



Nb. 4608

Frank Wood, III et al.,  
vs  
Dorothy Carrington, et al.,

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In the District Court of Waller  
County, Texas, September term, 1966,

On this the 24 day of Oct AD 1966, came on to be heard and considered the above entitled and numbered cause, and the plaintiffs in this cause, appeared by their attorney and announced ready for trial, and the defendant, C. B. Rogers having filed his answer herein, setting up that the defendant, Mrs Bethel Rogers, (same person as Eula Mae Rogers) his wife, was deceased, and by her will duly probated, she devised her estate and her interest in the lands the subject matter of this suit, to said C. B. Rogers, who is substituted for said Mrs Bethel Rogers, defendant, and the said defendants, Dorothy Carrington, Addie Farrington and Amsy Farrington, having been duly cited in the manner and form required by law, failed to appear and answer herein, and wholly made default, and thereupon a jury being waived all matters of fact as well as of the law were submitted to the court, and the court, after hearing the pleadings, the evidence and argument of counsel, and all facts and testimony pertaining to this cause, and having fully considered the same, is of the opinion and so finds as follows:



That the following described tract of land, to-wit:

All that certain tract or parcel of land, lying and being situated in Waller County, Texas, being part of the Juan A Padillo 2 Leagues Grant, being the same land conveyed by Sam Rainwater, Mose Williams and Jance Carter by partition deed dated the 11th day of November, AD 1887, recorded in Volume 10, page 135, 136 and 137, Waller County Deed Records, more fully described by metes and bounds as follows, to-wit:

BEGINNING at the southwest corner of the W J Rainwater 800.0 acres tract, being the southwest corner of the 200.0 acres tract allotted Jane Carter in the partition of the W. J. Rainwater estate, and being also the Southwest corner of a tract conveyed by Votek to H. I. Stahlmann; THENCE East with Stahlmann's North line at 1829.0 varas the northeast corner of the tract conveyed by Wood & Low to Stahlmann, at 1887.2 varas corner in the center of a public road and the Southwest corner of the tract allotted Mose Williams in the Rainwater partition; THENCE North 601.0 varas with the west line of Mose Williams to corner in his east line at the most western Southeast corner of the 187 acres tract allotted Sam Rainwater and being the Southeast corner of the tract now owned by F.A. Hartmann; THENCE West at 1333.0 varas, iron stake for Hartman's southwest corner, at 1385.0 varas cross Irons Creek, at 1887.2 varas corner in the East line of the tract conveyed by Votek to Stahlmann; THENCE South 601.0 varas with Stahlmann's East line to the place of beginning, containing 200.91 acres of land, as surveyed by Louis Beazley, on July 2, 1949;

#1318

being the same person as W. J. Rainwater was owned by Jasper Rainwater, /in fee simple, a resident of Waller County Texas, and a single man, and who became deceased, and left a written will duly probated in the County Court of Waller County, Texas, in which he devised such property for life to Jane Carter, who became deceased, on or about March 22nd, 1929, with remainder in fee simple to his two brothers, George Rainwater and A. F. or Addison Rainwater, and his two sisters, Louise Rainwater Harris, and Adeline Rainwater Hosea, in each shares of one-fourth each, that all of said four devisees are deceased and left as their sole surviving heirs at law, the following:

1.

That George Rainwater, who married Leonella Wood (who died intestate May 4, 1930) became deceased on May 24, AD 1886, intestate, and had four children, of whom two, George Rainwater and Ada Rainwater, died in infancy, without marriage, or heirs other than surviving sisters and brothers and parents, and the other two being Stalle Hitchcock, wife of Jesse C. Hitchcock, plaintiff, and Leo<sup>Jasper</sup> Rainwater, who died intestate on or about November, 1918, and left as his sole heir the plaintiff, Leo James Rainwater;



That A. F. or Addison Rainwater, who married Susan Wallace, died intestate, as well as his wife, about 61 years ago, and left three children, to-wit: James Rainwater, Fannie Rainwater, and America Rainwater, as his sole heirs at law, all of whom are deceased and left as their sole heirs the following:

A. James Rainwater, died intestate, on July 14, 1894, and his wife, Ella Sampson, died March 7, 1905, both intestate, and left as their sole surviving heirs at law, the following to-wit: Frank or F. D. Rainwater, Mary Rainwater, a feme sole, Mrs Gertrude Moore, a feme sole, Mrs Etta Cole a feme sole, and Mrs Pearl Averyt, a feme sole, and H. B. Rainwater, the last named being deceased about January 27, 1947, and h left as his sole heir at law, his son, Hiram Brown Rainwater, Jr.,

b. That Fannie Rainwater Lincecum, died intestate, in 1879, and her husband, D. L. G. Lincecum, died intestate, in 1900, and left as their sole heirs at law, the following: Addison L Lincecum, and Paschal B. Lincecum, who died on or about 1929, and left as his sole heir at law, Fannie Mae Wolf, wife of Garret Wolf, plaintiff herein;



c. America Rainwater Brown, who died intestate on June 5, 1913, who married Hiram L Brown, who died intestate, February 9, 1911, and left as her sole heirs at law, Eloise Brown, a feme sole, and James Wallace Brown, who died in Beeville, Bee County, Texas, March 13, 1936, and left a surviving wife, Myrtle Brown, but no children, however, he devised all interest and estate in the above lands, under the terms of his will, to his sister, Eloise Brown, plaintiff herein, and the sole heir of said America Rainwater Brown mentioned above;

3.

That Adeline Rainwater Hosea died on or about March 17, 1898, and left a written will duly probated in which she devised all her property, and estate to her five children (by two marriages) to-wit: John Carrington, W. T. Carrington, Louis Hosea, Mattie Reeves, and Alma Hosea Wood, in equal shares, all of such devisees deceased, and left the following heirs at law, to-wit:

a. W. T. Carrington who died in Brenham, Texas, on December 17, 1945, and left a written will duly probated, in which he devised his interest in said lands to his children, Mabel Carrington Brown, who married Emory G. Brown, Addie Farrington, who married Amsy Farrington, and Dorothy Carrington, a feme sole, in equal shares; that Emory G. Brown deceased Dec 8, 1950, and Mabel Carrington Brown deceased, intestate, November 15, 1963, and left as her sole heirs at law, two children, Frances Reeves Smith, wife of Robert S Smith and Lillian E. Wolkarte, a feme sole, who are made plaintiffs herein;

b. That Louis Hosea died a single man, on May 6, 1898, left a written will, duly probated, devising his estate to his sister, Alma Hosea Wood, wife of F. W. Wood;

c. That Mattie Reeves, deceased on July 4, 1928, intestate, and left as her sole heirs at law, the following: Wm Reeves, Frank Reeves, AND Mrs Alice L. McVea, wife of A. J. McVea, plaintiffss herein;

d. That Alma Hosea Wood, who married F. W. Wood, died on October 17, 1940, and left a written will duly probated in which she devised her estate to Frank Wood, III and Henry A. Wood, one share jointly, one share to Mattie Reeves Ferguson, and one share to Frank Wood, Jr., determinable on his decease to pass in fee simple to said daughter, Mattie Reeves Ferguson, said Frank Wood, Jr., died Dec 22 1945, and such share passed to said Marrie Reeves Ferguson, plaintiff herein;



? e. That John Carrington, sold his interest in said lands, to F. W. Wood, husband, of Alma Hosea Wood, by deed dated July 21, 1917, recorded in Vol 48 page 10, Waller County Deed Records; that F W Wood died January 17, 1920, and by will duly probated, he devised one-half of his interest in said lands, and the other half to Frank Wood, III, and Henry A. Wood, all plaintiffs herein;

4.

That Louisa Rainwater, who married Jesse Harris (who deceased intestate, Dec 13, 1878) died intestate, July 8, 1910, and left as her sole surviving heirs at law, the following:

a. Georgia Harris Bledsoe, who died intestate, May 22nd, 1947, and her husband, Frank Fears Bledsoe, (who died intestate May 28, 1948) left as her sole heirs at law: Robert Bruce Bledsoe, George Carroll Bledsoe, Ruth Ray Bledsoe, a feme sole, and Gordon Lee Bledsoe, all plaintiffs herein;

b. Celestia Rainwater Harris, married Adolph Testard, died intestate, in 1885, and her husband died intestate in 1885, and left only one heir surviving, viz., Celeste Harris, who married A. H. Davidson, both of whom died intestate, in 1915 and 1902 respectively, and left as their sole heir at law, her son, G. A. Davidson, plaintiff herein;

✓c. That Martha Harris Delameter, who died intestate in 1926, and who married B. F. Delameter, (who died intestate in December, 1879) left as her sole heirs at law: B. F. Delameter, Mrs Annie Jenkins, a feme sole, and H. H. Delameter, plaintiffs herein;

✓d. That Julia E. Harris McInver, who died intestate in 1927, and who married A. W. McIver (who died intestate, in December 1912) left as her sole heir at law, Mrs Julia McIver Wood, wife of C. D. Wood, plaintiffs herein;

✓e. Mrs Lucy Harris Hill, who died intestate, Sept 22, 1922 and who married Jim Hill (who died intestate August 19<sup>th</sup> 1906) left as her sole heirs at law: Miss Julia Hill, a feme sole, Mrs Ellen Teague, wife of B. H. Teague, Ben Hill, and Hugh Hill, the latter having died intestate, Sept 30, 1914, without surviving wife, left as his sole heirs Evelyn Storey, a feme sole, and Nell Hill Fields Hearon, a feme sole, all plaintiffs herein;



f. A. J. (J<sup>rd</sup>) Harris, who died intestate in 1885, and who married Mollie Higgason (who died intestate in 1888) left as his sole heir at law, Mrs Bethel Rogers (the same person as Eula Mae Rogers) wife of C. B. Rogers, and she died February 9th, 1950, and left written will duly probated, in which she devised all her estate to her husband, C. B. Rogers, made defendant herein, for her interest in said lands;

g. J. Addison Harris, who died intestate, Sept 27, 1887, and who married Catherine Watson, (who deceased Jan 16, 1898) left as sole heirs at law, the following: Mary Voght, wife of August Voght, Willie Harris Burton, wife of Oscar Burton, Seth W. Harris, and Edward Harris, the latter deceased intestate in 1947, without wife or children at the time;

h. W. J. Harris, who deceased, and left written will duly probated in which he devised his estate to his wife, Ora T. Harris, who on decease, left w written will duly probated, in which she devised her estate to William Jesse Harris, Jr., Helen Louise Harris, Hallie Harris Trottnow, McKinney, Zula Harris Easley, a granddaughter, Patsy Jane Kelley, /wife of Paul Trottnow, and daughter of Martha D Harris, /deceased, and Goldie Harris Recoulley (having devised nothing to her son, Jesse Tolbert Harris) in equal shares; the said Goldie Harris Recoulley, died intestate, and left as her sole heirs at law, Alfred L Recoulley, Harris H Recoulley, Francis L Recoulley, and Mrs Hae R Thibeaux, wife of Louis A. Thibeaux, all plaintiffs herein;

## II.

That by reason of the relationship and inheritance and thru devise of the various heirs of the original ancestor, Jasper Rainwater, as hereinabove set out, the said property is jointly owned by said parties to this suit, in the following proportions and shares, to-wit:

✓a. Stella Hitchcock, and Leo James Rainwater, each an undivided one-eighth( $1/8$ th) part of same;

✓b. V. C. (Frank) Rainwater, Mary Rainwater, Mrs Gertrude Rainwater Moore, Hiram Brown Rainwater, Jr., Mrs Etta Rainwater Cole, and Mrs Pearl Averyt, each an undivided one-seventy-second( $1/72$ nd) part of same; \$750.00 ea

✓c. Addison L Lincecum, and Mrs Fannie Mc Lincecum Wolf, each an undivided one-twenty-fourth ( $1/24$ th) part of same; \$2300.00 addl  
All 3 \$750.00 ea

✓d. Eloise Brown, an undivided one-twelfth( $1/12$ th) part of same;

✓e. Mrs Addie Farrington, and Dorothy Carrington, each an undivided one-sixtieth ( $1/60$ th) part and Frances Reeves Smith and Lillian B. Wolkarte, each an undivided one-one hundred twentieth( $1/120$ th) part of same;



954.37 939.37  
f. Wm Reeves, Frank Reeves and Mrs Alice L. McVea, each an undivided one-sixtieth (1/60th) part of same;

2 g. Mattie Reeves Ferguson, eleven-onehundred twentieth (11/120th) and Frank Wood, III and Henry A. Wood, each, seven-one hundred fortieths (7/140th) part of same;

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h. Robert Bruce Bledsoe, George Carroll Bledsoe, Ruth Ray Bledsoe, and Gordon Lee Bledsoe, each an undivided one-one hundred twenty-eighths (1/128th) part of same;

i. G. A. Davidson, an undivided one-thirty second (1/32nd) part of same;

B.F. Belameter  
J.B.F. Belameter, Annie Jenkins and H. H. Delameter, each an undivided one-ninty-sixth (1/96th) part of same;

J. E. Hearon  
J. E. Hearon  
k. Mrs Julia McIver Wood, an undivided one-thirty second (1/32nd) part of same;

J. E. Hill  
l. Julia Hill, Ellen Teague, Ben Hill, each an undivided one-one hundred twenty eighth (1/128th) part thereof, and Evelyn Storey, and Nell Hill Hearon, each an undivided one-two hundred fifth-sixth (1/256th) part thereof;

E. C. B. Rogers  
m. C. B. Rogers, an undivided one-thirty second (1/32nd) part thereof.

n. Seth W. Harris, Mary Voght, Willie Harris Burton, each an undivided one-ninty-sixth (1/96th) part of same;

o. William Jessie Harris, Jr., Helen Louise Harris, Hallie Harris McKinney, Zula Harris Easley, Patsy Jane Kelley Trottnow, each an undivided one-one hundred ninety-second (1/192nd) part thereof, and to Alfred L. Recoulley, Harris H Recoulley, Frances L Recoulley, and Mrs Rhae R. Thibeaux, each, an undivided one-seven hundred sixty-eighths (1/768th) thereof;

That the parties, Jessie C. Hitchcock, Garrett Wolf, A. J. McVea, Harry E. Ferguson, C. D. Wood, B. R. Teague, August Voght, Oscar Burton, Paul Trottnow, Louis A. Thibeaux, and Robert S Smith, plaintiffs, and Amsy Farrington, defendant, have no interest in said property, being joined pro forma with their wives;

### III.

The Court further finds that the plaintiffs and defendants, (except as mentioned above) are the sole owners of said lands and property, and all improvements thereon, and further finds that the said property is not susceptible of a fair, just and equitable partition in kind, among the joint owners, especially in view of the small proportionate interests owned by a majority of the co-owners, and the same will have to be sold for the purposes of partition.

### IV.

It is therefore, ordered, adjudged and decreed by the court, that the said above described lands, be and the same are not found to be susceptible of a fair and just partition and division among said distributees, and the same is hereby ordered sold by the Receiver herein appointed for the purposes of partition, but that the joint owners



retain, and that there be reserved and excepted out of said lands, in their behalf, an undivided one-thirty-second (1/32nd) non-participating royalty interest in and to all the oil, gas and other minerals in, on, under, upon or that may be produced and saved from such lands, and held by them jointly, in the proportion of their interests determined by the court herein, and the Receiver is directed to sell said lands subject to such reservation and exception.

V.

It is furthermore ordered, adjudged and decreed by the court, that *RW Warren* be and he is hereby appointed Receiver, and he shall file a good and sufficient bond in the sum of \$500 00. with two or more good and solvent sureties, conditioned that he shall perform his duties faithfully and in accordance with the orders of this court; said Receiver shall sell and dispose of said property for Cash, at private Sale, for the best price obtainable, and shall report back to this court, of his actions as to any such sales so made, in order that this court may direct the payment of the expenses, and direct the distribution of the proceeds thereof among the distributees according to their interests in said property as determined herein by the court.

*Ernest C. Oker*  
Judge Presiding.



ORIGINAL DISTRIBUTION OF FUNDS CAUSE NUMBER 4608  
DISTRICT COURT OF WALLER COUNTY

ORIGINAL BALANCE \$ 78,736.00

CHECK NO.	NAME	PERCENTAGE	AMOUNT
January 13, 1967			
1	Cash (W.J. Embrey)- recording fees	\$	14.20
2	Wm. H. Reul-survey		150.00
3	Botts Abstract Co.- title policy		330.00
4	R.W. Warren - real estate commission		3936.80
5	Lehoy Synnon - County Taxes		2535.31
6	Hempstead Independent School District		1117.27
7	A.J. Foster District Clerk - Court Cost		75.00
8	Judge Ralph Waters -		
9	refund on rent from H. Danneck		125.00
	W.J. Embrey, Attorney for plaintiff		13179.91
January 20, 1967			
10	Julia McIver Wood	1/32	1761.32
11	** Julia Hill	1/128	440.33
12	** Ellen Teague et vir		
	B.R. Teague	1/128	440.33
13	** Ben Hill	1/128	440.33
14	** Evelyn Storey	1/256	220.16
15	** Nell Fields Hearon	1/256	220.16
16	Seth Harris	1/96	587.11
17	Mary Voight et vir	1/96	587.11
18	Willie Harris Burton	1/96	587.11
19	William Jessie Harris	1/192	293.55
20	** Helen Lois Harris	1/192	293.55
21	Hallie Harris McKinney	1/192	293.55
22	Alice L. McVey et vir	1/60	939.37
23	Mattie Reeves Furguson	11/120	5166.48
24	Frank Wood III	7/240	1643.88
25	Henry A. Wood	7/240	1643.88
26	** Robert Bruce Bledsoe	1/128	440.33
27	** George Carroll Bledsoe	1/128	440.33
28	** Ruth Ray Bledsoe	1/128	440.33
29	** Gordon Lee Bledsoe	1/128	440.33
30	G.A. Davidson	1/32	1761.32
31	B.F. Delameter	1/96	587.11
32	Annie Jenkins	1/96	587.11
33	** H.H. Delameter	1/96	587.11
34	Fannie Mae Garret Wolf	1/24	2348.41
35	Eloise Brown, deceased	check voided in favor of	
	of #58, #59, #60, & #61	1/12	4696.82
36	Francis Reeves Smith	1/120	469.68
37	Lillian B. Wolkarte	1/120	469.68



37		Lillian B. Wolkarte	1/120	469.68
38		William Reeves	1/60	939.37
39		Frank Reeves	1/60	939.37
40		Dorothy Carrington	1/60	1174.20
41		Addie Farrington	1/60	1174.20
42	**	C.B. Rogers	1/32	2201.64
43	**	Stella Hitchcock	1/8	7045.24
44	**	Leo James Rainwater	1/8	7045.24
45		Frank (F.D.) Rainwater	1/72	782.80
46		Mary Rainwater	1/72	782.80
47		Gertrude Moore	1/72	782.80
48		Hiram Brown Rainwater	1/72	782.80
49		Etta Cole	1/72	782.80
50		Pearl Averyt	1/72	782.80
51		Addison L. Lincecum	1/24	2348.41
52		Zula Harris Easley	1/192	293.55
53		Patsy Jane Trottnow	1/192	293.55
54		Alfred L. Recoulley	1/768	73.39
55		Harris H. Recoulley	1/768	73.39
56		Francis L. Recoulley	1/768	73.39
57		Rhae R. Tribeaux	1/768	73.39

June 6, 1967

58	Addison T. Lincecum	1500.00
59	Barney Lincecum	1500.00
60	Ruth Crosby	1500.00
61	W.J. Embrey	196.82

\*\* NOTES CHECKS NOT CASHED

EXHIBIT "A"