we tried to dig a hole, it would just crumble down.

Q. What exactly did your father do as maintenance of that little strip between the pasture fence and what is now your fence along that pipe?

A. We'd take like those little -- I guess they called them "swing blades" back then. It was a tool with a handle on it and you put a little wire and the blade would curve. And we would cut all that with swing blades to keep it down and keep the grass down.

Q. And how often would that get done?

A. I mean I am sure we would do that once a month or once every month and a half.

Q. And that was something that you did when you were younger when your dad was the owner?

A. Yes, sir. That was part of it, yes, sir.

Q. And you maintained doing that after you acquired the property?

A. Like I said, it was even much, much harder after. I mean they had stuff that was pushed there, tires dumped there, old equipment pushed right there. We had to pay people to come with trucks and help us move out. My daughter worked on that thing for months and I'd seen her come home bleeding from that. I mean we worked extremely hard to keep it up.

Q. What has been referred to as the dirt pit, how long has that been there?

A. I wanted to say they started digging that in '98 or '99.

Q. Is it the same seize it was -- is it the same size now as it was back then?
A. It is way, way bigger.
Q. Do you think that dirt pit has affected your property?
A. Absolutely.
Q. In what ways?
A. The erosion has gone all the way into my pasture. I had horses that fell in. One of them we thought broke a leg. We had to have a vet come out. I mean it is just, you know, all around the fence line. My daughter even fell in once. We had trees falling over in my pasture that had no more roots from underground tunnels that would just fall over. We'd have to haul them out -- cut them up and haul them out. I mean we have been having all kinds of problems.
Q. How long has this been going on?
A. Really, it has probably been going on real bad for the last eight (8) years, and it seems like every time we have a heavy rain, it escalates and gets worse and worse. Just like when we had that flood -- what was it? About a month ago. We noticed it, it, it probably went another 7 or 8-foot. You know, the little talls in my pasture.
Q. Now, the water from that heavy rain and from before, where would it usually go when it would rain? Where did the water drain?
A. It used to go out to the back – it used to go out years ago to the back of my pasture and now it just stayed there. We get about 3-foot -- 2-1/2 to 3-foot of water back up the pasture and then it comes back to the front of my pasture and then it overflows back into the dirt pit.
Q. So lately when there is heavy rain or water accumulation, it stays --
A. It stays in the back of my pasture, yes, sir.

Q. Has it always stayed in the back? Or did it used to --
A. No, sir. I can remember that piece of property and that pasture, it could rain all it wanted and there was never water that would build up in there.
Q. Well, what do you think is preventing it from draining now?

BY MR. THIBODEAUX:

Your Honor, I am going to object. I don't think he has been qualified as to any engineering experience. There is no qualifications of him to testify as to the elevation of the continuous properties. He simply does not have the expertise to testify to that.

BY MR. DASPIT:

I'll re-ask the question, Your Honor.

BY THE COURT:

Okay, objection sustained.

BY MR. DASPIT: (Continuing)
Q. In your time living on that property when your father owned it up until now, when the rain would come, where would that water -- what direction would that water drain?
A. It would drain straight out the back. I mean some would go like off to the side of the sawmill, but I mean I would say 75% to 80% of it went straight out the back.
Q. Does it still drain out the back today?
A. Not a drop.
Q. Is there any obstructions in the back that you can see with your own eyes --
A. Yes, sir.
Q. -- that prevents -- that you think prevents that?

A. Yes, sir. I mean I stood on top of the levee and looked. They even had -- behind the levee they had a natural flow canal that went into the main canal that comes out into the dip in Cade, and when they dug that back dirt pit, they had back-filled it with bagasse. They completely filled up the main canal, that drain. That was all back-filled with bagasse.

Q. And how do you know about this back drain?

A. Because I was born -- I mean I was there since I was five or six years old. I mean I maintained the property on a tractor with bush hogs. I mean I cut by the main drains. I know exactly where they went.

Q. Now, the levee that you are referring to, is that the same levee that you father described?

A. The same one, yes, sir.

Q. And behind that levee, there's, there's another drainage.

A. There was, but it was covered up by bag-ass.

Q. Now, do you think that levee being there is causing any problems on your property?

A. Oh yes, sir, between that and the dirt pit. Yes, sir.

Q. And how would you describe that?

A. What's happening, like we said, the water is just sitting into the back of my pasture and can't go anywhere, and I guess it is soaking into the ground and it is making those underground tunnels and going all the way to the dirt pit, which is causing the craters. I guess you could say "small sinkholes" all over my pasture.

Q. Now, if it is determined that the dirt pit is causing the sinkholes on your property, what would you like to see done to stop that?

A. I mean I would be happy if we could get the levee down, get the water back draining, put a bulkhead to stop future damages. I would be happy with that.

BY MR. DASPIT:

Thank you, Mr. Dubroc.

I have no further questions, Your Honor.

CROSS-EXAMINATION

BY MR. THIBODEAUX:

Q. Mr. Dubroc, you testified that -- and of course you were present -- let me back up just for a minute here. You were present at the site this morning when the parties, together with of course Judge deMahy --

A. Yes, sir.

Q. -- went out to the property. Is that correct?

A. Yes, sir.

Q. So let me take you to the very rear most of the 6-foot wooden privacy fence.

A. Ok.

Q. Do you know what I am speaking of?

A. Yes, sir.

Q. Okay. You said you erected that particular fence with your father in 1974, is that correct?

A. Yes, sir.

Q. Did you hear your father's testimony that there was no dividing lines between his property and that of yours. Is that correct?

A. I don't know what he is talking. Maybe he is probably talking about in the back between the barbed wire fence and the dirt pit. That is what he meant with no dividing line thing.

Q. Right. And your father testified, after I had questioned him, that there was only one fence, and that was the old barbed wire fence behind your home. Is that correct?

A. I mean he is 80 years old with dementia. You know, he's --

Q. So we shouldn't trust your father's testimony is what you

are saying?
A. I mean he knows some things, but it would be easy to trigger it at 80 years old, you know.
Q. But he answered the questions. Certainly you were in court, weren't you?
A. Yes, sir.
Q. Okay. Was there any pressure upon him to answer these questions?
A. No, but I mean you got you know -- he misunderstood what you were asking him a little bit.
Q. Okay. So again, in terms of the wooden 6-foot wooden privacy fence, other than your statement that it was put up in '74, there is no other evidence of any fence prior to your ownership of this property, is that correct?
A. Any other fence besides the one we put up in '74? That little piece that I put up, yes.
Q. No, no. We'll get to that. We will get to the new barbed wire fence you are talking about.
A. Okay. You are talking about just the privacy fence?
Q. I am talking about the privacy fence.
A. Yes. I repaired it. It did have some rotten wood and we did change some, you know.
Q. Is it fair to say -- I mean your -- Let me just refer to PLAINTIFF'S EXHIBIT NO. 1 was the May 10th, 1991 Cash Sale where you purchased 2.79 acres of the property today in question. Is that correct?
A. Yes, sir. And the fence was there when I purchased it.
Q. Okay. And again, obviously you could not have placed as your own fence prior to 1991, is that correct?
A. That's right.
Q. Now, let's get to the new barbed wire fence. Again commencing at the very end, the rear most of the privacy fence,

you testified that you put up the present new barbed wire fence approximately a year or a year and a half ago. Is that correct?
A. Yes, sir.
Q. And since then, you put "no trespassing" signs up on that new barbed wire fence. Is that correct?
A. Yes, sir.
Q. Okay. And you again were present when Mr. Breaux indicated that the property line, according to your plat of survey attached to your sale, does not come in that area. Is that correct?
A. He said he wasn't sure where it came, but he said he didn't think it went all the way to the fence.
Q. Okay. And again, it is fair to say that was, other than the wooden fence that we've heard your testimony, there was no other fence between your property and that of the Dubroc's other than the 6-foot privacy fence. Is that correct?
A. Except for the little piece that I put, yes, sir.
Q. Yeah. That you put about a year or a year and a half ago.
A. Yes, sir.
Q. Okay. Now, let's go to what I will refer to as the old barbed wire fence.
A. Okay.
Q. What your father testified to was perhaps a strand or two of barbed wire. Is that correct?
A. Yes, sir. It was whenever it was originally was there, I was a little boy and I can remember the fence was in a real bad shape. There was only a few strands of barbed wire. And he put in a few T-posts and we repaired it because he had bought me a horse and we wanted to keep it in there.
Q. Right.
A. So yeah, that fence was there when he bought in '72.
Q. In '72. And that fence went from the rear of your home, or probably his home at that time --

A. (Affirmative response.)
Q. -- all the way to your southern boundary, is that correct?
A. All the way to the back. Where you looked in the back where the hog pen was.
Q. Yes, sir.
A. It was all the way to the back.
Q. Yes, sir. Yes, sir. So that old barbed wire fence went from the hog pen all the way directly up to your home site, is that correct?
A. Yes, sir.
Q. And there were no other fences between that old barbed wire fence and the dirt pit, is that correct?
A. There were no other fences, no.
Q. Now, you mentioned that you have been maintaining, is that correct, for seven years to eight years the strip between the old barbed wire and the dirt pit?
A. Yes, sir. Well, I mean probably a little further than that because the dirt pit done changed so much more closer to my fence over the years, you know. But I have been maintaining for a lot longer than that. Since I was young, yes, sir.
Q. And you mentioned by your "maintenance", you mean you have been keeping the grass down, I think that that's what you meant?
A. Yes, sir. I mean we go in there with weed eaters, we go in there with lawn mowers. I mean we even had to get dumpsters, we had to take tractors. I even turned my tractor over in a sinkhole. I mean we constantly keep that up.
Q. Okay. And it is your testimony you have been keeping that up for the past seven years or eight years, is that correct?
A. Longer than that.
Q. And you have never constructed any construction on that strip?

A. No construction on it, no, sir.
Q.

BY MR. THIBODEAUX:

No further questions, Your Honor.

BY THE COURT:

Okay.

RE-DIRECT EXAMINATION

BY MR. DASPIT:

Q. Just to clarify, Mr. Blake: We were at the property this morning with the Judge. There was a strip of land that basically was between the old barbed wire fence and the dirt pit, which has a fence that you admit that you erected yourself.
A. Yes, sir.
Q. And you erected that fence on what you thought was your boundary line between that and the Deep South property?
A. Exactly. Yes, sir.
Q. And the reason you think that is the boundary line is because that is where your dad was maintaining?
A. Yes, sir.
Q. And that's where you continued to maintain?
A. And that's where the pipes were in the ground we always thought was the boundary. Yes, sir.

BY MR. DASPIT:

I have nothing further, Your Honor.

BY MR. THIBODEAUX:

No further questions, Judge.

BY THE COURT:

You may step down.

(Witness excused.)

BY MR. DASPIT:

Your Honor, I call Miss Joelle Dubroc.

JOELLE DUBROC,

HAVING BEEN CALLED TO TESTIFY, AND AFTER HAVING BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP HER, GOD, DID DEPOSE AND SAY:

DIRECT EXAMINATION

BY MR. DASPIT:

Q. Miss Joelle, would you please state your full name for the record?

A. Joelle Dubroc.

Q. And what is your address, ma'am?

A. 1669 A. Duchamp Road.

Q. Do you live near the property that we have been discussing?

A. Yes, I do.

Q. Are you often on that property that we have been discussing?

A. Every day.

Q. You are familiar with the configuration of property; correct?

A Yes.

Q Now, your grandfather and your father testified as to how the water would drain on the property.

A. (Affirmative response.) The natural flow.

Q. Are you familiar with how the water drained?

A. Yes.

Q. How old are you?

A. 33. Yeah, 33.

Q. And as long as you can remember, how has the water

drained on that property?
A. It drained all the way in the back. All our water from the front would go straight to the back off of the property. The past few years, it is staying in the back since they have the levee.
Q. Okay. And the dirt pit, it is the same size --
A. No.
Q. -- as when they first did it?
A. No.
Q. What have you experienced as what you consider a result from the dirt pit? What have you experienced on the property?
A. Oh God, I have a farm, which I said earlier, "Welcome to my farm." My animals, I have two horses that got hurt from sinking in holes. I'm back there every day tending to things and I find new sinkholes. I can't cut the grass like I usually do with a lawnmower. I have to use a weed eater for everything. I mean it is just getting worse. It is getting further and further into our property.
Q. Now, the old barbed wire fence, as far as you know, was the boundary line?
A. No, it was just a form line to hold our animals in.
Q. Now, your father that that fence that is closer to the dirt, that erected.
A. Yes, we did.
Q. When you say "we", what do you mean "we"?
A. I helped him put up that little stretch of barbed wire from the wooden fence to the pole in the ground. Me and him put that fence up together.
Q. And why did y'all put it -- why did y'all locate where it is?
A. Well, from what I was gathering, to close in our property from pole to pole because we had problems with people trespassing on it as well.
Q. Now, between that fence that y'all put and the old fence, has

that property always been clear from Duchamp all the way back, or was it ever overgrown?

A. It was never overgrown. It was always cleaned out, and the reason why it was cleaned out is because Lois had trouble with coyotes, they had trouble with different things coming try to kill my geese, come and try to kill chickens. So we always had to maintain it.

Q. So as long as you can remember?

A. As long as I can remember.

Q. Would you say that there are more sinkholes today than when this suit was filed?

A. Absolutely. I have pictures from the beginning to now.

Q. The recent flood, did a lot of water stay on the property?

A. Yes. I have pictures as well.

Q. And again, where do you think the water should have gone --

A. Straight to the back --

Q. -- that you remember when it did.

A. It supposed to go straight to the back off of our property into a canal that goes in the back to the dip off of 182.

Q. Now, the levee that your father and your grandfather referred to, is that located on your property?

A. No.

Q. Whose property is it located on?

A. Deep South.

BY MR. DASPIT:

I have nothing further, Your Honor.

BY THE COURT:

Mr. Thibodeaux?

CROSS-EXAMINATION

BY MR. THIBODEAUX:

Q. Miss Dubroc, you mentioned that a portion of the property, actually referring to it as "the strip" --

A. (Affirmative response.)

Q. -- between the old barbed wire fence and the edge of the dirt pit --

A. Yes --

Q. -- you stated that you and your father have always kept that property clear. Is that correct?

A. Yeah. Me more than him now that he is getting older.

Q. Okay. What do you mean by "clear"?

A. The shrubs on the ground, the chicken trees that shouldn't be growing there, the nuisance trees that shouldn't be there. Just cleaning it so I have a visual -- a clear visual.

Q. Would it be fair to say that you are testifying that it would have been cleared of brush and undergrowth also?

A. Yes.

Q. And since when?

A. Well, he has been maintaining it, and I started really maintaining it, God, like six years and really getting into it recently.

Q. Would it be fair to say that since this lawsuit was filed, May of 2014 was when you began clearing this strip?

A. No, I always cleared it. I really got into it since it started because we had problems with wisteria bushes growing everywhere, so we had to kill the wisteria. That is probably the pictures that you are about to show with the vines. Those were horrible. We had to get rid of all that. And there's a lot of stuff that I had to get rid of that my father wasn't capable of doing that, I did.

Q. And you cleared all those prior to the institution of this suit?

A. Well, I mean I am not sure of the exact date.
Q. So you are not certain if you didn't start clearing that after this suit was filed?
A. No. I always cleared the property. I am talking about the certain wisteria bush that I had trouble with.
Q. That you did not clear?
A. No, I did clear it. As you could tell, it wasn't there today.
Q. And that was prior to, again, the filing of this suit?
A. Yes, and afterwards.
Q. And again, as your father testified, it's your opinion that the flow of the water at the rear of your property would get prevented by having the levee?
A. Yeah. That was actually told to us by an engineer, so yes.
Q. That that would cure the problem?
A. Uh-hum. (Affirmative response.)

BY MR. THIBODEAUX:

Nothing further, Your Honor.

BY MR. DASPIT:

I have nothing else for this witness, Your Honor, and no other witnesses.

(Witness excused.)

BY THE COURT:

Okay. At this time we will take a short recess.

(Short recess.)

BY THE COURT:

Mr. Thibodeaux?

BY MR. THIBODEAUX:

We call Mr. Carter, Your Honor.

CLARENCE J. CARTER, JR.,
HAVING BEEN CALLED TO TESTIFY, AND AFTER HAVING BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP HIM, GOD, DID DEPOSE AND SAY:

DIRECT EXAMINATION
BY MR. THIBODEAUX:

Q. Mr. Carter, please give your address for the record?
A. 9494 Silverthorn Road, Largo, Florida.
Q. And could you explain to the Court your relationship to Deep South Forest Products, Inc.?
A. Secretary-Treasurer and married to the President.
Q. And married to the President. Your wife's name would be?
A. Melanie Haynes.
Q. And she is one of the owners of Deep South Forest Products, Inc.?
A. Yes.
Q. And the other co-owner is?
A. Her sister, Shannon Haynes.
Q. Okay. In your capacity as Secretary-Treasurer and of course a dutiful spouse to your wife, did you have occasion to visit the property in question?
A. Yes.
Q. And when was it that you would estimate was your first visit to the property?
A. June -- well, the first time I visited was right after Melanie's father had passed away in April. Then there was an opportunity to go out just to see because he had several properties that he owned.
Q. Okay. And what year was that? April of what?
A. April of 2014. And then we were back again, I think it was

around June of 2014.
Q. And what was the reason from coming once again to the property in June of 2014?
A. Our information was that we were in a boundary dispute that had been filed and so we wanted to come back and investigate what was going on.
Q. And that suit was filed in May of 2014?
A. Yes.
Q. So it is fair to say that two months after the suit was filed, you and your wife, and correct me if I am wrong, both of you came down to investigate the property. Is that correct?
A. That is correct.
Q. And specifically what area of the property were you concerned with?
A. The fence line between the Dubrocs and Deep South.
Q. And of course you are familiar with that line, correct?
A. Yes.
Q. And you were present out in the field this morning when the Court, together with the parties, viewed again the contiguous or the boundary line between the parties. Is that correct?
A. Yes, I was.
Q. In June, in June of 2014 when you investigated, did you happen to take photographs of the subject property?
A. Yes, I do.
Q.

BY MR. THIBODEAUX:

Your Honor, we previously stipulated so that I can save a ton of time --

BY THE COURT:

Yes.

BY MR. THIBODEAUX:

-- I will only minimal explanation of the pictures themselves, but they were all taken by Mr. Carter.

BY THE COURT:

All right.

BY MR. DASPIT:

That is correct, Your Honor.

BY THE COURT:

And the stipulation is that he took the pictures and they accurately represent what was there at the time.

BY MR. THIBODEAUX:

Yes, Your Honor. Yes, sir.

BY MR. DASPIT:

That is correct, Your Honor.

BY MR. THIBODEAUX: (Continuing)

Q. I am going to show you what has been marked June, 2014, a photograph. Do you recognize that photograph?

A. Yes, I do.

Q. Where exactly does this photograph depict? What area?

A. At the end of the privacy fence. That would be just south of the privacy fence between the Dubrocs' property and Deep South.

What is the condition of the property in terms of overgrowth there?

A. Very overgrown. Very thick overgrown.

Q. Is that how the property looked when you visited today?

A. No.

BY MR. THIBODEAUX:

We would offer, file, and introduce as DEFENDANT'S EXHIBIT NO. 4, Your Honor.

BY THE COURT:

Let it be marked and entered.

BY MR. THIBODEAUX: (Continuing)

Q. On that occasion and other occasions, and I forget the dates when you took photographs, there was more than one occasion that you viewed the property, is that correct?

A. Yes.

Q. On each of those occasions you photographed the property, is that correct?

A. That is correct.

Q. I am going to show you what I refer to as DEFENDANT'S EXHIBIT NO. 5. This particular photograph is dated September 14th, 2015. Do you recognize that photograph?

A. Yes.

Q. And again, what is the condition of the property at the rear of the privacy fence?

A. It has been cleaned up.

Q. The overgrowth which is shown in DEFENDANT'S EXHIBIT NO. 4 has been --

A. Has been removed.

BY MR. THIBODEAUX:

We offer, file, and introduce this photograph as DEFENDANT'S EXHIBIT NO. 5.

BY MR. DASPIT:

No objection.

BY THE COURT:

Let it be marked and entered.

BY MR. THIBODEAUX: (Continuing)

Q. I am going to show you a photograph which I will refer to as DEFENDANT'S EXHIBIT NO. 6. Again, it is an additional photograph where you have actually listed at the very top of the photograph a caption which describes what the photograph depicts.

A. Correct.

BY MR. THIBODEAUX:

What I'd like to do, Your Honor, for each one of these Defendant's Exhibits, each one has its own caption at the top. I'll just introduce them into evidence.

BY THE COURT:

Okay.

BY MR. THIBODEAUX:

Consecutively. Again, Your Honor, we would offer, file, and introduce each of those as DEFENDANT'S EXHIBIT NO. 6 thru 16, Your Honor.

BY THE COURT:

Okay.

BY MR. THIBODEAUX: (Continuing)
Q. And finally, Mr. Carter, the last I will introduce through you - again, do recognize this photograph?
A. Yes, I do.
Q. And what does this particular photograph depict?
A. It shows the old pasture fence line.
Q. What everyone has been referring as the old barbed wire/astral fencing?
A. Correct.
Q. And where exactly is that barbed wire line by road take you? Is that the rear of the property or the front end of the property?
A. Toward the rear.

BY MR. THIBODEAUX:
We offer, file, and introduce DEFENDANT'S EXHIBIT NO. 17, Your Honor.

BY THE COURT:
Let it be marked and entered.

BY MR. THIBODEAUX:
We have no further questions, Your Honor.

BY MR. DASPIT:
I have no questions.

BY THE COURT:
Okay sir, you may step down.
(Witness excused.)
BY MR. THIBODEAUX:
We call Mr. Kevin Gauthier, Your Honor.

KEVIN GAUTHIER,
HAVING BEEN CALLED TO TESTIFY, AND AFTER HAVING BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP HIM, GOD, DID DEPOSE AND SAY:

DIRECT EXAMINATION
BY MR. THIBODEAUX:

Q. Mr. Gauthier, please give your residential address for the record?

A. 1675 Duchamp Road, Broussard, Louisiana.

Q. What is your age, Mr. Gauthier?

A. I'm 45.

Q. And your residence at 1675 Duchamp Road, where is that located as concerns Mr. Dubroc's property?

A. Next door.

Q. So you live -- if I were standing on Duchamp Road looking at your property, your residence is the right of Mr. Dubroc's property, correct?

A. Yes.

Q. How long have you resided there?

A. Off and on since 1991.

Q. All righty. Anyone else lives there with you?

A. Yes. My mother.

Q. And her name?

A. Victoria Lemoine.

Q. And any relationship between your mother, yourself, and Miss Haynes, or her father?

A. Yes. It is kind of like step-families.

Q. Okay, explain that a bit further for the Court.

A. Okay. My mom and Mr. Haynes were in a relationship for years and basically raised me and my brothers, so he's like my

step-dad.
Q. Okay. So you are familiar with the property in question owned by Deep South Forest Products, correct?
A. Yes, sir.
Q. Since 1991 that you have resided there, have you preformed any activities on the property? The Deep South Forest Products property?
A. Yes, sir. I have worked for them on occasions.
Q. And you worked for Mr. Haynes, is that correct?
A. Yes, sir.
Q. And for the record, his first name was?
A. Raymond.
Q. Haynes?
A. Haynes, Jr. Yes, sir.
Q. His daughter is Melanie Haynes Carter, is that correct?
A. Yes, sir.
Q. And in terms of the property next door, that is where Mr. Blake Dubroc presently resides, were you familiar with that property also?
A. Yes.
Q. And how is that?
A. He lived next door.
Q. On occasion, would you have opportunities to walk the property of again Deep South Forest Products?
A. Yes, sir.
Q. Why would you do so?
A. Well, when I worked there, I was constantly back and forth getting lumber.
Q. Okay. So you actually worked in the lumber mill that was there?
A. Yes, sir.
Q. And Mr. Dubrocs' father, Mr. Davis Dubroc, initially

started the mill. Is that correct?
A. Yes, sir.
Q. And Mr. Haynes took over after he purchased the property, is that correct?
A. Yes, sir.
Q. And you aided him in those duties?
A. Yes, sir.
Q. And you have heard testimony, of course, Mr. Haynes passed away in 2014, is that correct?
A. Yes, sir.
Q. And since that date, again, you and your mother continue to reside on the property?
A. Yes, sir.
Q. And since that date, again, have you traversed the property? Do you regularly traverse the property?
A. Yes, on occasion.
Q. And again, you were present with us this morning when we out to the properties, your homesite, together with the. Dubroc's. You of course saw the parties where we met at the very southernmost end of the privacy fence, is that correct?
A. Yes, sir.
Q. Okay. And again, you were present in court during everyone's testimony, is that correct?
A. This is correct.
Q. And you have heard that the testimony is the suit we are present here today was commenced in May of 2014?
A. Yes, sir.
Q. And at that particular time, at this particular point, at the end of the southernmost end of the 6-foot wooden privacy fence, could you describe the condition of the property there?
A. It is fairly clean now and it has some erosion.
Q. And what was the property like in 2014 in that area?

A. It was overgrown.
Q. I'm sorry?
A. It was overgrown.
Q. Okay. And could you see from your property, your homesite, can you see the pasture behind Mr. and Mrs. Dubroc's home?
A. Now we can.
Q. Explain to the Court about now you can.
A. With all the weeds and everything cleared out, you can see across the fence into the pasture.
Q. Is it your testimony in May of 2014 could you, from your home, look and see the pasture behind Mr. Dubroc's home?
A. No, sir.
Q. Okay. Do you know if they had, at that time, horses there?
A. Yes.
Q. Okay, how was that?
A. You could hear them.
Q. I'm sorry.
A. You could hear them whinning.
Q. Could you see that from your homesite?
A. No.
Q. At any time after that particular lawsuit was filed, have you noticed any activity by either of the parties, either of the parties to this suit again directly behind the 6-foot wooden privacy fence?
A. No.
Q. Okay. Has there been any clearing activities by either of the parties?
A. Not recently. They have been keeping it clean.
Q. Okay. Who has been keeping it clean?
A. Mr. Dubroc.
Q. Since when?
A. Since around 2014 - 2015.

Q. And in this area which was cleared by the Dubrocs around 2014, were there any fences beyond the present 6-foot wooden fence?
A. No.
Q. Okay. Did you ever have any occasion to witness what has been referred to as the pasture fence?
A. Yes.
Q. Is that the only other fence besides the 6-foot wooden fence that you are aware of?
A. Yes.
Q. As being anywhere's near either of the parties' common boundary?
A. I wouldn't -- until they had the survey, I always thought that was the boundary.
Q. Okay. The old pasture fence?
A. Yes, sir.
Q. Have you seen any erection of new fences in the area between the dirt pit and the old barbed wire fence?
A. Yes, sir.
Q. Explain that to me.
A. A barbed wire fence, a partial barbed wire fence, and a little two sheets of plywood.
Q. And who did you recognize placing that up?
A. Mr. Dubroc.
Q. And when was that?
A. I'd say 2014, 2015.
Q. All right. And that was the first time that you noticed this new barbed wire fence, is that correct?
A. Yes, sir.
Q. Have you ever been confronted by anyone concerning these newly installed fences?
A. Not personally, but he put up some "no trespassing" signs.

Q. Does that concern you?
A. Well, I mean if it is his property, I won't go on his property. But I mean they said they didn't know what the boundary lines were.
Q. And those, those "no trespassing" signs were placed up with the new barbed wire fence, is that correct?
A. Yes, sir.

BY MR. THIBODEAUX:

No further questions, Your Honor.

BY MR. DASPIT:

I have no questions, Your Honor.

BY THE COURT:

All right sir, you may step down and you are free to leave, if you wish.

(Witness excused.)

BY MR. THIBODEAUX:

We call Miss Melanie Haynes, Your Honor.

BY THE COURT:

Okay.

MELANIE HAYNES,

HAVING BEEN CALLED TO TESTIFY, AND AFTER HAVING BEEN DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP HIM/HER, GOD, DID DEPOSE AND SAY:

DIRECT EXAMINATION

BY MR. THIBODEAUX:

Q. Miss Haynes, would you please give you complete name for the record?

A. Melanie Renee Haynes.

Q. And your residential address?

A. 9494 Silverthorn Road, Largo, Florida.

Q. And you, of course, participated in the court proceedings. You heard your husband, Clarence Jack Carter's testimony concerning that you are one of the two children of Mr. Raymond Haynes. Is that correct?

A. That is correct.

Q. So you, together with your sister, I believe it is Shannon Haynes?

A. That is correct.

Q. Are the two and only owners of Deep South Forest Products, is that correct?

A. Yes.

Q. And again, you came out, you were present when we went out to the field this morning with the Court. Did you take notice of the subject's 6-foot wooden fence?

A. Yes.

Q. And again, your husband testified and he introduced photographs which he took. Were you present with him when he took those photographs?

A. Every time.

Q. Every time. And again, his testimony was the very first photographs were June of 2014. Is that correct?

A. Yes, that is correct.

Q. And again, going back to the 6-foot wooden privacy fence, the southerly most boundary that is the rear-most boundary thereof, at that time June of 2014 what did you notice of the area

directly behind the 6-foot privacy fence?
A. Well, it was so grown up at that point you couldn't even see the ground to be able to walk. We had to kind of move things out of the way and try to figure out a way to go through to where we could actually see where the pit was. You couldn't even see the pit.
Q. Was it possible to traverse, walk through that area?
A. With difficulty, breaking branches and moving things out of the way. I was able to get to one side of the pit and actually it was more like on the edge of the pit was the least path of least resistance.
Q. And again, your husband introduced photographs, recent photographs depicting those areas have been cleared, is that correct?
A. That is correct.
Q. And in those photographs there is also depicted various additional fencing besides the 6-foot privacy fence and the old barbed wire pasture fence.
A. Yes.
Q. Explain briefly to the Court each occasion that you came and what you noticed with these new fence materials.
A. Well, every time we came it seemed like there was something different. We would come and the plywood was put up extending from the privacy fence. And then there was a string, I think, to begin with. And then as we came back -- we would come back probably once every six months or so, then I noticed that the old pasture fence at some point -- I call that the "old, old fence" -- had been removed and actually a new old fence had been constructed and was moved over just a little bit. That wasn't -- it wasn't a whole lot. And then a barbed wire fence had been put up extending from the plywood. So there was two barbed wire fences and a number of strings in between

because there was also a string at one of the visits that from the surveyor that the Dubrocs had come out and had survey.

Q. And the photographs will depict, of course, the actual location of these new fencing and fence materials, but of course some of those fencing and fence materials situated on property to the west of Mr. Breaux's survey line?

A. Absolutely.

Q. And were you ever notified or requested permission to place those fence materials on your property?

A. No.

Q. And those property -- those fences and fence materials, of course, are to the extent today that they exist all the way to the edge of the dirt pit, is that correct?

A. Yes.

Q. And that would be the new, new barbed wire fence, is that correct?

A. Yes. The new, new.

Q. So for the past two years you have been prevented from utilizing your property with these fences and fence materials, is that correct?

A. Well, we weren't going to do anything in that area because we were in the lawsuit, so we didn't feel like it was appropriate to alter anything. So we were surprised when we would come each time and something else had been, it seemed like done, or cleared. As a matter of fact, I think clearing out all that vegetation probably was, you know, a detriment if you are worried about water drainage.

Q. And again, obviously, one of your requests besides the issues of trespass is to have those fences and materials removed from your property. Is that correct?

A. Yes.

Q. And that is what you are asking the Court grant to you,

together with the trespass issue. Is that correct?
A. Yes.

BY MR. THIBODEAUX:

We have nothing further, Your Honor.

BY MR. DASPIT:

I have no questions, Your Honor.

BY THE COURT:

You may step down.

(Witness excused.)

BY MR. THIBODEAUX:

We have nothing further, Your Honor.

BY THE COURT:

Okay. Rebuttal?

BY MR. DASPIT:

No, Your Honor. It is not necessary.

BY THE COURT:

Again, let's take a short recess.

(Short recess and then Court resumed.)

BY THE COURT:

I will deal with the easiest issue first. The boundary line is that which is established and as shown in DEFENDANT'S EXHIBIT NO. 1, which is the survey of M. J. Breaux. That survey and the inspection on site showed that there was some fencing

placed by the Dubrocs on the property on the side of the property line -- on the Deep South side of the property line. That will have to be removed or moved over to the property line.

There is a request for damages for them putting that up. I have heard no evidence that there was any monetary loss suffered by the corporation, so I will not award any damages -- any monetary damages.

With regard to the levee, even though there was no technical evidence regarding how the property drained, I think the lay testimony of people who have been on that property for quite some time is sufficient to establish that the water naturally drained to the south and to the east, and that the construction of a levee to the south of the property obstructed that drain.

Article 655 of the Civil Code establishes that an estate situated below is bound to receive the surface water that flow naturally from the estate situated above unless an act of man has created the flow. In other words, naturally the water flows that way, therefore the property which is now owned by the Dubrocs has a servitude of drain onto that property. A levee was constructed. The testimony is that it was constructed by Deep South or their employees, however, if a servitude is not used for ten (10) years, it is lost. The levee was constructed prior to May 16th, 2004, therefore, the servitude of drain has been lost.

The most difficult problem is the pit. That is governed by Civil Code Article 667 which provides that, "Although a proprietor may do with his estate whatever he pleases, still he cannot make any work on it which may deprive his neighbor of the liberty of

enjoying his own, or which may be cause for any damage to him. However..." Before I get to the "however", I find that digging the pit has caused damage to the adjacent property and continues to do.

The "however" is this: "However, if the work he makes on his own estate deprives his neighbor of enjoyment or causes damage to him, he is answerable in damages only upon a showing that he knew, or in the exercise of reasonable care should have known, that his work would cause damage, and that the damage could have been prevented by an exercise of reasonable care and he failed to exercise such reasonable care."

There was no evidence that Deep South knew that digging a pit would cause damage to the adjacent property and I have not heard sufficient evidence to establish that they should have known that this damage would occur to the adjacent property. We had an engineer out there that told us that, but I don't know that Deep South can be expected to know what the engineer knew. Therefore, I will dismiss the claim of the Dubrocs for injunction.

Would you give me the bills for the surveyor?

(Clerk complies.)

BY THE COURT:

I'll set the expert witness fee of Michael Breaux in the amount of $2,500.00. That fee is to be paid equally between the parties. The other court costs are to be paid by the Dubrocs.

STATE OF LOUISIANA **(Rev. 1/1/2013)**

PARISH OF ST. MARTIN

REPORTER'S CERTIFICATE

I, SHERRY A. BAYARD, Official Court Reporter for the 16th Judicial District Court, Parishes of St. Mary, Iberia, and St. Martin, of the State of Louisiana, employed as a court reporter for the 16th Judicial District Court, State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that this testimony was reported by me in the stenomask method, was prepared and transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding, that the transcript has been prepared in compliance with the transcript format guidelines required by statute or by the rules of the board or by the Supreme Court of Louisiana, and that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

This certificate is valid only for a transcript accompanied by my original signature and official required seal on this page.

IN WITNESS WHEREOF, I have affixed my official signature this **24TH** day of **January, 2017** at New Iberia, Iberia Parish, Louisiana.

Sherry A. Bayard
Official Court Reporter

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JAN 25 2017

CLERK OF COURT
IBERIA PARISH

NOTICE OF FUNDS DUE

DUBROC, BLAKE - ET AL

Versus

DEEP SOUTH FOREST PRODUCTS INC

Case: **081472**
Division: B
16th Judicial District Court
Parish of St. Martin
State of Louisiana
Tax ID # 726001272

20TH day of JAN, 2017

TO:
MICHAEL J. DASPIT
MICHAEL J. DASPIT
107 CLAIBORNE ST.
ST. MARTINVILLE, LA 705820000

We are holding your pleadings entitled: TRANSCRIPT for a deposit of $226.00.

Your attention is also called to portion of R.S. 13:842 which states as follows: Whenever the costs have exhausted the amount of the original advance deposit, the Clerk may refuse to perform any further function in the proceeding until the additional costs for the function have been paid, in accordance with the fees set forth in R.S. 13:841.

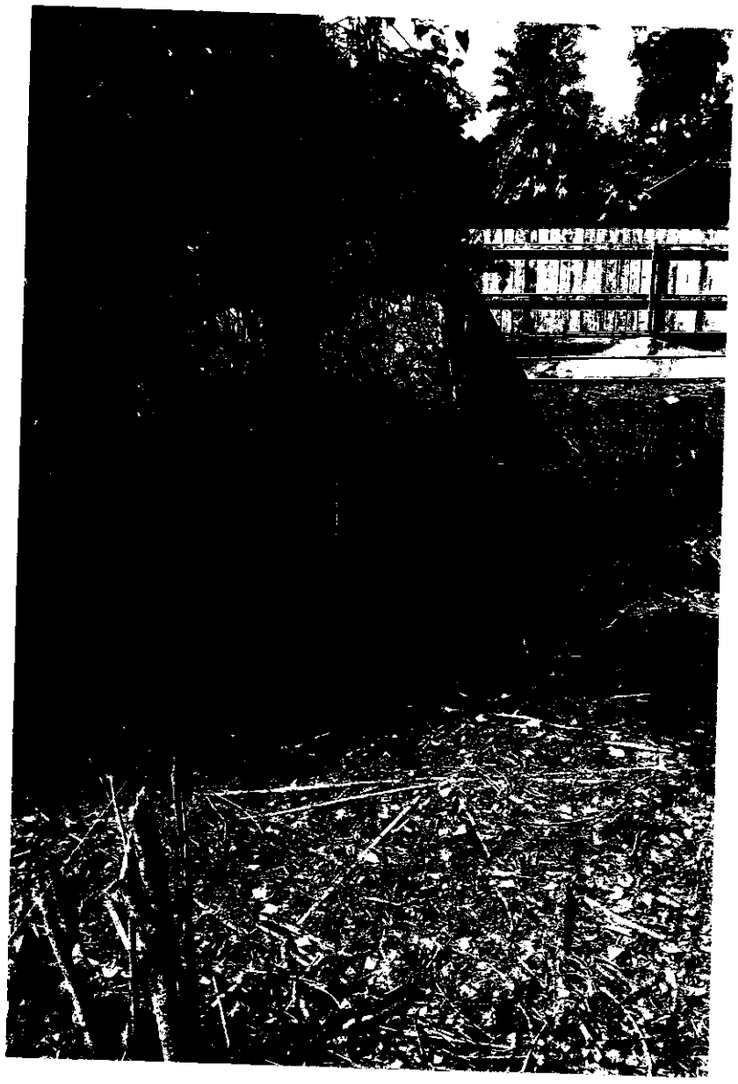
Please return this statement with your payment in order that we may process your pleadings.

Deputy Clerk of Court
St. Martin Parish
P.O. Box 308
St. Martinville, LA. 70582

[RETURN]

September 2014

String line placed by Plaintiffs along dirt pit



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[redacted]

September 2014

Old barbed wire fence remains and orange string line in accordance with Plaintiffs', Aldon A. Leblanc's, survey also erected

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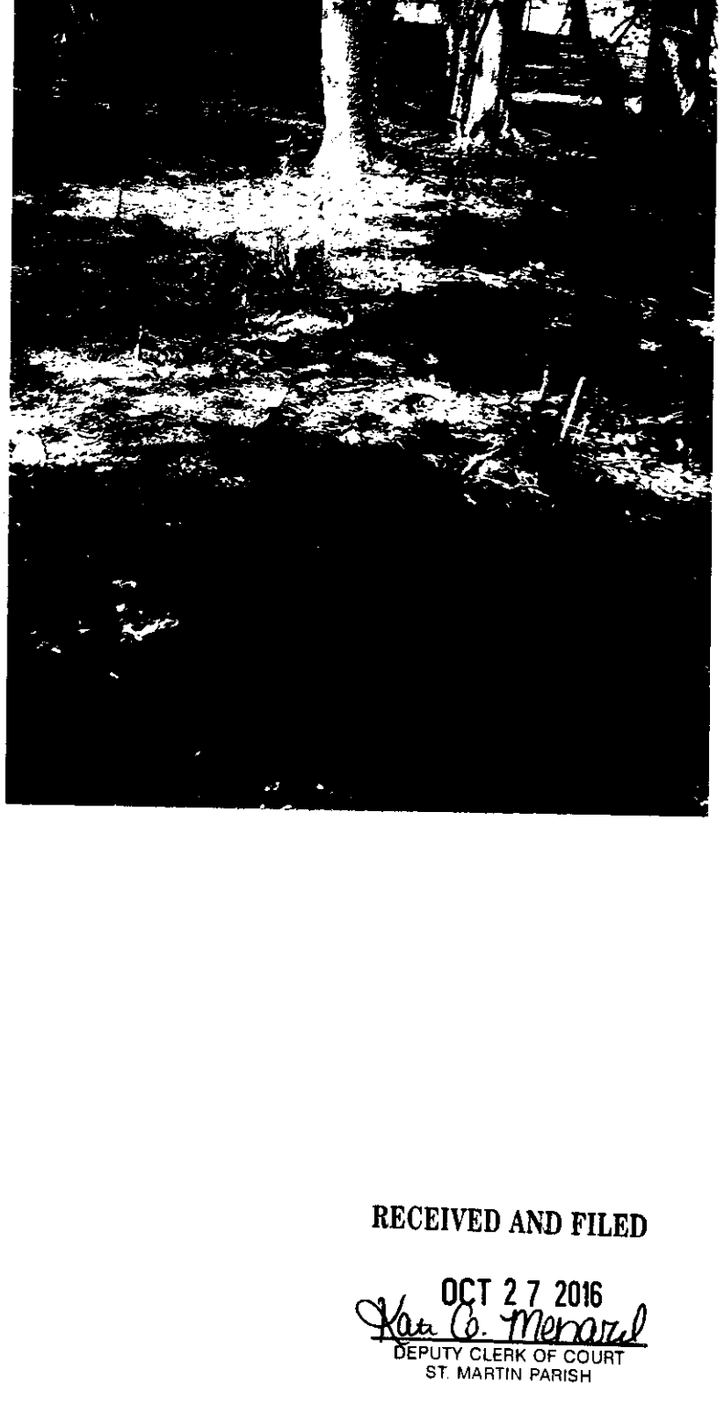
September 2015

New barbed wire fence replacing old barbed wire fencing with orange string line in accordance with Plaintiffs' Aldon A. Leblanc's survey, removed



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ST. MARTIN PARISH

September 2015

Barbed wire fence constructed by Plaintiffs along dirt pit
With "No Trespassing" sign erected by Plaintiffs

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Kara C. Menard
DEPUTY CLERK OF COURT
ST. MARTIN PARISH

September 2015

Barbed wire fence constructed by Plaintiffs along dirt pit

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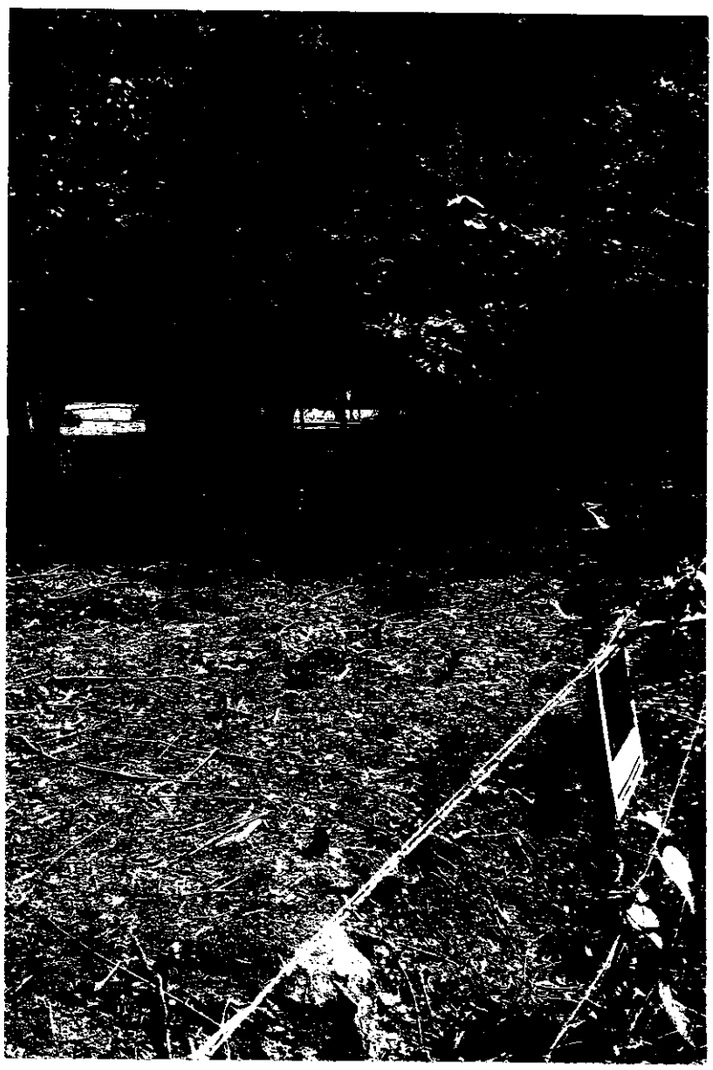
ST. MARTIN PARISH

September 2015

Removal by Plaintiffs of two white string lines along dirt pit and erection by Plaintiffs of new orange string line along border of dirt pit



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September 2014

Back corner – hog pen

Plaintiffs moved back line of old barbed wire fenceby moving line to their surveyor's, Aldon A. Leblanc's, line and then placed an orange string line

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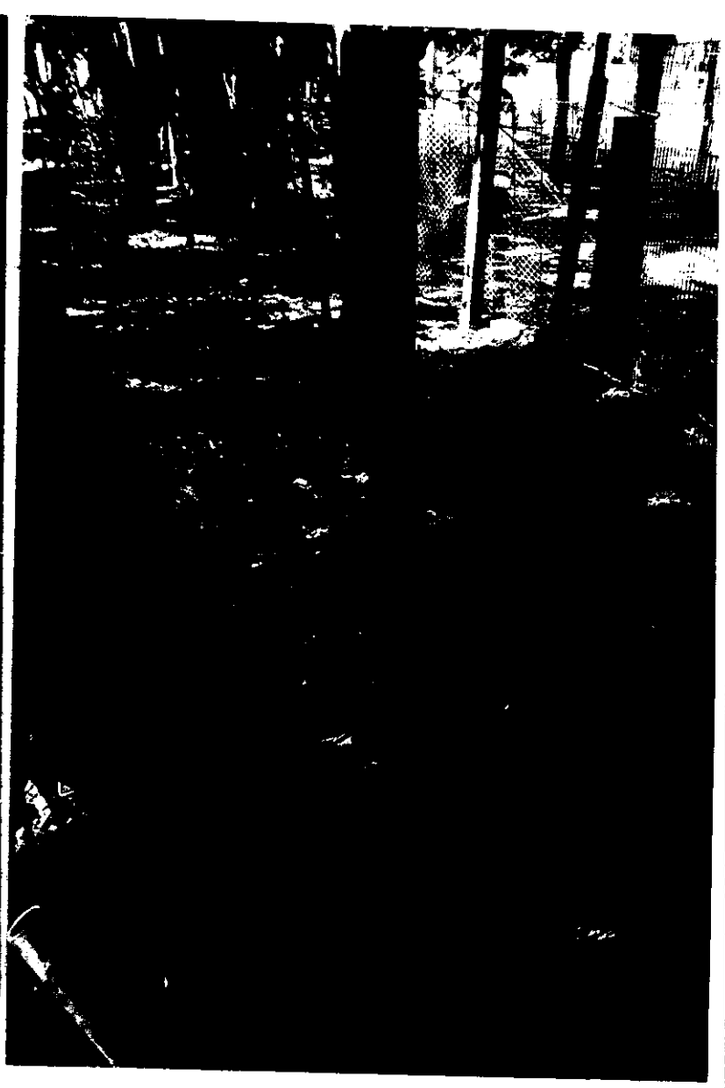
DEPUTY CLERK OF COURT

September 2015

Back corner – hog pen

Plaintiffs rebuilt old barbed wire fence with new barbed wire fence and left their surveyor's, Aldon A. Leblanc's, boundary line as shown by orange string line



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ST. MARTIN PARISH

September 2014

Orange string line replaced by line along dirt pit

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ST. MARTIN PARISH

February 2015

Orange string line in accordance with Plaintffs', Aldon A. Leblanc's, survey removed and replaced by two white string lines

[redacted]

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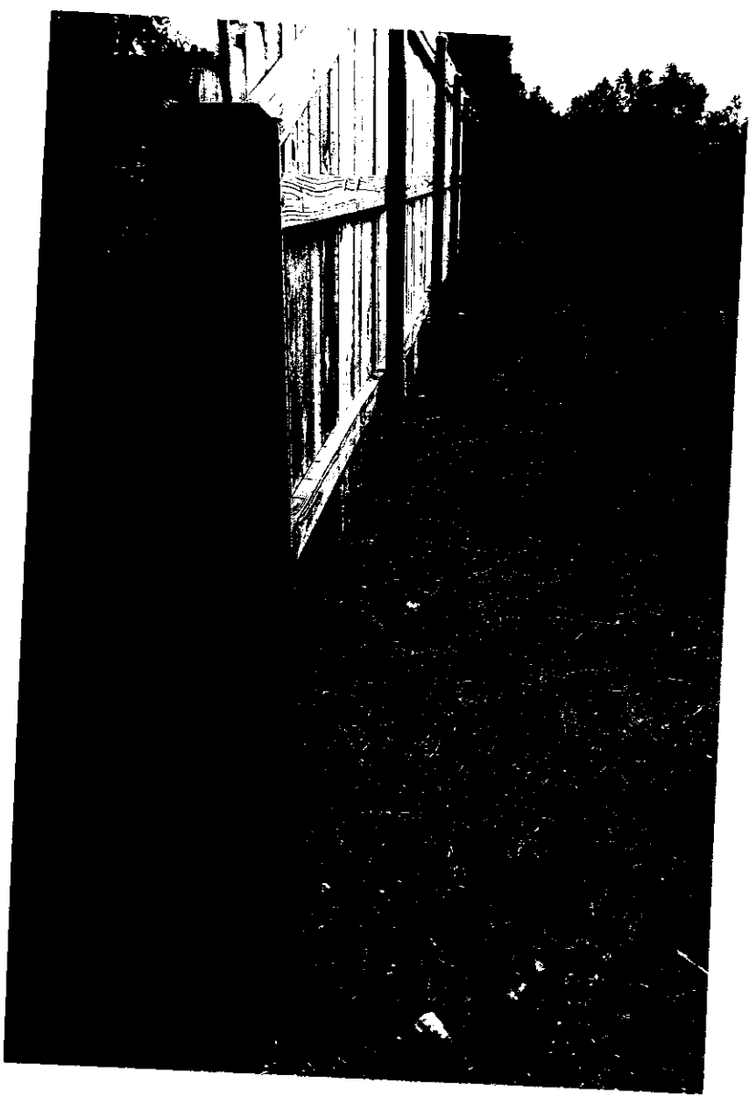
ST. MARTIN PARISH

September 2014

New wooden fence constructed by Plaintiffs in original location at frontage of Plaintiffs' and Defendant's properties



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Kara C. Menard

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