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199 VA 530

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Record No. 4724

In the
Supreme Court of Appeals of Virginia
at Richmond

VIRGINIA S. SHORES, ET AL., ETC.

v.

D. B. STOUT, ET AL.

FROM THE CIRCUIT COURT OF CUMBERLAND COUNTY

RULE 5:12—BRIEFS.

§5. NUMBER OF COPIES. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. SIZE AND TYPE. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

H. G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

199 VA 530

RULE 5:12—BRIEFS

§1. Form and Contents of Appellant's Brief. The opening brief of appellant shall contain:

(a) A subject index and table of citations with cases alphabetically arranged. The citation of Virginia cases shall be to the official Virginia Reports and, in addition, may refer to other reports containing such cases.

(b) A brief statement of the material proceedings in the lower court, the errors assigned, and the questions involved in the appeal.

(c) A clear and concise statement of the facts, with references to the pages of the printed record when there is any possibility that the other side may question the statement. When the facts are in dispute the brief shall so state.

(d) With respect to each assignment of error relied on, the principles of law, the argument and the authorities shall be stated in one place and not scattered through the brief.

(e) The signature of at least one attorney practicing in this Court, and his address.

§2. Form and Contents of Appellee's Brief. The brief for the appellee shall contain:

(a) A subject index and table of citations with cases alphabetically arranged. Citations of Virginia cases must refer to the Virginia Reports and, in addition, may refer to other reports containing such cases.

(b) A statement of the case and of the points involved, if the appellee disagrees with the statement of appellant.

(c) A statement of the facts which are necessary to correct or amplify the statement in appellant's brief in so far as it is deemed erroneous or inadequate, with appropriate references to the pages of the record.

(d) Argument in support of the position of appellee.

The brief shall be signed by at least one attorney practicing in this Court, giving his address.

§3. Reply Brief. The reply brief (if any) of the appellant shall contain all the authorities relied on by him not referred to in his opening brief. In other respects it shall conform to the requirements for appellee's brief.

§4. Time of Filing. As soon as the estimated cost of printing the record is paid by the appellant, the clerk shall forthwith proceed to have printed a sufficient number of copies of the record or the designated parts. Upon receipt of the printed copies or of the substituted copies allowed in lieu of printed copies under Rule 5:2, the clerk shall forthwith mark the filing date on each copy and transmit three copies of the printed record to each counsel of record, or notify each counsel of record of the filing date of the substituted copies.

(a) If the petition for appeal is adopted as the opening brief, the brief of the appellee shall be filed in the clerk's office within thirty-five days after the date the printed copies of the record, or the substituted copies allowed under Rule 5:2, are filed in the clerk's office. If the petition for appeal is not so adopted, the opening brief of the appellant shall be filed in the clerk's office within thirty-five days after the date printed copies of the record, or the substituted copies allowed under Rule 5:2, are filed in the clerk's office, and the brief of the appellee shall be filed in the clerk's office within thirty-five days after the opening brief of the appellant is filed in the clerk's office.

(b) Within fourteen days after the brief of the appellee is filed in the clerk's office, the appellant may file a reply brief in the clerk's office. The case will be called at a session of the Court commencing after the expiration of said fourteen days unless counsel agree that it be called at a session of the Court commencing at an earlier time; provided, however, that a criminal case may be called at the next session if the Commonwealth's brief is filed at least fourteen days prior to the calling of the case, in which event the reply brief for the appellant shall be filed not later than the day before the case is called. This paragraph does not extend the time allowed by paragraph (a) above for the filing of the appellant's brief.

(c) With the consent of the Chief Justice or the Court, counsel for opposing parties may file with the clerk a written stipulation changing the time for filing briefs in any case; provided, however, that all briefs must be filed not later than the day before such case is to be heard.

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

§7. Effect of Noncompliance. If neither party has filed a brief in compliance with the requirements of this rule, the Court will not hear oral argument. If one party has but the other has not filed such a brief, the party in default will not be heard orally.

IN THE
Supreme Court of Appeals of Virginia
AT RICHMOND.

Record No. 4724

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Monday the 11th day of March, 1957.

VIRGINIA S. SHORES, ET AL., ETC., Appellants,
against

D. B. STOUT, ET AL., Appellees.

From the Circuit Court of Cumberland County

Upon the petition of Virginia S. Shores and Russell F. Stout, Juanita S. Lewis, Ruby V. Stout, Mildred A. Stout and Gordon B. Stout, infants, by their guardian *ad litem*, William C. Carter, an appeal is awarded them from a decree entered by the Circuit Court of Cumberland County on the 30th day of October, 1956, in a certain proceeding then therein depending wherein D. B. Stout and another were plaintiffs and Mona M. Schalow, the petitioners and others were defendants; no bond being required.

RECORD

* * * * *

Filed 1-6-56.

R. H. B., Clk.

To the Honorable Joel W. Flood, Judge of the Circuit Court
of Cumberland County:

Your complainants, D. B. Stout and Gertrude Stout, his wife, respectfully represent unto your Honor the following facts and circumstances, praying equitable jurisdiction and relief:—

1.

That the said D. B. Stout is the owner and occupant of a lot of land in the Hamilton Magisterial District of Cumberland County, Virginia, containing 16 acres, more or less, described in that certain deed from S. G. Sheldon and wife to D. B. Stout, dated the 17th day of November, 1937, and recorded in the Clerk's Office of this Court in Deed Book 74, page 33, a certified copy of which is hereto annexed, marked "Exhibit A."

page 2 }

2.

That on March 16, 1944 your complainants and their son, R. F. Stout, now deceased, and their daughter, Mona M. Schalow, entered into a deed, a copy of which is hereto annexed marked "Exhibit B," whereby your complainants conveyed unto the said R. F. Stout and Mona M. Schalow a joint estate in the aforementioned real property, subject, however, to certain reservations, requirements, provisions and conditions as set forth in said deed.

3.

That on or about the 21st day of July, 1952, R. F. Stout died, survived by his widow, now Virginia S. Shores, and six children, all of whose names appear in the caption hereto as parties defendant; and that, since the death of said R. F. Stout, your complainants have had no one to "look after and provide for" them as required in the deed mentioned in paragraph 2.

4.

That it was the intent of your complainants, with the full consent and knowledge of the grantees, that the estate conveyed in the aforementioned deed to R. F. Stout and Mona M. Schalow was not to vest in the grantees therein until the conditions set forth in said deed had been fulfilled, and that the fee simple title to said land should continue to be in D. B. Stout, to be divested upon, and only upon, complete fulfillment and performance of the requirements and conditions set forth in said deed; that this intent is evidenced by the following quoted paragraph of said deed, to-wit:—

“It is mutually agreed between the parties hereto, that in event said parties of the second part shall fail to comply with the requirements of them, in whole or in part, herein provided for this conveyance shall become null and void and the property shall *remain* that of the parties of the first part.”

5.

That the conditions and requirements set forth in said deed have not been met, and, since the death of R. F. Stout, have become impossible of fulfillment; that your complainants, in spite of their age, have had to support themselves, pay the taxes on the subject property, and have had no one to look after them and properly care for them.

page 3 }

6.

Your complainants further allege that the existence of the subject deed, referred to in paragraph 2. above, constitutes a cloud upon your complainants title to said property which should be removed in order that they, the said D. B. Stout and Gertrude Stout, might have the full use and enjoyment of said lands to which they are entitled.

THEREFORE, your complainants pray that the said deed to R. F. Stout and Mona M. Schalow be declared null and void, that the defendants be ordered to produce said writing and deliver it up to be cancelled, and that, complainants be granted such other and further general relief as to equity may seem meet and as the nature of this cause may require.

D. B. STOUT
GERTRUDE STOUT
By J. TAYLOR WILLIAMS, Counsel.

* * * * *

EXHIBIT A.

page 4 } This deed made this 17th day of November, 1937,
between S. G. Sheldon and Ada E. Sheldon parties
of the first part and D. B. Stout, party of the second part
all of Cumberland County, Virginia.

WITNESSETH:

That in consideration of the sum of Five Hundred Dollars Cash in hand paid receipt of which is hereby acknowledged the parties of the first part do grant bargain and convey unto the second party, *With General Warranty of Title*, all that certain tract, parcel or piece of land containing 16 acres more or less which is taken from the 70 acre tract of land belonging to party of the first part and which is described in deed from Wm. M. Smith, Spe'l Com. dated July 12 1928 and recorded in DB #66 P. 264-65 Cumberland County Clerk's Office. This property lies in Hamilton District near New Hope Church and is described:

Beginning in the center of Route 45 and running with it to McConnell's line, thence with McConnells Line to a Corner on McConnells Line adjoining Preudens, thence with Prudens Line and Sheldons to a point in the center of the River Road or Road leading to Columbia thence meandering with said road to a Point in the center of Route 45, to the point of beginning.

It is mutually understood and agreed that no store, filling Station, Dance Hall or other public nuisance is to be erected on this property so long as the adjoining property now owned by S. G. Sheldon shall belong to him or to any member of his family.

The parties of the first part covenant that they have the right to convey said property, that they have done no act to encumber same, that they will give quiet possession, free from all encumbrances and that they will execute such further assurance as may be requisite.

\$0.50 Rev. Stamp.

Witness the following signatures and seals:

S. G. SHELDON (Seal)
ADA E. SHELDON (Seal)

page 5 } State of Virginia,
County of Powhatan, to-wit:

I, W. R. Parker, a Notary Public for the county aforesaid in the State of Virginia do certify that S. G. Sheldon and,—— whose name is signed to the foregoing writing bearing date of Nov. 17, 1937, has acknowledged the same before me in my County aforesaid this 17th day of Nov. 1937.

My Commission Expires Aug. 9 1939.
Given under my hand this 17th day of Nov. 1937.

W. R. PARKER, Notary Public.

State of Virginia
County of Cumberland, to-wit:

I, R. P. Holland, a notary public for the aforesaid count in the state of Virginia do certify that Ada E. Sheldon whose name is signed to the foregoing writing bearing date of Nov. 17th. 1937, has acknowledged same before me in the County aforesaid, this 17th. day of Nov. 1937. My commission expires Dec. 30th. 1939.

Given under my hand this the 17th day of Nov. 1937.

R. P. HOLLAND, N. P.

State of Virginia
County of Cumberland, to-wit:

In the office of the Clerk of the Circuit Court for the County of Cumberland, this the 29th. day of November, 1937, this deed was presented and, with the certificates annexed admitted to record at 11:50 o'clock A. M. Duly Stamped and cancelled with .50 Rev. Stamp.

Teste:

LEWIS CRAWLEY, *Cler.*

A Copy—Teste:

R. H. BLANTON, Clerk.

Deed Book No. 74, page 33.

EXHIBIT B.

page 6 } This deed, made and entered into this the 16th day of March, 1944, by and between, D. B. Stout and Gertrude Stout, his wife, parties of the first part, and R. F. Stout and Mona M. Schalow, parties of the second part.

WITNESSETH: That for the consideration of the sum of One Dollar, the receipt of which is hereby acknowledged, and love and affection; and for the further considerations that said parties of the second part shall look after and provide for said parties of the first when they need it, and when the parties of the first part shall pass away the said parties of the second part shall at their expense give said parties of the second part a decent burial, and for the further consideration of said parties of the second part assuming and agreeing to pay a deed of trust on the property hereinafter described in favor of Bank of Powhatan amounting to \$200.00, when and the same is payable, which deed of trust was executed by said parties of the first part and is of record in the clerk's office of the Circuit Court of Cumberland County, Virginia, the said parties of the first part do grant, sell and convey with General Warranty, unto the said parties of the second, subject, however, to certain reservations and provisions hereinafter mentioned, the following described property, to-wit:

All of that certain tract of land, situate, lying and being in Cumberland County, State of Virginia, bound on the west by the land of W. J. Jennings, on the east by the land of McConnell, on the south by the land of Monroe Carter and the New Hope Church lot and on the north by the land formerly owned by E. E. Pruden. The land hereby conveyed being the same conveyed to said D. B. Stout by deed from S. G. Sheldon and wife of record in the clerk's office of the Circuit Court of Cumberland County, Virginia, to which reference is hereby made for further description of said land. Said parcel of land contains 16 acres, more or less.

page 7 } The said parties of the first part expressly reserve unto themselves and to the survivor of them; the dwelling house located on said property and including sufficient land for garden and truck patches and use of the pasture for their cattle.

It is mutually agreed between the parties hereto, that in event said parties of the second part shall fail to comply with the requirements of them, in whole or in part, herein provided for this conveyance shall become null and void and

the property shall remain that of the parties of the first part.
We agree to these provisions.

Witness the following signatures and seals.

D. B. STOUT	(Seal)
GERTRUDE STOUT	(Seal)
R. F. STOUT	(Seal)
MONA M. SCHALOW	(Seal)

State of Virginia,
County of Cumberland, to-wit:

I, Mary E. Godsey, a Notary Public for the County aforesaid, in the State of Virginia, do certify that D. B. Stout and Gertrude Stout, his wife, whose names are signed to the foregoing writing, bearing date on the 16th day of March, 1944, have acknowledged the same before me in my County aforesaid.

Given under my hand this the 16th day of March, 1944.
My commission expires March 2, 1946.

MARY E. GODSEY
Notary Public.

State of Virginia,
County of Cumberland, to-wit:

In the office of the Clerk of the Circuit Court for the county of Cumberland, this the 23rd day of March, 1944, this deed was presented and, with the certificate annexed, admitted to record at 3:30 o'clock P. M. Duly Stamped and cancelled with \$0.55 Rev. Stamp.

Teste:

LEWIS CRAWLEY, Clerk.

Filed as exhibit before the Complainant. (not legible)

Presented in the office of the Clerk of the Circuit Court of Cumberland County, Virginia, with certificate annexed, admitted to record at 3:30 o'clock P. M., 3/23 1944.

Recorded in Deed Book 79 Page 288.

Teste:

LEWIS CRAWLEY, Clerk.

page 8 }

PROOF OF SERVICE.

Virginia:

In the Circuit Court of the County of Cumberland.

CHANCERY NO.....

D. B. Stout, and Gertrude Stout

Complainants

v.

Alvin J. Schalow New York Ave., Glen Allen Va., et als.

Defendants.

Returns shall be made hereon, showing service of Subpoena in Chancery issued 1-13, 1956, with copy of Bill of Complaint filed 1-6, 1956, attached:

Not finding Alvin J. Schalow or any member of his family upon whom legal process could be served at his usual place of abode, executed in the County of Henrico, Va., 1-16-56 (not legible)

W. J. EACHO

Sheriff of Henrico Co.

By E. R. TINSLEY

Deputy Sheriff.

Returned and filed the 17 day of Jan., 1956.

R. H. BLANTON, Clerk.

page 9 }

PROOF OF SERVICE.

Virginia:

In the Circuit Court of the County of Cumberland.

CHANCERY NO.

D. B. Stout, and Gertrude Stout

Complainants

v.

Mona M. Schalow New York Ave., Glen Allen, Va., et als.

Defendants

Returns shall be made hereon, showing service of Subpoena in Chancery issued 1-13, 1956, with copy of Bill of Complaint filed 1-6, 1956, attached:

Not finding Mona M. Schalow or any member of her family upon whom legal process could be served at her usual place of abode, executed in the County of Henrico, Va., 1-16-56 (not legible)

W. J. EACHO
Sheriff of Henrico Co.
By E. R. TINSLEY
Deputy Sheriff.

Returned and filed the 17 day of Jan., 1956.

R. H. BLANTON, Clerk.

page 10 } PROOF OF SERVICE.

Virginia:

In the Circuit Court of the County of Cumberland.

CHANCERY NO.

D. B. Stout and Gertrude Stout, Complainants

v.

Woodrow A. Secrist, Broadway, Va., et als. Defendants

Returns shall be made hereon, showing service of Subpoena in Chancery issued 1-13, 1956, with copy of Bill of Complaint filed 1-6, 1956, attached:

Executed on the 16 day of Jan., 1956, in the County of Rockingham Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Woodrow A. Secrist in person.

A. L. STRAWDERMAN
Sheriff, County of Rockingham, Va.
By W. A. SPITZER, Deputy Sheriff.

Returned and filed the 17 day of Jan., 1956.

R. H. BLANTON, Clerk.

page 11 }

PROOF OF SERVICE.

Virginia:

In the Circuit Court of the County of Cumberland.

CHANCERY NO.

D. B. Stout and Gertrude Stout,

Complainants

v.

Rozine S. Secrist, Broadway, Va., et als.,

Defendants

Returns shall be made hereon, showing service of Subpoena in Chancery issued 1-13, 1956, with copy of Bill of Complaint filed 1-6, 1956, attached:

Executed on the 16 day of Jan., 1956, in the County of Rockingham Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Rozine S. Secrist in person.

A. L. STRAWDERMAN

Sheriff, County of Rockingham, Va.

By W. A. SPITZER, Deputy Sheriff.

Returned and filed the 17 day of Jan., 1956.

R. H. BLANTON, Clerk.

Received Jan. 14, 1956, Sheriff's Office Rockingham County.

page 12 }

PROOF OF SERVICE.

Virginia:

In the Circuit Court of the County of Cumberland.

CHANCERY NO.

D. B. Stout and Gertrude Stout,

Complainants

v.

Juanita S. Lewis and Raymond M. Lewis, et als., Defendants.

Returns shall be made hereon, showing service of Subpoena in Chancery issued 1-13, 1956, with copy of Bill of Complaint filed 1-6, 1956, attached:

Executed on the 19 day of Jan., 1956, in the County of Cumberland, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Juanita S. Lewis and Raymond Lewis in person.

W. V. FRENCH
Sheriff, County of Cumberland, Va.
By M. H. MEADOR, Deputy Sheriff.

Returned and filed the 19 day of Jan., 1956.

R. H. BLANTON, Clerk.

page 13 } PROOF OF SERVICE.

Virginia:

In the Circuit Court of the County of Cumberland.

CHANCERY NO.

D. B. Stout and Gertrude Stout, Complainants

v.

Virginia S. Shores, Cartersville, Va. et als.

Returns shall be made hereon, showing service of Subpoena in Chancery issued 1-13, 1956, with copy of Bill of Complaint filed 1-6, 1956, attached:

Executed on the 19 day of Jan., 1956, in the County of Cumberland Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Virginia S. Shores in person.

W. V. FRENCH
Sheriff, County of Cumberland, Va.
By M. H. MEADOR, Deputy Sheriff.

Returned and filed the 19 day of Jan., 1956.

R. H. BLANTON, Clerk.

page 14 }

PROOF OF SERVICE.

Virginia:

In the Circuit Court of the County of Cumberland.

CHANCERY NO.

D. B. Stout and Gertrude Stout,

Complainants

v.

Russell F. Stout Cartersville, Va., et als.,

Defendants.

Returns shall be made hereon, showing service of Subpoena in Chancery issued 1-13, 1956, with copy of Bill of Complaint filed 1-6, 1956, attached:

Executed on the 19 day of Jan., 1956, in the County of Cumberland Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Wm. C. Carter, attorney for Russell F. Stout in person.

W. V. FRENCH

Sheriff, County of Cumberland, Va.

By M. H. MEADOR, Deputy Sheriff.

Returned and filed the 19 day of Jan., 1956.

R. H. BLANTON, Clerk.

page 15 }

* * * * *

It appearing to the Court that the following defendants herein are infants, to-wit: Russell F. Stout, age 18, born July 6, 1937; Juanita S. Lewis, age 16, born October 11, 1939; Ruby V. Stout, age 13, born September 13, 1942; Mildred A. Stout, age 10, born August 21, 1945; and Gordon B. Stout, age 7, born May 11, 1948, on the motion of J. Taylor Williams, the Court doth appoint William C. Carter, a discreet and competent attorney at law as guardian *ad litem* for the said infants.

Enter.

JOEL W. FLOOD, Judge.

Entered C. O. B. #12, page 220 on 1-24-56.

R. H. B., Clk.

page 16 }

* * * * *

ORDER.

This day came Virginia S. Shores, Russell F. Stout, Juanita S. Lewis, Ruby V. Stout, Mildred A. Stout and Gordon B. Stout and by leave of Court filed their answers.

Enter.

JOEL W. FLOOD, Judge.

Entered C. O. B. #12, page 245 on 4-24-56.

R. H. B., Clk.

* * * * *

page 17 }

* * * * *

Filed 4-20-56.

R. H. B., Clk.

ANSWER.

To the Honorable Joel W. Flood, Judge of said Court:

The answer of Virginia S. Shores, formerly Virginia S. Stout, widow of the deceased Russell F. Stout, to a bill of complaint filed against her in Your Honor's Court by D. B. Stout and Gertrude Stout.

This respondent reserving unto herself the benefit of all just exceptions to the said bill of complaint, for answer thereto, or to so much thereof as she is advised that is material she should answer, answers and says:

That your respondent is the widow of Russell F. Stout who died intestate on or about the 21st day of July, 1952, leaving as his sole heirs at law herself and their children, to-wit: Mona M. Schalow, Rozine S. Secrist, Russell F. Stout, Jr., Juanita S. Lewis, Ruby V. Stout, Mildred A. Stout and Gordon B. Stout.

Your respondent further alleges that the estate of Russell F. Stout was insolvent at the time of his death.

Your respondent further alleges that on the 16th day of March, 1944, Russell F. Stout's father, D. B. Stout, complain-

ant in this cause, conveyed the property which is the subject matter of this cause to hinder, defraud and delay certain creditors who were at that time pressing him.

Your respondent further alleges that her deceased husband, Russell F. Stout, paid consideration for the conveyance and for eight years faithfully fulfilled every obligation imposed upon him by said deed, without complainant by the complainants.

That neither her husband, herself nor her infant children (defendants to this bill) are in fault and that title to a one-half undivided interest in said property at the death of her husband devolved to her children and to herself subject to the rights of the complainants.

page 18 } Your respondent further alleges that there is collusion between the complainants and one of the defendants, to-wit; Mona M. Schalow, that is to say, this suit was brought by the complainants at the instigation of the defendant Mona M. Schalow in order to attempt to divest your defendant and her children of their one-half undivided interest in said property, subject to the rights of the complainants.

Your respondent, Virginia S. Shores, denies paragraph 1 of complainants' bill of complaint.

Your respondent admits paragraph 2, but brings to the attention of the Court that the signature of her deceased husband and the signature of one of the defendants, Mona M. Schalow, are not acknowledged.

Your respondent admits paragraph 3 in part, but denies that D. B. Stout and Gertrude Stout have had no one to look after them, in that since the death of Russell F. Stout complainants have had sufficient income to look after themselves, and that one of the defendants, to-wit, Mona M. Schalow, has aided in caring for them in recent months, and she has made substantial improvements on the house which is located on the property which is the subject matter of this suit.

Your respondent denies paragraph 4.

Your respondent denies paragraph 5.

Your respondent denies paragraph 6.

Having answered the allegations contained in said bill of complaint this defendant, as basis for affirmative relief hereinafter prayed, respectfully submits the following cross-bill:

1. That a receiver be appointed by the Court to administer the property as a trust asset, to either rent or sell.
2. That said receiver ascertain the fair rental value of said property.
3. That said receiver ascertain what amount will be neces-

sary for reasonably comfortable support for D. B. Stout and Gertrude Stout.

4. That a *lis pendens* be filed on behalf of your complainant to this cross-bill.

5. That your complainant's interest and the interest of her infant children be protected in the corpus of the estate, that D. B. Stout be required to pay the expenses of this proceeding including compensation for her attorney and that she may have such other relief in the premises as may be proper.

VIRGINIA S. SHORES.

WILLIAM C. CARTER, p. q.
Cumberland, Virginia.

State of Virginia,
County of Cumberland, to-wit:

Virginia S. Shores, the respondent named in the foregoing answer being duly sworn, says that the facts and allegations therein contained are true, except so far as they are therein stated to be on information, and that so far as they are therein stated to be upon information she believes them to be true.

VIRGINIA S. SHORES, Respondent.

Taken, sworn to and subscribed before me, Carolyn L. Carter, a Justice of the Peace of and for the County of Cumberland, in the State of Virginia, on this the 20th day of April, 1956.

CAROLYN L. CARTER
Justice of the Peace.

I certify that on the 20th day of April, 1956, I mailed a true copy of the foregoing answer and cross-bill to J. Taylor Williams, counsel of record for the complainants.

WILLIAM C. CARTER, p. d.

page 20 }

* * * * *

Filed 4-20-56.

R. H. B., Clk.

ANSWER.

To the Honorable Joel W. Flood, Judge of said Court:

The answer of Russell F. Stout, son of the deceased Russell F. Stout, to a bill of complaint filed against him in Your Honor's Court by D. B. Stout and Gertrude Stout.

This respondent reserving unto himself the benefit of all just exceptions to the said bill of complaint, for answer thereto, or to so much thereof as he is advised that is material he should answer, answers and says:

That your respondent, Russell F. Stout, is one of the children of Russell F. Stout, who died intestate on or about July 21, 1952, leaving as his sole heirs at law your respondent's brothers and sisters whose names are: Mona M. Schalow, Rozine S. Secrist, Ruby V. Stout, Juanita S. Lewis, Mildred A. Stout and Gordon B. Stout, his mother who has since re-married and whose name now is Virginia S. Shores, and himself.

Your respondent further alleges that his father's estate was insolvent at the time of his death.

Your respondent further alleges that his father, Russell F. Stout, for eight years prior to his death, aided and assisted his grand-parents, D. B. Stout and Gertrude Stout, complainants to this suit.

That neither he, his father, his mother nor his brothers and sisters are in fault and that title to a one-half interest in said property at the death of his father devolved in equal undivided shares to your respondent, his brothers and sisters, subject to his mother's right of dower in the undivided one-half interest.

Your respondent further alleges that there is collusion between the complainants and one of the defendants, to-wit:

page 21 } Mona M. Schalow, that is to say, this suit was brought by the complainants at the instigation of the defendant Mona M. Schalow in order to attempt to divest your defendant and the other heirs at law of the deceased Russell F. Stout of their one-half undivided interest in said property, subject to the rights of the complainants.

Your respondent denies paragraph 1 of complainants' bill of complaint.

Your respondent admits paragraph 2, but brings to the attention of the Court that the signature of the deceased Russell F. Stout and the signature of one of the defendants, Mona M. Schalow, are not acknowledged.

Your respondent admits paragraph 3 in part, but denies that D. B. Stout and Gertrude Stout have had no one to look after them, in that since the death of Russell F. Stout complainants have had sufficient income to look after themselves, and that one of the defendants, to-wit Mona M. Schalow, has aided in caring for them in recent months, and she has made substantial improvements on the house which is located on the property which is the subject matter of this suit.

Your respondent denies paragraph 4.

Your respondent denies paragraph 5.

Your respondent denies paragraph 6.

Having answered the allegations contained in said bill of complaint this defendant, as basis for affirmative relief hereinafter prayed, respectfully submits the following cross-bill:

1. That a receiver be appointed by the Court to administer the property as a trust asset, to either rent or sell.

2. That said receiver ascertain the fair rental value of said property.

3. That said receiver ascertain what amount will be necessary for reasonably comfortable support for D. B. Stout and Gertrude Stout.

4. That a *lis pendens* be filed on behalf of your complainant to this cross-bill.

5. That your complainant's interest and the interest of infant brothers and sisters be protected in the one-half undivided interest in the corpus of the estate and that D. B.

Stout and Gertrude Stout be required to pay the
page 22 } expenses of this proceeding including compensation
for Russell Forrest Stout's attorney and that your
defendant to the Bill of Complaint and complainant to cross-
claim may have such other relief in the premises as may be
proper.

RUSSELL F. STOUT
WM. C. CARTER
By counsel.

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page 23 }

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ANSWER OF INFANT DEFENDANTS BY GUARDIAN
AD LITEM.

The joint and several answers of Russell F. Stout, Juanita S. Lewis, Ruby V. Stout, Mildred A. Stout and Gordon B. Stout, infant defendants, by William C. Carter, their guardian *ad litem* assigned to defend their interest in this cause:

These defendants for answer to the bill of complaint say that by reason of their status as infants, they are incapable of understanding the matters involved in this suit and asked that no decree be entered to their prejudice.

RUSSELL F. STOUT
JUANITA S. LEWIS
RUBY V. STOUT
MILDRED A. STOUT
GORDON B. STOUT
By WM. C. CARTER
their Guardian *ad Litem*.

Filed 4-20-56.

R. H. B., Clk.

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page 38 }

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DECREE.

This cause which has been regularly matured, set for hearing and docketed, came onto be heard upon the bill of complaint and exhibits; taken for confessed as to Mona M. Schallow and Rozine S. Secrist; upon the answer of Russell F. Stout, Juanita S. Lewis, Ruby V. Stout, Mildred A. Stout and Gordon B. Stout, infant defendants by William C. Carter, their guardian *ad litem*; the separate answers of Russell F. Stout and Virginia S. Shores, defendants; the evidence in behalf of plaintiffs and defendants, heard *ore tenus*; and was argued by counsel.

ON CONSIDERATION WHEREOF the Court doth ADJUDGE, ORDER and DECREE that this cause be referred to J. R. Snoddy, Jr., one of the Commissioners of this Court, who is directed to inquire and report to the Court as follows:

(1) What is a fair monetary value for all services rendered and monies expended by R. F. Stout, deceased, or his heirs, and Mona M. Schalow in complying with the requirements and conditions set forth as the consideration in the deed filed with the bill in this suit, marked "Exhibit B."

(2) What is the value of the benefits, if any, received by the said R. F. Stout, deceased, or his heirs, and the said Mona M. Schalow as a direct result of the execution and recording of said deed.

Which said inquiries the said Commissioner shall make, after first giving notice of the time and place thereof to all parties, or their counsel, and report the same to the Court along with any matter specially stated deemed pertinent by himself, or which may be required by any person interested to be so stated.

Enter.

JOEL W. FLOOD, Judge.

Entered COB #12, page 287 on 7-2-56.

R. H. B., Clk.

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page 39 }

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The depositions of D. B. Stout and Virginia Stout Shores taken before me, J. R. Snoddy, Jr., a Commissioner in Chancery for the Circuit Court of the County of Cumberland, in the State of Virginia, at the law office of William C. Carter, Cumberland, Virginia, at 2 o'clock, p. m., on the 16th day of July, 1956, pursuant to agreement of counsel, to be read as evidence in the above-styled cause now pending in said Court, and as directed by a decree of said Court entered on the 2nd day of July, 1956 whereby this cause was referred to this Commissioner to make certain inquiries.

Present: J. R. Snoddy, Jr., Commissioner in Chancery, J. Taylor Williams, Attorney for Complainants, William C. Carter, Attorney for Defendants.

Filed 10-8-56.

R. H. B., Clk.

page 40 } The witness,

D. B. STOUT,

being first duly sworn, deposes and says as follows:

Questions by J. Taylor Williams:

Q. Will you state your name, residence and occupation please.

A. D. B. Stout, retired minister, Cartersville, Virginia.

Q. You are the complainant in this suit?

A. I am.

Q. In the deed in question in this suit, you and your wife made the deed to what persons?

A. To R. F. Stout, my son, and Mona M. Schalow, my daughter.

Q. When was that deed executed? What year?

A. In 1944, I think.

Q. That deed recites a consideration—just what did your son do with regard to complying with the consideration?

A. He complied.

Q. Will you give more in detail, please? Did he pay anything on the note that—

A. He did. At the bank you mean?

Q. What amount did he pay?

A. He paid \$100.00.

Q. Another consideration recited was care and support of you and your wife—just what did he do in that line?

A. Well, there was but very little that was done along about that time with reference to our support. There may have been some little gifts exchanged one way and another as neighbors often do, but the main thing that he did do that was to help us along was to mow the lawn and cut the wood for winter that I had on the yard in the Fall which possibly would run to eight to ten cord.

Q. Approximately what would it have cost you to hire someone to do that for you?

A. Well, I'm hiring the lawn cut now at \$.75 per week when it's cut—sometimes it grows two or three weeks before it's necessary to cut it on account of dry weather. The wood would cost me a little more now to have it cut by the cord than it did then, I think along about that time it was about \$2.50 a cord.

Q. What year did your son die?

A. In July of 1952.

page 41 } Q. Who were his survivors?

A. His wife and Rosine Secrist, Juanita Stout, Russell Stout, Ruby Stout, Mildred Stout and Gordon B. Stout, I think I have them all.

D. B. Stout.

Q. Just what did your daughter do toward fulfilling the consideration in this deed.

A. She has put in a kitchen sink and she comes around whenever its necessary to help her mother do something about house-cleaning.

Q. Did she make any payment on the note which is mentioned in the deed?

A. She complied with that requirement.

Q. What was the amount she paid on it?

A. \$100.00.

Q. From the date of this deed in 1944 until 1952, the year your son died, did you work for him or did he work for you during that period?

A. I worked for him.

Q. Just what was your compensation?

A. Nothing.

Q. What was the type of work that you did?

A. Well, I had the over-sight of his farm work. I went and picked up his men, using my own car, hauling them to the job. The over-sight of the work during the day and bringing the men in from work in the evening.

Q. How long did you over-see the farm work?

A. Something like three years.

Q. Did you share in the proceeds of any of the crops?

A. None.

Q. Just what services did you render to your son's estate after his death?

A. Well, after his death in July I began putting up the hay crop. We baled hay, if I remember correctly, something like 3,000 bales of hay, and I had charge of this work—saw that the machinery was kept going—went out and picked up some men—took my own car and furnished my own gas for that purpose, and then after the hay was baled I had the over-sight of the gathering of the corn in the Fall and then when the corn was dried out along in the Winter, the over-sight of the shelling, getting a considerable amount
page 42 } of that corn to the market.

Q. Did you receive any compensation for it?

A. I did not—none whatever.

Q. Within the past year there has been a condemnation suit by the highway department, who are making road improvements adjoining your place, is that correct?

A. That's correct.

Q. What was the amount of the award?

A. The amount of the award was \$430.00.

D. B. Stout.

Q. Do you know how that was distributed?

A. Well, I got, I think, \$38.00—there may have been some cents over, but I know I'm safe in saying the \$38.00. Mona and the heirs got the balance of it.

CROSS EXAMINATION OF WITNESS, D. B. STOUT,

By William C. Carter, Attorney for Defendants:

Q. Mr. Stout, during this eight year period from 1944 until 1952, did you have any complaint at all with the way Forest was complying with his obligation?—While he was living.

A. No, sir, I did not.

Q. Mr. Stout, for the record, what income do you have now—or I'll ask it this way, isn't it correct—what you stated before—that you got approximately \$30.00 a month from Social Security.

A. My statement before was that some months the job that I worked at didn't bring more than \$30.00 per month.

Q. No, I mean the old age insurance that you get.

A. Well, the old age insurance is \$30.00 per month.

Q. And Mrs. Stout gets approximately \$15.00, and I believe you stated before that some months you made around \$30.00 or \$35.00 from this wood-yard—some months, is that right?

A. That's right.

Q. And, that you had some royalties or income of a small amount from some coal mines you own a quarter interest in, in West Virginia?

page 43 } A. Well, practically no coal mines—there is some coal under lease over there.

Q. We'll say some land in West Virginia?

A. Well, lets say oil and gas.

Q. And, you I believe stated that—

A. No—I'm not going to answer you on that Mr. Carter, I haven't answered you yet.

Q. *Alright.*

A. That amounts to about \$33.00 per year—my part of it.

Q. What do you think—I just want one figure, roughly—that your undivided interest in these properties are worth now or will be worth—or, we'll just say worth now?

A. I have about the same statement to make to you that I made on the stand before, that it's a little hard to determine the value of these properties. During World War II, I was offered \$1,000.00 for one acre of coal and we have approximately two hundred acres.

D. B. Stout.

Q. Do you think the value today would be as high as it was then, Mr. Stout?

A. The value will continue to go up. Now I can't say that it's worth \$1,000.00 per acre—if I may give a bit of testimony that I did not give before, I have a second cousin over there not very far away from where this tract of coal of ours lays that got \$14,000.00 for fourteen acres. I just give you these figures to give you some idea.

Q. Yes, sir. Mr. Stout, your son, or his estate I will say, paid some taxes on this land, did they not—on this 16 acres in question?

A. They did.

Q. I would like to submit these to the Court as evidence.

Receipts for one-half of the taxes on sixteen acres, Hamilton District, for the years 1945, 1946, 1947, 1948, 1949 and 1950, and recording costs for recording the deed on the 23rd of March, 1944. Defendants Exhibit No. 1. Mr. Stout, I believe you stated that your son did do numerous little incidental things that a neighbor would do, during these eight years—is that not correct?

A. That's correct.

page 44 } Q. And at times, I believe you stated, that he did bring you some meat when he killed some, and he did some other tasks or we will say errands that you can't remember or, that during that time he did some other things outside of mowing the lawn and cutting the wood—did he not?

A. There were numerous little things that were that way that were done back and forth.

Q. Mr. Stout, you are operating a veneer yard, are you not, adjoining your property?

A. I'm operating it on my property.

Q. Now that did belong to—was under contract to your son from Mr. Lewellen, from Buckingham, was it not—while he was living?

A. It was.

Q. And you have continued the operation of that veneer yard since his death, is that correct?

A. I have.

Q. And you derive some of your income from this veneer yard, when it is in operation?

A. I do.

Q. You assisted your son in the operation of that yard while he was living?

D. B. Stout.

A. Yes, sir.

Q. Did you share in any of the crops made on this land, Mr. Stout, while your son farmed it?

A. Which land do you have reference to?

Q. The 16 acres.

A. No, sir, I didn't share in any of it.

Q. Did you share in any of the crops he made on any of his other land that he farmed?

A. None.

Q. Mr. Stout, when your son died in 1952—for all practical purposes his estate was insolvent, was it not?

A. Don't know if I know exactly what you mean page 45 } by the word "insolvent."

Q. He had more liabilities than he had assets, we'll say.

A. No, there was more assets than liabilities.

Q. Some of his land had to be sold to pay off his debts?

A. That's right—and machinery.

Q. Machinery had to be sold. There is still a mortgage on his home-place, and he didn't leave any estate—didn't leave any money in the bank.

A. No money in the bank, no—none that I know of.

Q. And his wife and children have had a right hard time of it, wouldn't you say, since his death—for the last four years?

A. I presume, Mr. Carter, that it hasn't been easy.

Q. And, that the only one of the children who is now working is Russell, Jr. who is in the Navy, is that not correct? And that three of them are still in school?

A. Yes, sir.

Q. Do you think, Mr. Stout, that there is any way, equitable, that you could arrive at the dollars and cents value of the services that your son rendered you—aside from the fact that you can add up the tax tickets and you can add \$100.00 to it that he paid on the note—but how would you arrive at the services rendered you by your son, as a son?

A. Well, you could estimate about the number of times that he mowed the lawn, you could estimate pretty closely the amount of wood he cut in the Fall—that amount could be estimated pretty closely, but the rest of it is so small that its hardly worth estimating.

Q. It's almost impossible to estimate the value of his services, isn't it?

A. They are not large—yes it's almost impossible to estimate it either way.

D. B. Stout.

RE-DIRECT EXAMINATION OF WITNESS, D. B. STOUT,

By J. Taylor Williams, Counsel for Complainant:

Q. Mr. Stout, you have just stated that the services your son rendered, other than a few specific items, would be almost impossible to estimate a monetary value for?

page 46 } A. They would.

Q. Well, now in your opinion, the services that you rendered for your son during that period, would they exceed or be less than the value that your son in turn rendered you?

A. Well, I think they are much—my services are much more valuable than that which he rendered me. That is the services that I have rendered to him.

Q. And I believe you have already testified as to what those services were.

A. Yes, sir.

Q. Was there any other item that you have over-looked that you would like to bring out now?

A. Well, there was some reference made to the log-yard. The first year, I remember very plainly the first year that the log-yard was in operation, I was operating it for my son. We bought 44,000 feet of—my son got the commission on the 44,000 feet of logs. When we came to loading those logs to ship away, I loaded those logs, paid for the loading of those logs out of my own pocket—\$200.00 and borrowed \$100.00 from the bank, to finish paying for the loading of those logs, I never received a penny for it.

Q. In this veneer-yard operation, just what compensation did you receive for your part during the life-time of your son?

A. The operation of the yard, up until the time of the death of my son, had just about paid back—not quite, the amount of money I had in loading the logs out the first year we were in operation.

Q. Then you would say you made no profit.

A. No profit—none on that.

Questions of D. B. Stout by J. R. Snoddy, Jr., Commissioner in Chancery:

Q. Mr. Stout, in reading the deed I find that there was a requirement that the parties of the second part, which were your son and your daughter, as consideration or part of the

D. B. Stout.

consideration, "shall look after and provide for said parties of the first part when they need it and when the parties of the first part shall pass away the said parties of the page 47 } second part shall, at their expense, give said parties of the first part a decent burial"—now neither you nor your wife have passed away during that time, have you?

A. No.

Q. There has been no occasion for anybody to give anybody a decent burial?

A. None whatever.

Q. And you don't know that Mrs. Schalow would not be in a position to do that in the event that it did happen, do you?

A. Mrs. Schalow would not be in a good position to do that if it would happen before this is settled as the heirs are, and my son's estate at the present.

Q. But the point is, that there is no reason for doing it at all, up until the present time?

A. No.

Q. And therefore, it has not been breached since it has not come about?

A. Not in that respect—We couldn't bury us until we die.

Q. That's right—now, as to looking after you when you need it—I take from your answers that you have never been in dire need, during this time?

A. Well, let us go to the evidence that was in the depositions for that answer.

Q. No—I have to find out from you—

A. I'll give it to you this way—there was an understanding between my son and I, and my word to him was this: "Now, your mother and I have a little money, we don't want to spend all the money that we have got. We want a little so we can be somewhat independant, and there are some things that we want you to do that's not entered into the deed. They are included somewhat in the phrase in there to help us when we need it." Now my son, during his lifetime, carried that out. If you will follow the depositions that were given before you will—

Q. Now, you state that you have done certain and sundry things for your son.

A. Yes, sir.

Q. Was there any agreement that certain pay was to be paid you for those—?

A. None whatever.

Q. In other words, they were voluntary services of a father for a son?

D. B. Stout.

A. Voluntary as far as my part of it was con-
page 48 } cerned. My son came and asked me to look after
it for him.

Q. But they were voluntary—you didn't have to do it.

A. No.

Q. There was no contract between you all as to any future
pay?

A. None, no compulsion.

Q. Did you do anything for your other children—or do you
just have the one other daughter?

A. No, sir, I have a number of others. I have helped them
all in various ways.

Q. Where does Mrs. Schalow live?

A. In Richmond.

Q. Does she have a family?

A. She does.

Q. What size family?

A. Five or six—you know how that is, you generally have
to ask the mother to get the number of children—five or six
of them.

Q. And you say I believe, in your evidence to both of these
gentlemen that the deed of trust was paid by Mr. Schalow—I
mean Mrs. Schalow, and your son R. Forest Stout?

A. It was.

Q. What would you put the value at—or how would you
value it—it's given me a deal of trouble and maybe you can
help me. How would you value *the* knowing that you had a
daughter and a son who had agreed to help you when you
needed it and to see that you got a proper burial?

A. I don't know that I get you clearly, make that statement
again, will you?

Q. How would you arrive at a value on the knowing that
you had a son and a daughter who had agreed to take care
of you if it became necessary, and to furnish you with a proper
funeral in the event that became necessary—which it does
with all of us. There is certainly some peace of mind or
something that is—and I would like some help from you as to
how you would place a value on it. Evidently you thought
there was some value in it or you wouldn't have put this con-
sideration in here.

page 49 } A. With reference to us, they haven't buried us
yet, that is, there has been no hospital expense that
has accrued that they have paid and we certainly are both
of us alive and they have had no expense in that.

D. B. Stout.

Q. Therefore, interpreting your answer, there has been nothing for them to do under this paragraph—or this consideration?

A. No, there's been nothing for them to do—that's correct. They've done nothing so far, under that.

Q. Therefore, there has been no failure so far?

A. Well, I'll say this—only in the depositions that are in the Judge's hands—

Q. Then, so far as this paragraph in here there has been no failure of consideration since nothing has been required to be done?

A. You're right—no failure there.

Q. This veneer yard that you operate, is that on this sixteen acre property?

A. It is.

Q. You are now using that?

A. I am.

Q. Is there a dwelling house on this sixteen acres?

A. There is.

Q. Who occupies that?

A. Myself and my wife.

Q. How long have you occupied it?

A. Some 14 or 15 years.

Q. Your son—none of the heirs are *occupying* it or using it at present?

A. None.

Q. Nor have been?

A. No.

Q. There are certain exhibits that the defendants have put into evidence here as Exhibit 1 which are tax tickets purporting to be what they paid on certain years on taxes on this property; I believe in certain years they only paid half, is that true?

A. I do not know what they paid, I have not had
page 50 } the opportunity of seeing the tax tickets—in other
words they paid them in full or not. I presume
those tickets are paid in full but my daughter has not paid
any taxes on it.

Q. So far as you know, are the taxes paid up to date?

A. They are.

Q. Have you paid any of the taxes?

A. I have.

Q. For what years?

Virginia Stout Shores.

A. I have paid them since the death of my son, that was 1952.

Q. Do you authorize the stenographer to sign your name to these depositions after they have been transcribed?

A. I do.

And further this deponeth saith not.

D. B. STOUT
By C. L. CARTER, Sect'ry.

The witness,

VIRGINIA STOUT SHORES,
being first duly sworn, deposes as follows:

Questions of the Witness, Virginia Stout Shores, by William C. Carter, Attorney for Defendants:

Q. You are Virginia Shores, widow of the deceased Russell Forest Stout?

A. Yes.

Q. When did your husband die.

A. July 21, 1952.

Q. When he died you had six infant children, is that correct?

A. That is.

Q. Are all the children living with you now?

A. No, only three.

Q. Where are the others?

A. Two are married and one is in service.

Q. The oldest one is how old?

A. Twenty-two.

Q. And the youngest one?

page 51 } A. Eight.

Q. The three living with you attend school?

A. They do.

Q. What was the condition of your husband's estate when he died in 1952?

A. He owed nearly \$10,000.00

Q. What have you done to endeavor to pay off these obligations that he owed?

A. Well, we had to sell all the cows except one that we could keep, all of his farm machinery and part of the home-land—or the low-grounds, to pay off his debts.

Virginia Stout Shores.

Q. You have had a pretty hard time since your husband's death?

A. I've had a pretty hard time, up until I remarried.

Q. And what has been the feeling between you and your father in law during the past few years?

A. I'm afraid it hasn't been too friendly.

Q. What do you think is the cause of all this, Mrs. Shores?

A. Wanting to get the place back or the unfriendliness, which?

Q. In your opinion, do you feel that your deceased husband's sister is partially the cause of this?

A. I do—I believe she is behind it.

Q. You get along very well with Mrs. Stout, do you not?

A. I love her just like I do my mother.

Q. When did you first hear something about—how long ago, that something was going to be done about this property?

A. I think it was just before Christmas.

Q. Had you ever discussed this with your father-in-law or did he ever discuss it with you?

A. No, I hadn't heard anything about it.

Q. While your husband was living did your father-in-law make any complaint that you heard of?—with regard to complying with this?

A. Not that I heard of.

Q. What did your husband do for his father and
page 52 } mother while he was living?

A. Well, the only thing I could say that he really done was he did go up there and saw their wood and he did the plowing and the garden for them, and things like that.

Q. Was there any action ever brought while he was living to rescind this contract?

A. None that I know of.

Q. Did you ever hear of any dissatisfaction on the part of them?

A. Not that I know of.

Q. Has there been any request made by Mr. Stout to you or to your children since your husband's death to do anything?

A. He's never asked me. My children have went up there and helped him, but he has paid them when they'd work up there.

Q. This is your husband's business that Mr. Stout is running at this time?

A. Yes, sir.

Virginia Stout Shores.

Q. Mrs. Shores, to your knowledge, while your husband was living and after this deed was entered into, did Mr. Stout share in any crop-sharing or profit-sharing on any of the farming that he did with your husband?

A. I was under the impression that he got part of the crop off that sixteen acres of land up there.

Q. Do you recall any specific instances or do you have any record of this?

A. I have one record down there where it said that some wheat had been sold and Mr. Stout paid a part of it but I don't remember what year it was.

Q. You paid these taxes?

A. I paid for four years.

Q. And part of those four years was for half and part were for a whole?

A. Yes.

Q. You paid this out of the proceeds of the sale of some land that you sold at your husband's death.

A. It was paid for out of the money that he had there when he died.

Q. How much mortgage was there on you all's home-place?

A. I think, when he died it was around \$4,000.00 or a little bit more.

Q. How much is owed on it now?

page 53 } A. Around eleven or twelve hundred.

Q. You heard the statement of Mr. Stout that he thought that your husband's estate—your children's estate, was in a better position to help him than Mrs. Mona Schalow, his daughter—do you think that is correct?

A. I sure don't.

Q. Do you know his daughter?

A. I do.

Q. She lives in Richmond?

A. She does.

Q. She is married?

A. She is.

Q. Her husband is employed?

A. He is.

Q. Do they own their home?

A. They are buying it—I don't know if it's paid.

Q. Do they have an automobile?

A. They have a station wagon.

Q. Mrs. Schalow put in this sink and all in the kitchen for them.

Virginia Stout Shores.

A. That's what I have heard.

Q. Does she visit them regularly?

A. She comes up pretty often.

Q. Do you think she is in dire financial circumstances—from her appearance?

A. No, I don't.

Q. Do you have knowledge that your husband did pay off his part of this obligation which was on the deed of trust when he got it?

A. He did.

Q. You live near Mr. Stout and his wife, the plaintiffs?

A. I do.

Q. What do you know of their financial condition?

A. Well, I can't say that I know anything about it because I very seldom go up there.

Q. Do they appear to you to be in dire necessities—or circumstances?

A. Not that I've seen.

Q. Have you received anything or has your husband's estate received anything from this wood yard since your husband's death?

A. Well, when my son worked there Mr. Stout paid him.

Q. You have no idea what the income from this wood yard is?

A. No, I don't.

Q. And there is no way accurately for you to know exactly what your husband did for his father while he was living from the time this deed was made.

A. No.

Questions of the Witness, Virginia Stout Shores, by J. Taylor Williams:

Q. Mrs. Shores, you stated that you felt that Mrs. Schalow was back of this effort by Mr. Stout.

A. Yes, I did.

Q. Just what is the basis for your suspicion?

A. Well, like I said before, he made the remark after Forest died that they knew Forest's children would be taken care of and just since she has been coming up there so much in the last year or so he's changed. He's changed his mind about it. She didn't visit up here too often until the last year or so—since my husband died.

Q. Who made the remark about Forest's children being taken care of?

Virginia Stout Shores.

A. Who told me? He told Mr. Carter that right after Forest died.

Q. And do you know what he meant by that remark?

A. Evidently he was referring to the place of his because he was talking about that, he was wondering if they could come in on that for Forest's debts, and evidently he found out that they weren't going to come in on it—or couldn't come in on him—and he was glad because Forest's children would be taken care of.

Q. Do you think that Mr. Stout intends to disinherit your children?

A. I don't know what he intends to do. I feel like if he had wanted to be fair he would have talked to me before all this came up, at least talked to me and at least let me page 55 } known something—what he wanted to do.

Q. Do you feel that your children are entitled to a half interest in this property?

A. I feel like they are entitled to it as much as his daughter is entitled to it.

Q. Let's suppose that Mr. and Mrs. Stout both became seriously ill, would you be in a position to pay their hospital bills or to take them into your home and care for them?

A. I couldn't pay hospital bills because it's all I can do to live now, but I'd do everything I could for him. I went up there when he was sick before and offered to do what I could. My husband and I both went up to see him.

Q. Would any of your children be in a position to do—

A. Well, one in Harrisonburg might be, but she has a baby and is expecting another one and they *don't their home and I* another married one and she doesn't have a home except living with her mother-in-law, and the boy in service, he could give some money.

Q. Your interpretation of this deed—you feel that it was an out-right deed of a one-half interest in the entire property, is that correct?

A. You mean that Forest was supposed to get a half of it?

Q. Yes.

A. According to the deed.

Q. Isn't there a reservation in there of the house and plots for a garden and so forth?

A. I don't know, to tell you the truth I haven't even read the deed.

Q. Assuming that is the case, that would leave—

Virginia Stout Shores.

Objection to Question by William C. Carter.

Mr. Carter: I think it is a conclusion of law that he is asking the witness.

Mr. Williams: Well, supposing that Mr. and Mrs. Stout would become a great expense, do you think that the interest there would be worth assuming their expense or would you feel freer and better if you didn't have that obligation hanging over you?

A. Well, I'd be willing to do anything I could page 56 } for them, that's the only way I can answer you.

Q. If you felt that your children were not going to be disinherited and would share in Mr. Stout's estate, you would have no objection to the deed being set aside?

A. I don't know how to answer that one either.

Q. What I mean is, if you felt that they were going to get their proper interest then you would have no objection?

Mrs. Shores, just why are you contesting this case?

A. I was under the impression that it was the estate contesting for the children, that it wasn't me.

Q. You have individually filed an answer contesting.

A. For my part I am not interested in it except for my children.

Q. Let me put it this way, why do you think it would be unfair to rescind this deed?

Objection by William C. Carter.

Mr. Carter: I object to this question Mr. Commissioner and ask for a ruling on it. She cannot speak for the children.

J. R. Snoddy: Well, I think this, that every mother certainly has a feeling for her children and has a right to express what she thinks is best for them. However, I think she has answered the question in saying she is interested in this matter for the benefit of her children. Of course we realize that if it is decided that this is not rescindage, she has a dower interest in 1/3rd of 1/3rd life-interest in a 1/2 undivided interest in this property which I still don't have any value on, as yet—what the property is worth, and I think that we would probably get more to the meat of this case if we found out some values on this property and on the benefits derived by both parties from this deed. If he wants to ask that question again I think it is admissable for what it is worth.

J. Taylor Williams:

Q. I'll repeat that Mrs. Shores, just what is your purpose in contesting?

Virginia Stout Shores.

A. Like I said before, its just for the interest of page 57 } my children. I'm interested in seeing them get what I feel they should get.

Q. Perhaps you can tell me in just what ways you would feel that the children would be cut out of some interest by the rescission?

A. I feel like that if it's changed and the deed goes back to Mr. Stout, that it will be made out to his daughter.

Q. Do you have any basis for that?

A. No, I don't—just my own feeling.

Questions of the Witness, Virginia Stout Shores, by William C. Carter:

Q. Do you have any idea of the fee simple value of the property, Mrs. Shores?

A. I imagine it's worth \$7,500.00.

Q. If it were put up for sale, or if a similar place today?

A. Same thing—any place like his would be worth that.

Questions of Virginia Stout Shores by J. R. Snoddy, Jr., Commissioner:

Q. Do you know the ages of Mr. and Mrs. Stout?

A. They are between 76 and 80 years old.

Q. At the time this deed was executed, I believe it was in 1944, was your husband in a position at that time to take care of any large hospital bills?

A. I think he was in debt right much then, I just don't remember, I would have to look back on some of his books—but he had been in debt ever since we were married, buying a home and trying to get a farm.

Q. Was Mrs. Schalow in the same position, practically, at that time that she is now?

A. No, she wasn't as well fixed then, she—

Q. Was she married at that time?

A. She was.

Q. What benefit, if any, has Mrs. Schalow derived from this property?

A. Well, she hasn't derived any that I know of.

Q. Have you ever heard Mrs. Schalow state that she would not live up to her end of this agreement in the deed to bury, or to look after Mr. and Mrs. Stout, if it became necessary?

A. No, I never heard her say that.

Q. In fact, you have a reason to think that she probably would?

A. She probably would.

Virginia Stout Shores.

Q. And, I believe from your evidence you stated that you and your children would do it to the best of your ability?

A. We would, we'd do it to the best of our ability.

Q. So far as you know, were R. F. Stout, your deceased husband, and Mona Schalow ever called onto do anything for Mr. and Mrs. D. B. Stout and refused to do so?

A. Not that I know of.

Q. Have there ever been accusations that they didn't do anything for them?

A. Not that I've ever heard.

Q. What benefits did your husband receive from having this deed made to him other than the fact that eventually the land would belong to him and his sister, or his heirs and his sister's heirs?

A. You mean like any farming he did—anything he got from that?

Q. Yes.

A. Well, he done some farming there, I know he had wheat there because he combined wheat not too long before he died—maybe it was the year before he died, but I do know he done that. I don't know if he had any corn in there or not. I know he cut hay for his father there.

Q. How much cleared land is there on this sixteen acres?

A. I don't know.

Q. Mr. D. B. Stout states there is approximately eight acres of cleared land on this sixteen acres, does that seem about right to you, or about half of the property cleared?

page 59 } A. It looks like it.

Q. Is there any tobacco allotment for this property?

A. No, sir.

Q. Do you know how much your husband received for the crops he raised on there?

A. No, sir I don't, I don't know anything about what he received, I just know he had crops on there.

Q. Do you know how much work he did in getting these crops and therefore give me any idea as to the net profit on this?

A. I wouldn't have any idea of that either.

Q. Well, did he make much money at farming?

A. No, sir, he didn't make money at farming, he worked public work mostly.

Q. Then is it a fair assumption of your answer that there was very little, if anything, made in the way of farming—I mean net profit?

Virginia Stout Shores.

A. I don't think there was any net profit in farming.

Q. Who had control of this land during the time since this deed has been written?

A. You mean while my husband was living or after?

Q. Both.

A. He did most of the farming there that was done and since he died Mr. Stout, I reckon, has had charge of it.

Q. You have gotten nothing from it since your husband's death?

A. No, sir.

Q. In fact, has it been an expense to you in paying the taxes and such?

A. The taxes have been an expense because it had to come out of his estate after he died, partly, where it could have been put on other debts.

Q. Is Mr. D. B. Stout now farming this land?

A. I know he has hay on there.

Q. Is he growing that for any cattle or livestock that you all have?

A. No, sir.

Q. Does Mr. Stout visit with you all?

A. No, sir, not since this trouble started.

page 60 } Questions of Virginia Stout Shores by William C. Carter:

Q. Mrs. Shores, is there any way you know of to figure out the value, the dollars and cents value, of the services your husband rendered to his mother and father during the eight years that he apparently performed the duties imposed upon him—without complaint?

A. No, I don't.

Q. Is there any way that you know of to figure the dollars and cents value of the assurance that these people had, that they had their son and daughter to look to if they ever needed anything?

A. I wouldn't know how to figure it.

Q. Do you think anybody could figure it?

A. I don't.

Q. Do you authorize the stenographer to sign your name to these depositions after they have been transcribed?

A. I do.

And further this deponeth saith not.

VIRGINIA STOUT SHORES
By C. L. CARTER, Sect'ry.

The Witness,

D. B. STOUT,

recalled.

Questions by J. Taylor Williams:

Q. Mr. Stout, will you state the purpose you had in mind by bringing this suit to have this deed set aside?

A. To my mind, the parties to this deed have failed to comply with its requirements and, having some other property elsewhere of more value than this property, and in order that I might use this property as collateral to borrow some money from the bank if necessary, to relieve these folks of furnishing something of that kind, and then again, to make a fair and square division between all of the heirs, since this property to my mind has been—the requirements of the deed not complied with, I brought this suit.

page 61 } Questions of D. B. Stout by William C. Carter:

Q. Mr. Stout, your daughter and your son, Russell Stout, who is deceased, are full brothers and sisters, is that right?

A. Yes.

Q. And you have some other children by a previous marriage, is that correct?

A. Yes.

Q. How many other children do you have?

A. Three.

Q. Their names and ages?

A. I can't give you their ages, I can give you their names—a daughter living in Baltimore, she married Frank Norwood, I don't know just her age. Oma Hazel Norwood. Ava Beasley, Farmville, and E. B. Stout, Baltimore.

Q. Do you authorize the stenographer to sign your name to these depositions after they have been transcribed?

A. Yes.

And further this deponeth saith not.

D. B. STOUT

By C. L. CARTER, Sect'ry.

State of Virginia,

County of Cumberland, to-wit:

I, J. R. Snoddy, Jr., a Commissioner in Chancery for the Circuit Court of the County of Cumberland, in the State of Virginia, do certify that the foregoing depositions of D. B.

Stout and Virginia Stout Shores were duly taken and sworn to, and the signatures thereto waived at the time and place, and for the purpose in the caption thereto stated.

Given under my hand this the 24 day of August, 1956.

J. R. SNODDY, JR.
Commissioner in Chancery.

* * * * *

page 65 }

* * * * *

Filed 10-8-56.

R. H. B., Clk.

COMMISSIONER'S REPORT.

To the Honorable Joel W. Flood:

Your commissioner, J. R. Snoddy, Jr., acting under your decree of reference made and entered in this cause on the 2nd day of July, 1956, whereby the said cause was referred to your commissioner to take and state an account in this cause; the undersigned gave due notice to the parties, as required by the terms of said decree, that on July 16, 1956, he would proceed to take the depositions of the witnesses in this cause, which depositions are herewith returned and made a part of this report.

And thereupon, upon due consideration of all of which your commissioner respectfully reports as follows:

1. (a) A fair monetary value for all services rendered and monies expended by Mona M. Schalow in complying with the requirements and conditions set forth as the consideration in the deed filed with the bill in this suit, marked "Exhibit B," would be \$100.00, as the only thing done by her to meet the requirements and conditions in said deed was to pay one-half of a deed of trust in the amount of \$200.00 when the same became payable, on the property conveyed (see Pages 3 and 12 of the attached depositions).

(b) A fair monetary value for all services rendered and monies expended by R. F. Stout, deceased, or his heirs, in

complying with said requirements and conditions would be \$186.78, which figure represents the following monies expended: \$3.29 paid for recording said deed (see Page 5 of depositions and receipt in defendant's Exhibit No. page 66 } 1); \$83.49 paid by R. F. Stout and Mrs. R. F. Stout, now Mrs. Shores, on the taxes on said property (Pages 12 and 13 of depositions and receipts in defendant's exhibit No. 1); \$100.00 paid by R. F. Stout as his one-half of the deed of trust on said property (See Page 2 of depositions), totaling said sum of \$186.78. The services rendered by R. F. Stout would be impossible to estimate by the commissioner on the evidence before him (See Page 7 of depositions) and your commissioner feels that the services rendered by the son for the father and by the father for the son would cancel each other out.

2. That the said Mona M. Schalow received no benefits as a result of the execution and recording of said deed (See Pages 19 and 20 of depositions) nor did R. F. Stout, deceased, or any of his heirs receive any benefits as a result of said deed, since the father D. B. Stout has had possession of the property and lived in the dwelling thereon ever since the execution of said deed (See Page 11 of depositions).

Respectfully submitted on this 4th day of October, 1956.

J. R. SNODDY, JR.
Commissioner in Chancery.

Commissioner's fee: 35.00
Stenographer's fee: 10.00

I hereby certify that on the 8th day of October, 1956, I delivered notice to all counsel of record that I would file the above report on the 8th day of October, 1956.

J. R. SNODDY, JR.

page 67 }

* * * * *

ORDER.

This day by counsel came Virginia S. Shores, Russell F. Stout, Juanita S. Lewis, Ruby V. Stout, Mildred A. Stout and Gordon B. Stout and by leave of Court filed their exceptions to the Commissioner's report filed in this cause on the 8th day of October, 1956. ..

Enter.

JOEL W. FLOOD
Judge.

Entered COB #12, page 327 on 10-30-56.

R. H. B., Clk.

* * * * *

page 68 }

* * * * *

Filed 10-30-56.

R. H. B., Clk.

EXCEPTIONS TO REPORT OF COMMISSIONER, J. R.
SNODDY, JR.

Exceptions taken by certain respondents to the report of Commissioner, J. R. Snoddy, Jr., to whom this cause was referred by decree entered herein on the 16th day of July, 1956, and which report bears date of the 4th day of October, 1956, and which was filed on the 8th day of October, 1956.

EXCEPTION NO. 1:

Your respondents, by counsel, excepted to this cause being referred to said Commissioner to make inquiry only as to:

(1) What is a fair monetary value for all services rendered and monies expended by R. F. Stout, deceased, or his heirs, and Mona M. Schalow in complying with the requirements and conditions set forth as the consideration in the deed filed with the bill in this suit, marked "exhibit B."

(2) What is the value of the benefits, if any, received by the said R. F. Stout, deceased, or his heirs, and the said Mona M. Schalow as a direct result of the execution and recording of said deed.

Which said inquiries the said Commissioner shall make, after first giving notice of the time and place thereof to all parties, or their counsel, and report the same to the Court along with any matter specially stated deemed pertinent by himself, or which may be required by any person interested to be so stated.

Because, it was the opinion of your respondents that said cause should have been referred to the said Commissioner to inquire into and to perform the following:

(1) That a receiver be appointed by the Court to administer the property as a trust asset, to either rent or sell.

(2) That said receiver ascertain the fair rental value of said property.

(3) That said receiver ascertain what amount page 69 } will be necessary for reasonably comfortable support for D. B. Stout and Gertrude Stout.

(4) That a *lis pendens* be filed on behalf of your complainant to this cross-bill.

(5) That the said Commissioner would protect the one-half undivided interest of the infants in the corpus of the estate.

(6) That said Commissioner would make recommendation to the Court as to what would be reasonable attorney's fee, to be paid by the complainants, for the infant respondents' attorney.

EXCEPTION NO. 2:

Your respondents except to 1. (b) of said Commissioner's report as filed because:

It is absolutely impossible for the Commissioner to ascertain that \$186.78 is the value of the services R. F. Stout, Sr. rendered his father over the period from March 16, 1944, to July 21, 1952, and that the services by the father to the son would cancel each other out.

Furthermore, the testimony of the plaintiff, D. B. Stout, as to the contractual relationship of he and his deceased son is uncorroborated evidence and inadmissible and contrary to Section 8-286 of the 1950 Code of Virginia and should not have been considered by the Commissioner.

EXCEPTION NO. 3:

R. F. Stout, deceased, did receive benefits as a result of said deed in that he acquired a one-half interest in the corpus of the property, the subject matter of this suit, which in turn passed by the laws of intestacy to his heirs at law at his death on July 21, 1952, namely; his widow and infant children, the respondents to this cause.

Wherefore, the respondents do except to the said report of the Commissioner and pray that the said exceptions may be sustained and that said report may be corrected in the manner indicated by said exceptions; and

Further pray that said cause be re-referred to said Commissioner to make the inquiries and perform such duties as an officer of the Court as set forth in Exception 1 of these exceptions, and for said cause to be administered by page 70 } said Commissioner as a trust for the infant respondents in this Honorable Court.

VIRGINIA S. SHORES
By WM. C. CARTER
Counsel.
RUSSELL F. STOUT
JUANITA S. LEWIS
RUBY V. STOUT
MILDRED A. STOUT
GORDON B. STOUT
By WM. C. CARTER
Their Guardian *ad Litem*.

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page 71 }

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DECREE.

This cause came on this day to be again heard upon the papers formerly read; upon the report of John R. Snoddy, Jr., Commissioner in Chancery, dated the 4th day of October, 1956; and was argued by counsel.

On consideration whereof the Court doth hereby ADJUDGE, ORDER AND DECREE that the deed in the bill and proceedings mentioned and described bearing date on the 16th day of March, 1944, signed by D. B. Stout, Gertrude

Stout, R. F. Stout and Mona M. Schalow be and it is hereby rescinded and cancelled; and it is further ADJUDGED, ORDERED AND DECREED that, in order that the parties be placed in status quo, the said D. B. Stout and Gertrude Stout pay to the defendant, Mona M. Schalow, the sum of \$100.00, and to the other defendants, the heirs of R. F. Stout, deceased, the sum of \$186.78, being the amounts determined to be a fair monetary value for the services rendered and monies expended respectively by the said Mona M. Schalow and R. F. Stout as a direct result of the execution of the said deed.

AND it is further ADJUDGED, ORDERED and DECREED that John R. Snoddy, Jr. be allowed the sum of \$35.00 for his services as Special Commissioner in this cause and Carolyn Carter the sum of \$10.00 stenographers fee and that William C. Carter be allowed the sum of \$100.00 for his services as Guardian *ad Litem* for the defendant infants; both said sums to be taxed as part of the costs of this suit.

And it is further ADJUDGED, ORDERED and DECREED that the said D. B. Stout and Gertrude Stout do pay the costs of this suit.

Thes respondents, by counsel, intimating their intention of applying to the Supreme Court of Appeals of Virginia for an appeal from this decree, it is ordered that the execution hereof be suspended for a period of ninety days from the entry of this decree upon the respondents, or any one or more of them, or some one for them, entering into and acknowledging before the Clerk of this Court within ten days from the entry of this decree a suspending bond in the penalty of \$500.00, with security to be approved by the said Clerk and conditioned as the law directs.

Enter.

JOEL W. FLOOD, Judge.

Entered COB, #12, page 328 on 10-30-56.

R. H. B., Clk.

* * * * *

page 73 } Know All Men by These Presents, That we, Virginia S. Shores and W. C. Shores are held and firmly bound unto the Commonwealth of Virginia, in the sum of Five Hundred Dollars, to the payment whereof, well and

truly to be made to the said Commonwealth of Virginia, we bind ourselves, and each of us, our and each of our heirs, executors and administrators and successors, jointly and severally, firmly by these presents. And we hereby waive the benefit of our exemptions as to this obligation. Sealed with our seals, and dated this day of, one thousand nine hundred and

The Condition of the Above Obligation is Such, That whereas Virginia S. Shores, et al. by petition to the Supreme Court of Appeals of the State of Virginia, has prayed and obtained an appeal from, and a *supersedeas* to, a decree of the Circuit Court of the County of Cumberland, pronounced on the 30th day of October, 1956, in a suit depending in said Court, in which Virginia S. Shores, et als. upon entering into bond with sufficient security in the Clerk's office of the said Circuit Court of the County of Cumberland, in the sum of Five Hundred Dollars.

Now, Therefore, If Virginia S. Shores, et als. shall perform and satisfy the said decree in case the same be affirmed or the said appeal and *supersedeas* be dismissed, and shall also pay all damages, costs and fees which may be awarded against or incurred by D. B. Stout, and wife in the appellate Court and all actual damages incurred in consequence of the *supersedeas*, then this obligation to be void; otherwise to remain in full force and virtue.

W. C. SHORES, SR. (Seal)
VIRGINIA S. SHORES (Seal)

In the Clerk's Office of the Circuit Court for the *Cumberland* of Cumberland.

This day personally appeared before me R. H. Blanton, Clerk of the Circuit Court of the County of Cumberland, and made oath that his estate, after the payment of all his just debts, and those for which he is bound as security for others and expect to have to pay, is worth the sum of Five Hundred Dollars, over and above all exemptions allowed by law.

Given under my hand, this 7 day of Nov., 1956.

R. H. BLANTON, Clerk.

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR.

To the Clerk of the Circuit Court of Cumberland County, Virginia:

Counsel for Virginia S. Shores, one of the defendants in the above styled proceeding and William C. Carter, Guardian *Ad Litem* for Russell F. Stout, Jr. and Juanita S. Lewis and Ruby V. Stout and Mildred A. Stout and Gordon B. Stout, infant defendants in the above styled proceeding in the Circuit Court of Cumberland County, Virginia, hereby give notice of appeal from the decree and order entered in this cause on the 5th day of November, 1956 and notice of their intention to apply to the Supreme Court of Appeals of Virginia or to one of the justices thereof for an appeal from the aforesaid final judgment and decree rendered by the said Court aforesaid and set forth the following assignments of error:

1. The Court erred:

(a) In decreeing and ordering that the deed dated March 16, 1944 between D. B. Stout and Gertrude Stout as Grantors unto R. F. Stout and Mona M. Shalow be rescinded and annulled and cancelled;

(b) In decreeing and holding that the Grantees in the deed dated March 16, 1944 from D. B. Stout and Gertrude Stout unto R. F. Stout and Mona M. Shalow defaulted and failed to comply with the terms thereof;

(c) In holding and decreeing that the consideration recited and due by the Grantees in the deed dated March page 75 } 16, 1944 signed by D. B. Stout and Gertrude Stout unto R. F. Stout and Mona M. Shalow had failed.

(2) The Court erred:

(a) In holding and decreeing that it was unnecessary and improper to appoint a receiver to administer the property described in the Bill of Complaint for the benefit of the Grantors and the Grantees in the deed mentioned in the Bill of Complaint and for the heirs of R. F. Stout, deceased, who are infants.

(3) The Court erred:

(a) In referring the matter to a Commissioner in Chancery for a report only on a limited portion of the matters involved rather than referring the matter to a Commissioner in Chancery for a full and complete inquiry, report and findings on all of the facts involved in the litigation.

(4) The Court erred:

(a) In entering the final decree, which was entered on the 5th day of November, 1956.

Respectfully,

VIRGINIA S. SHORES
By WILLIAM C. CARTER and
GEORGE ABBITT, JR.
Counsel
RUSSELL F. STOUT, JR., JUA-
NITA S. LEWIS, RUBY V.
STOUT, MILDRED A. STOUT,
AND GORDON B. STOUT
By WILLIAM C. CARTER
Their Guardian *Ad Litem*.

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page 77 }

NOTICE.

To Taylor Williams, Counsel for D. B. Stout and Gertrude Stout.

You are hereby notified that on the 6th day of December, 1956 at 10:00 A. M. in the Courtroom in the County Court-house Building at Appomattox, Virginia, the undersigned will tender to the Honorable Joel W. Flood, Judge of the Circuit Court of Cumberland County, State of Virginia, the original transcript of the depositions taken before Mr. John R. Snoddy, Jr., the Commissioner in Chancery to whom this matter was referred, and the other record and exhibits re-

lating to the proceedings in this cause. The original transcript of the depositions reduced to writing is on file in the Clerk's Office of the Circuit Court of Cumberland County, Virginia at Cumberland, Virginia with the papers in the above-styled cause.

WILLIAM C. CARTER
Counsel for Defendants.

WILLIAM C. CARTER
Guardian *Ad Litem* for Infant
Defendants.

GEORGE ABBITT, JR., p. q.
WILLIAM C. CARTER
Guardian *Ad Litem* for Infant Defendants.

I, Taylor Williams, Counsel for the complainants in this cause acknowledge legal and timely receipt of the above Notice.

J. TAYLOR WILLIAMS.

* * * * *

A Copy—Teste:

H. G. TURNER, Clerk.

INDEX TO RECORD

	Page
Appeal Awarded	1
Record	2
Bill of Complaint with Exhibits	2
Proof of Service	8-12
Order	12
Order	13
Answer of Virginia S. Shores	13
Answer of Russell F. Stout	16
Answer of Infant Defendants, etc.	18
Decree	18
Depositions:	
D. B. Stout	20, 38
Virginia Stout Shores	29
Commissioner's Report	39
Order	41
Exceptions to Commissioner's Report	41
Decree—October 30, 1956	43
Bond	44
Notice of Appeal and Assignments of Error	46
Notice	47