


JOHN MICHAEL SPACEK as §  
 INDEPENDENT ADMINISTRATOR §  
 of the ESTATE OF JOSEPH A. §  
 SPACEK §  
 PLAINTIFF §  
 V. §  
 LAVERNE EMELIE DANCAK, §  
 ALL HEIRS (KNOWN AND §  
 AND UNKNOWN) OF JOE H. NELLE, §  
 BETTY JAYNE NELLE DARDEN, §  
 CAROLYN C. STEWART, §  
 DAVID EDWIN WHITE, EVERETT §  
 MICHAEL OWEN, GEORGE OWEN §  
 COMPTON, JOHN WHITE, TRUSTEE §  
 OF JOHN WHITE LIVING TRUST, §  
 JOHN WILLIAM DERRICK, §  
 JOHNNY L. CORLEY, MARK §  
 ELLIOTT WHITE, ROBERT E. WHITE, §  
 MIKE R. WHITE, JR., MORGAN §  
 WHITE, CHRISTINE MATIN, MARY §  
 KATHERINE WITTROCK, MARY §  
 SUE NELLE COPELAND, OKLAHOMA §  
 MEDICAL RESEARCH FOUNDATION, §  
 OKLAHOMA UNITED METHODIST §  
 FOUNDATION, INC., PATRICIA OWENS §  
 MCLAURY, MARY MARGARET §  
 MCCLENDON REDMAN TRUSTEE OF §  
 REDMAN MARITAL §  
 TRUST, SANDRA LYNN DERRICK §  
 HARRISON, FAYE J. ROGERS, §  
 STELLA ANN SIMS AND WILLIAM §  
 ALVIN WHITE, §  
 DEFENDANTS §

IN THE DISTRICT COURT

OF LEE COUNTY, TEXAS

21ST JUDICIAL DISTRICT

**FILED**  
 01-14-2020  
 9:29 AM  
  
 DISTRICT CLERK  
 LEE COUNTY, TEXAS

**DECLARATORY JUDGMENT**

On this the 14<sup>th</sup> day of January, 2020, this cause came on to be heard.

Appearances

Entered

JOHN MICHAEL SPACEK, as Independent Administrator of the Estate of Joseph A. Spacek, Plaintiff, appeared in person and by attorney of record, Michelle Weiser and announced ready for trial.

Amanda Carter, who was appointed as attorney ad litem for the heirs (known and unknown) of Joe H. Nelle, whose location could not be found, appeared and announced ready for trial.

Laverne Dancak, has filed an answer in this case. She has also executed an easement. The parties and their respective attorneys have agreed that all claims against each other shall be dismissed via this order.

Although duly and properly served pursuant to the Texas Rules of Civil Procedure, no other Defendants have filed an answer or appeared in this suit.

### Findings

No jury having been demanded, all questions of fact were submitted to the court.

After examining the pleadings and admitted exhibits and hearing the evidence and arguments of counsel, the Court FINDS the following:

1. On January 8, 1917, Joe H. Nelle conveyed the 101.50 acre tract currently owned by Plaintiff and described under Dominant Estate Property herein (hereinafter referred to as "Tract One"). The conveyance reserves the 1 1/2 acre easement in question which is more fully described as Easement Property herein (herein after referred to as "Tract Two").
2. Plaintiff's predecessors in interest for over 100 years have used Tract Two for ingress and egress to and from Tract One to the public roadway, CR 430.
3. Plaintiff has paid for a title search on Tract Two which was completed by Inland Exploration & Minerals, LLC.
4. All possible owners of Tract Two, as determined by Inland Exploration & Minerals, LLC were made Defendants in this lawsuit.
5. Amanda Carter was appointed as attorney ad litem for all heirs of Joe H. Nelle (known or unknown) whose whereabouts could not be found.

6. Of the 24 Defendants and possible interest holders in Tract Two, 9 Defendants deeded to Plaintiff all their right, title and interest in the surface acreage of Tract Two.

7. Of the remaining 15 Defendants and possible interest holders in Tract Two, 13 Defendants granted Plaintiff an access easement from the public roadway, CR 430, through Tract Two to Tract One.

8. The remaining 2 Defendants have responded as follows:

a. John William Derrick could not be located by Plaintiff or the attorney ad litem. However, his sister Sandra Lynn Derrick Harrison has informed the attorney ad litem that they are not heirs and hold no interest in the property.

b. Sandra Lynn Derrick Harrison has informed the attorney ad litem that she is not an heir and has no interest in this property.

9. The rights of any Defendants or of any possible interest holders not identified or located will not be affected as Plaintiff has now acquired via conveyances an undivided interest in Tract Two plus 13 properly executed and recorded access easements. The Court is not altering ownership of Tract Two by the terms of this Judgment.

#### Judgment

This court, after hearing the evidence and arguments of counsel, is of the opinion that plaintiff is entitled to the following judgment:

Dominant Estate Property: Being a part of a 1458.71 acre tract of land out of the Thos. Bird League conveyed to J. H. Nelle by the Austin County Land Company, being part of Lot No. 4 of said subdivision made by John Parker, surveyor for J. H. Nelle; beginning at a stake which bears S. 45 E. 278 varas from the west corner of a 200 acre tract of land conveyed by J. H. Nelle to T.F. Ramsey, from which a P.O. marked X bears N. 65 E. 5 ½ varas; another P.O. marked X bears S. 56 W. 7 varas; thence N. 45 W. 663 varas to a stone for corner from which a P.O. marked 3 bears S. 81 E 23-3/10 varas; another P.O. marked 4 bears S 1 E 23 varas; thence in a southwesterly direction with the right of way of the H & T.C. R.R. Company right of way, cross Yegua Creek twice just below the railroad bridge on said Yegua and corner on the east bank of a big water hole; thence down said Yegua 5 varas to a stake for corner from which a big pin oak marked X bears east about 7 varas; thence N. 45 E. cross the Yegua twice and continue 1838 varas to the place of beginning and containing 101 ½ acres of land less 1 ½ acres strip six varas wide on the east end of said tract and a strip six varas wide down the N.W. side of said tract running from the north corner of the same for a distance of 530 varas, reserved as a road

and a way of ingress and egress by J. H. Nelle; being the same land described in Deed from Albert Luecke, et ux to Joe Spacek, Jr. in Volume 88, Page 551 of the Real Property Records of Lee County, Texas, and portions thereof. (Referred to as Tract One herein)

Easement Property: 1 ½ acres strip six varas wide on the east end of said tract and a strip six varas wide down the N.W. side of said tract running from the north corner of the same for a distance of 530 varas, reserved as a road and a way of ingress and egress by J. H. Nelle in Volume 27, Page 585 of the Real Property Records of Lee County, Texas. (Referred to as Tract Two herein).

**PLAINTIFF AND PLAINTIFF'S HEIRS, SUCCESSORS AND ASSIGNS HEREBY HOLD AN EASEMENT OVER, ON AND ACROSS THE EASEMENT PROPERTY FOR INGRESS AND EGRESS AND FOR THE BENEFIT OF THE DOMINANT ESTATE PROPERTY, TOGETHER WITH ALL AND SINGULAR THE RIGHTS AND APPURTENANCES THERETO IN ANY WAY BELONGING (COLLECTIVELY, THE "EASEMENT"), TO HAVE AND TO HOLD THE EASEMENT TO PLAINTIFF AND PLAINTIFF'S HEIRS, SUCCESSORS AND ASSIGNS FOREVER.**

**THE EASEMENT IS APPURTENANT TO AND RUNS WITH ALL OR ANY PORTION OF THE DOMINANT ESTATE PROPERTY.**

**THE DURATION OF THE EASEMENT IS PERPETUAL.**

IT IS ORDERED, ADJUDGED AND DECREED that all causes of actions filed by Plaintiff against Laverne Dancak (except with respect to the access easement as set out above) and all causes of action filed by Laverne Dancak against Plaintiff are DENIED.

All costs of court expended or incurred in this cause are taxed against the party incurring them. All relief not expressly granted is denied.

SIGNED on JAN. 14<sup>TH</sup>, 2020

  
JUDGE PRESIDING

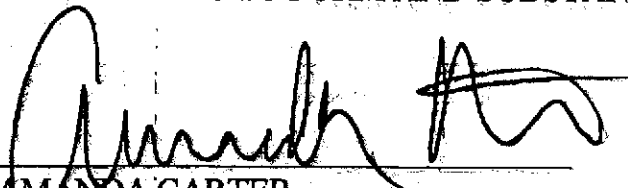
APPROVED AS TO FORM:



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MICHELLE WEISER  
Attorney for Plaintiff

APPROVED AS TO FORM AND SUBSTANCE:



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AMANDA CARTER  
Attorney Ad Litem