

J. B. STUART AND R. E. STUART,
a Partnership composed of J. B.
STUART AND R. E. STUART,

Plaintiff,

VS.

J. E. LINCH and the UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

ANSWERS OF DEFENDANT, J. E. LINCH, TO INTERROGATORIES
FURNISHED BY THE PLAINTIFF TO THE DEFENDANTS IN THE
ABOVE STYLED CAUSE UNDER SECTION 7764 OF THE CODE OF
ALABAMA, 1923.

No. 1.

I had a contract with the State Board of Administration of
Alabama, which called for construction work on FEDERAL AID PROJECT
NUMBER 211, in Baldwin County, Alabama.

No. 2.

A copy of said contract together with copy of Contractor's
Bond is hereto attached.

No. 3.

My answer to question No. 3 is yes.

No. 4.

I have no written contract and for this reason cannot attach
a copy of same. See answer to question No. 3.

No. 5.

All construction work called for on J. E. Linch's contract on
FEDERAL AID PROJECT Number 211 in Baldwin County, Alabama, has been com-
pleted.

No. 6.

I have been informed that Plaintiff did some of the work on
contract mentioned in this question, but I am not in a position to say
definitely whether they furnished any material called for in said con-
tract. Material for said construction work was furnished entirely by me
and the State Board of Administration of Alabama. I had no contract with
Plaintiff and cannot answer definitely whether or not any material was
furnished by it under said contract.

No. 7.

My answer to question No. 6 is not "yes". My information now
is that Plaintiff did some work on said contract, but the material was

furnished by the State Board of Administration, and that whatever labor was performed by the Plaintiff was performed by it without my knowledge or consent. I am unable to answer definitely whether Plaintiff was a sub-contractor; if said Plaintiff was a sub-contractor, he was not made so by me. *I do not know but am informed plaintiff furnished labor for W.C. Earnest Jr., a sub-contractor.*

No. 8.

As stated in my answer to question No. 7, my answer to No. 6 is not "yes". I had no contract with Plaintiff and consequently I am unable to answer as to what materials were furnished and what work done by Plaintiff, and I am unable to answer as to what materials furnished and what work done, if any, was included in my contract for construction work and materials on FEDERAL AID PROJECT Number 211.

No. 9.

I repeat that my answer to question No. 6 is not "yes," but Defendants themselves, have not paid Plaintiff for any work done or material furnished and used and as a part of the work called for in my contract for said construction work and materials on said FEDERAL AID PROJECT Number 211 in Baldwin County, Alabama. If Plaintiff has been paid anything on said contract, it was not paid by me.

No. 10.

My contract was with the State Board of Administration of Alabama, and I sub-let a part of this contract to W. C. Earnest, Jr., for the completion of said contract. My information now is that Plaintiff did some work on this contract but the same was not authorized by me.

J. H. Lynch
J. H. Lynch.

STATE OF ALABAMA

HOUSTON COUNTY

Before me, Nora Knox, a Notary Public, in and for said State and County, personally appeared J. H. Lynch, who, after being by me first duly sworn, deposes and says, that the answers to interrogatories propounded by the Plaintiff in the above styled cause are true and correct.

Nora Knox

Sworn to and subscribed before me on this
the 27 day of January, 1932.

Nora Knox
Notary Public

PROPOSAL

FOR THE CONSTRUCTION OF PROJECT NUMBER FAP-211

In Baldwin Bayminette to Stockton County, Ala.

Date 9/24/30 193---

Proposal of John H. Lynch,

--- of Dothan, Ala.

for constructing the Headwalls & Culverts on Project FAP-211

in County of Baldwin, State of Alabama.

The plans are composed of drawings indentified as follows:

Project FAP-211

The specifications are herto attached.

The following proposal is made on behalf of ---

John H Lynch

and no others, Evidence of my authority to submit the proposal is herewith furnished. The proposal is made without collusion on the part of any person, firm or corporation.

I certify that I have carefully examined the plans listed on the preceding page and the specifications hereto attached, including the special provisions, and have also personally examined the site of the work. On the basis of the specifications and plans, I propose to furnish all necessary machinery tools, apparatus, and other means of construction, and do all the work and furnish all the materials except sand, gravel, cement and reinforcing steel which will be furnished by State Board of Administration, F.O.B. Cars at Nearest R.R. Station, and to finish the entire project in 200 working days. I understood the quantities mentioned below are approximate only and are subject to either increase or decrease, and hereby propose to perform any increased or decreased quantities of work at the unit price bid.

--- Acres of Clearing & Grubbing @ --- Per. Acre.

320 Cu. Yds. Class A Concrete @ 12.00 " Cu. Yd. 3,840.00

150 " " " B " " 12.00 " " " 1,800.00

30,000

-----Lbs. Reinforcing Steel @-----^{.011}-----Pcr.Lb. 375.00

-----Ft. of Galvanized Cable----- " Ft.

*****-----Concret Right of Way Markers C-----Each

-----Treated Timber post @-----Each

-----Deadmen for post @-----Each

-----Cu.Yds. Gravel 1st, mile haul @-----Per.Cu.Yd.

-----" " Additional $\frac{1}{2}$ Mile haul @-----" " "

200	Unclassified Culv. Exc., C	50¢	100.00
			6,115.00

6,115.00

CONTRACT

This Agreement made and entered into this 24 day of September one thousand nine hundred and thirty, by and between the STATE BOARD OF ADMINISTRATION, party of the first part (hereinafter called the STATE BOARD OF ADMINISTRATION) and John E. Lynch party of the second part (hereinafter called Contractor), WITNESSETH:

WHEREAS, the State Board of Administration desires the improvement and construction of a certain section of road hereinafter more particularly described, and the contractor desires to do and perform all the work and labor for the said purpose;

NOW, THEREFORE, in consideration of the promises, the mutual covenants herein contained and the sum of one dollar (\$1.00) by each of the parties to the other in hand paid, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. The contractor promises and agrees to deliver all the material and to do and perform all the work and labor required to be and delivered, done and performed in and about the improvement and construction of a road in Baldwin County, known as Project Number RRP-211, same to be a Concrete Culverts & Roadways in strict and entire conformity with the provisions of the contract, and the notice to contractors and proposal, and the plans and specifications prepared (or approved) by the Highway Director (or the Assistant Engineer), the originals of which are on file in the office of the Highway Director, copies of which are hereto attached, and which said plans and specifications and the notice to contractors and the proposals are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth at length in the body of this agreement.

2. The State Board of Administration agrees and promises to pay to the contractor for said work, when completed in accordance with the provisions of this contract, the price as set forth in the said proposal, amounting approximately to Six-thousand one-hundred & Fifteen Dollars \$6,115.00 Dollars (\$-----).

payments to be made as provided in said specifications upon receipt of regular estimate, properly signed, coming through the office of State Highway Department and upon the terms set forth in the said specifications and pursuant to the terms of this contract. The extent of material furnished for Class A & B concrete is 1.28 tons gravel or 1.07 tons slag, .67 tons sand and 1.5 bbls cement, the cost of any material in excess of this will be deducted from the estimate. When cement is furnished in cloth sacks, the sacks at ten cents each will be charged to your account, and you will receive the credit for the sacks according to cement companies credit memorandum for sacks returned to them.

3. The said work shall be done in accordance with the laws of the State of Alabama under the direct supervision, and the entire satisfaction of the State Highway Commission, subject at all times to the inspection and approval of the Secretary of Agriculture or his agents and in accordance with the rules and regulations made pursuant to that certain Act of the Federal Congress entitled, "An Act to provide that the United States shall aid the States in the construction of rural post roads and for other purposes," approved July 11, 1916.

4. The decision of said State Board of Administration upon any question connected with the execution of this agreement or any failure or delay in the prosecution of the work by the said contractor shall be final and conclusive.

IN WITNESS WHEREOF THE STATE BOARD OF ADMINISTRATION has caused these presents to be executed by C. A. Moffett
 -----and----- John H. Lynch
 -----, The Contractor,
 has hereto set this hand and seal this the day and year above written.

STATE BOARD OF ADMINISTRATION

By Harry Dwyer
 President

By J. H. Lynch
 Contractor.

BOND

STATE OF ALABAMA,
Montgomery, County.

KNOW ALL MEN BY THESE PRESENTS: That we John H. Lynch

-----, as principal, and-----

UNITED STATES FIDELITY & GUARANTY COMPANY,

a corporation under the laws of the State of Maryland, and having
its principal office in the City of Baltimore, Maryland.

-----And

-----, as
sureties, are held and firmly bound unto the State Board of Admin-
istration, in the penal sum of \$6,115.00

-----Dollars, for the payment of which well and truly to be
made, we hereby bind ourselves, our heirs, executors, administrators,
successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands and af-
fixed our seals, this 24-----day of September-----, 1930

PROVIDED, HOWEVER, that the condition of this obligation is
such that whereas the above bound John H. Lynch
have this day entered into a contract with the said State Board
of Administration, for the building of 9.54-----miles of road in
Baldwin-----County, to-wit: a road leading from Bay Minette to
Stocton-----known as Project Number FAP-211
a copy of which said contract is hereto attached.

NOW, THEREFORE, in the event the said John H. Lynch
as such contractor shall faithfully and promptly perform said
contract and all the conditions and requirements thereof, then this
obligation shall be null and void and of the effect, otherwise to
remain and be in full force and effect.

PROVIDED, further, that upon the failure of the said John
H. Lynch
-----to promptly and efficiently prosecute said work, in any
respect, in accordance with the contract, the above bound-----
-----as sureties, shall take charge of said work and
complete the contract at their own expense, pursuant to its terms,
receiving, however, any balance of the funds in the hands of said
STATE BOARD OF ADMINISTRATION due under said contract. Said
sureties may, if they so elect, by written direction given to the
State Board of ADMINISTRATION authorize the STATE BOARD OF ADM-
inistration to complete the said contract at the expense of said
sureties, and such sureties hereby agree and bind themselves to pay
the expense of the completion of such work, less any funds of the

STATE BOARD OF ADMINISTRATION REMAINING due to above bound contract-
or.

In the event said principal shall fail or delay the prosecution and completion of said work and said sureties shall also fail to act promptly as hereinbefore provided, then said State Board of Administration may cause ten days notice of such failure to be given, either to said principal or sureties, and at the expiration of said ten days, if said principal or sureties do not proceed promptly to execute said contract, the STATE BOARD OF ADMINISTRATION shall have the authority to cause said work to be done, and when same is complete and the cost thereof estimated, the said principal and sureties shall and hereby agree to pay any excess in the cost of said work above the agreed price to be paid under said contract.

Upon the completion of said contract pursuant to its terms, if any funds remain due on said contract, the same shall be paid to said principal or sureties.

The said principal and sureties agree as part of this obligation to pay all such damages of any kind to person or property that may result from a failure in any respect to perform and complete said contract.

The said principals and sureties agree as part of this obligation that such contractor shall promptly make payment to all persons supplying him or them with labor, material, food stuffs or supplies, in the execution of the work provided for in such contract, as provided for in section 28 in the Act of the Legislature approved August 25, 1927, and designated as "The Alabama Highway Code".

The decision of said STATE BOARD OF ADMINISTRATION upon any question connected with the execution of said contract, or any failure or delay in the prosecution of the work by said principal or sureties, shall be final and conclusive.

A copy of the proposal, specifications and the contract hereinbefore referred to is attached and made a part of this obligation, and this instrument is to be construed in connection therewith.

WITNESS our hands and seals, this 7 day of Apr 1936 J. H. Lusk (L.S.)

**

UNITED STATES HIGHWAY COMMISSION
ALABAMA
MONTGOMERY, ALA.

J. B. STUART AND R. E. STUART,
a Partnership composed of J. B.
STUART AND R. E. STUART,

Plaintiff,

VS.

J. E. LINCH and the UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

ANSWERS OF DEFENDANT, THE UNITED STATES FIDELITY
AND GUARANTY COMPANY, A CORPORATION, TO INTERROG-
ATORIES PROPOUNDED BY THE PLAINTIFF TO THE DEFEND-
ANTS IN THE ABOVE STYLED CAUSE UNDER SECTION 7764
OF THE CODE OF ALABAMA, 1923.

No. 1.

We do not have full information and this interrogatory can
doubtless be answered specifically by Mr. J. E. Linch.

No. 2.

We do not have a copy of the contract and bond and if Mr.
Linch cannot furnish the same, it seems to us that the Plaintiff should
be able to get a copy of the bond from the other party to the contract.

No. 3.

We do not know.

No. 4.

Answer to question No. 3 was not "yes". We have not in our
possession copy of said contract called for in this interrogatory.

No. 5.

We do not know.

No. 6.

We do not know.

No. 7.

Our answer to question No. 6 is not "yes". We do not know.

No. 8.

We repeat our answer to question No. 6 was not "yes". We do
not know.

No. 9.

Again we repeat that our answers to question No. 6 is not
"yes". We do not know.

No. 10.

We do not know, we have answered to the foregoing interrogatories
as completely as possible. More detailed information can doubtless be
secured from the Defendant, J. E. Linch.

State of Alabama
Jefferson County

Before me Cassie Lee Miller, a Notary
in and for said state and county, personally

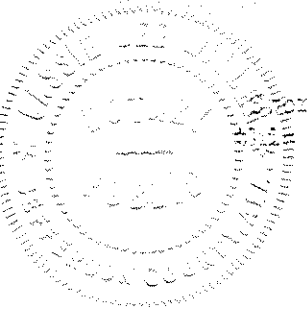
Public
appeared A. W. Boone

, who after being duly sworn, deposes and says that he
is Assistant manager of U. S. Fidelity & Guaranty Co.
and that he is cognizant of the facts and that the foregoing answers to
interrogatories propounded by the Plaintiff in the above styled cause are
true and correct.

A. W. Boone

Sworn to and subscribed before me
the 26 day of January, 1932.

Cassie Lee Miller



J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,


Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW.

MOTION TO REQUIRE PROPER ANSWERS TO
INTERROGATORIES.

Comes the Plaintiff in the above entitled cause by its Attorney and shows unto the Court and your Honor that interrogatories were propounded by the Plaintiff to the Defendant in the said cause and filed with Honorable T. W. Richerson, Clerk of the Circuit Court of Baldwin County, Alabama, on to-wit, November 18, 1931; that a copy of the said interrogatories was served on the Defendant, J. H. Linch, on to-wit, November 28, 1931, and that a copy of the said interrogatories was served on the Defendant, the United States Fidelity and Guaranty Company, a Corporation, on to-wit, November 20, 1931; that on to-wit, January 29, 1932, the Defendant, J. H. Linch, filed his answer to the said interrogatories with the Circuit Clerk of Baldwin County, Alabama, and that on to-wit, January 27, 1932, the United States Fidelity and Guaranty Company, a Corporation, filed its answers to the said interrogatories with the said Circuit Clerk; and that the answers of the said Defendant, J. H. Linch, are not full and are evasive.

WHEREFORE, the Plaintiff moves the Court to attach the said Defendant, J. H. Linch, and cause him to answer fully in open court, or tax him with so much of the costs as may be just and continue the cause until full answers are made or direct judgment by default or render such judgment or decree as would be appropriate if such defaulting party offered no evidence.


Attorney for Plaintiff.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCX AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

INTERROGATORIES TO BE PROPOUNDED TO THE DEFENDANTS

UNDER SECTION 7764 OF THE CODE OF 1923.

No. 1. With whom did J. H. Lynch have a contract which called for construction work on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 2. Attach a copy of said contract together with the Contractor's Bond to answers hereto.

No. 3. Did J. H. Lynch sub-let any of the work called for in his said contract for construction work on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 4. If your answer to question No. 3 is yes, attach a copy of the said contract to your answers hereto.

No. 5. Has all the construction work called for in J. H. Lynch's contract on Federal Aid Project Number 211 in Baldwin County, Alabama been completed?

No. 6. Did the Plaintiff in the above entitled cause do any of the work and furnish any of the material called for in J. H. Lynch's contract for construction work on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 7. If your answer to question No. 6 is yes, please state for whom these materials were furnished and this work was done and state whether this person, firm or corporation was the contractor or a sub-contractor.

No. 8. If your answer to question No. 6 is yes, were all of the materials furnished and work done by the Plaintiff on Federal Aid Project Number 211 in Baldwin County, Alabama, included in and as a part of J. H. Lynch's contract for construction work and materials on the said Federal Aid Project Number 211?

No. 9. If your answer to question No. 6 is yes, have the

Defendants, or either of them, paid the Plaintiff for the work done and materials furnished by the Plaintiff and used in and as a part of the work called for by J. H. Lynch's contract for construction work and materials on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 10. Give the name or names of all persons, firms or corporations who were sub-contractors under J. H. Lynch for all or a part of the work called for in and by J. H. Lynch's contract for construction work and materials on Federal Aid Project Number 211 in Baldwin County, Alabama.

J. B. Blackburn
Attorney for Plaintiff.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, T. W. Richerson, Clerk of the Circuit Court of said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly sworn, deposes and says: That he is the attorney for the Plaintiff in the above entitled cause and that the answers to the foregoing interrogatories, if well and truly made, will be material testimony for the Plaintiff in the said cause.

J. B. Blackburn
Sworn to and subscribed before me on
this the 18th day of November, 1931.

T. W. Richerson
Clerk of the Circuit Court, Baldwin
County, Alabama.

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon J. H. Lynch and the United States Fidelity and Guaranty Company, a Corporation, to appear within thirty days from the service of this writ in the Circuit Court, to be held for said county at the place of holding same, then and there to answer the complaint of J. B. Stuart and R. H. Stuart, a Partnership composed of J. B. Stuart and R. H. Stuart.

Witness my hand this the 17th day of November, 1931.

J. M. Pearson

Clerk of the Circuit Court,
Baldwin County, Alabama.

Year	Number of individuals
1970	1000
1971	980
1972	950
1973	920
1974	900
1975	800
1976	850
1977	880
1978	900
1979	920
1980	940
1981	960
1982	980
1983	950
1984	920
1985	950
1986	900
1987	850
1988	800
1989	750
1990	700

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCHE AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

1. The Plaintiff claims of the Defendants the sum of \$1428.57 due from them by account on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.
2. The Plaintiff claims of the Defendants the sum of \$1428.57 due from them on account stated between the Plaintiff and

Defendants on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.

3. The Plaintiff claims of the Defendants the sum of \$1428.57 due on account on to-wit, the 1st day of October, 1931, for that on to-wit, October 1st, 1930, J. H. Lynch entered into a written contract with the State of Alabama to do certain concrete construction work on Federal Aid Project Number 211 in Baldwin County, Alabama, and the said United States Fidelity and Guaranty Company, a Corporation, became surety on the bond of the said J. H. Lynch, guaranteeing faithful performance of the said contract and prompt payment of all indebtedness for work done and supplies and materials furnished in the execution of the work provided for in the said contract; that subsequently thereto the said J. H. Lynch entered into a contract with W. C. Earnest, Jr., covering the said concrete construction work and that the said W. C. Earnest, Jr., employed the said Plaintiff to do the said work and furnish certain materials in connection therewith; that the Plaintiff has faithfully completed its work and furnished said materials, all of which was a part of the work called for by the said J. H. Lynch's contract with the State of Alabama, on the said Federal Aid Project Number 211 in Baldwin County, Alabama, which said sum of money together with the interest thereon is still due and unpaid.

The Plaintiff alleges and avers that the amount claimed by them in counts One and Two of this complaint is due them for work done and materials furnished by the said Plaintiff to J. H. Lynch, all of which was a part of the work and materials called for by the said J. H. Lynch's contract with the State of Alabama which covered a part of the construction work on Federal Aid Project Number 211 in Baldwin County, Alabama.



Attorney for Plaintiff.

AMENDED COMPLAINT.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCX AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

~~1. The Plaintiff claims of the Defendants the sum of
\$1428.57 due from them by account on to-wit, the 1st day of October,
1931, which sum of money together with the interest thereon is still
due and unpaid.~~

~~2. The Plaintiff claims of the Defendants the sum of
\$1428.57 due from them on account stated between the Plaintiff and
Defendants on to-wit, the 1st day of October, 1931, which sum of
money together with the interest thereon is still due and unpaid.~~

3. The Plaintiff claims from the Defendants the sum of
\$1428.57 for the breach of a condition of a bond made by the De-
fendants on to-wit, the 27th day of September, 1930, payable to the
State of Alabama in the sum of \$6115.00, in the following words and
figures, to-wit:

"BOND

STATE OF ALABAMA
Montgomery, County.

KNOW ALL MEN BY THESE PRESENTS: That we ----John H. Linch
-----, as principal, and -----UNITED STATES FIDELITY & GUARANTY
COMPANY, a corporation under the laws of the State of Maryland, and
having its principal office in the City of Baltimore, Maryland., as
sureties, are held and firmly bound unto the State Board of Adminis-
tration, in the penal sum of \$6,115.00-----Dollars, for the payment
of which well and truly to be made, we hereby bind ourselves, our
heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands and
affixed our seals, this ---24---day of ---September---, 1930.

PROVIDED, HOWEVER, that the condition of this obligation
is such that whereas the above bound ---John H. Linch-----

have this day entered into a contract with the said State Board of Administration, for the building of --9.54---miles of road in --- Baldwin -----County, to-wit: a road leading from --Bay Minette to Stockton-----known as Project Number FAP-211----- a copy of which said contract is hereto attached.

NOW, THEREFORE, in the event the said ---John H. Lynch--- as such contractor shall faithfully and promptly perform said contract and all the conditions and requirements thereof, then this obligation shall be null and void and of the effect, otherwise to remain and be in full force and effect.

PROVIDED, further, that upon the failure of the said----- John H. Lynch---to promptly and efficiently prosecute said work, in any respect, in accordance with the contract, the above bound -----as sureties, shall take charge of said work and complete the contract at their own expense, pursuant to its terms, receiving, however, any balance of the funds in the hands of said STATE BOARD OF ADMINISTRATION due under said contract. Said sureties may, if they so elect, by written direction given to the State Board OF ADMINISTRATION authorize the STATE BOARD OF ADMINISTRATION to complete the said contract at the expense of said sureties, and such sureties hereby agree and bind themselves to pay the expense of the completion of such work, less any funds of the STATE BOARD OF ADMINISTRATION REMAINING due to above bound contractor.

In the event said principal shall fail or delay the prosecution and completion of said work and said sureties shall also fail to act promptly as hereinbefore provided, then said State Board of Administration may cause ten days notice of such failure to be given, either to said principal or sureties, and at the expiration of said ten days, if said principal or sureties do not proceed promptly to execute said contract, the STATE BOARD OF ADMINISTRATION shall have the authority to cause said work to be done, and when same is complete and the cost thereof estimated, the said principal and sureties shall and hereby agree to pay any excess in the cost of said work above the agreed price to be paid under said contract.

Upon the completion of said contract pursuant to its terms if any funds remain due on said contract, the same shall be paid to said principal or sureties.

The said principal and sureties agree as part of this obligation to pay all such damages of any kind to person or property that may result from a failure in any respect to perform and complete said contract.

The said principals and sureties agree as part of this obligation that such contractor shall promptly make payment to all persons supplying him or them with labor, material, food stuffs or supplies, in the execution of the work provided for in such contract, as provided for in section 28 in the Act of the Legislature approved August 23, 1927, and designated as "The Alabama Highway Code."

The decision of said STATE BOARD OF ADMINISTRATION upon any question connected with the execution of said contract, or any failure or delay in the prosecution of the work be said principal or sureties, shall be final and conclusive.

A copy of the proposal, specifications and the contract

hereinbefore referred to is attached and made a part of this obligation, and this instrument is to be construed in connection there with.

WITNESS our hands and seals, this ----27----day of ----
Sept---1930---J. H. Lynch -----(L.S.)-----
-----UNITED STATES FIDELITY & GUARANTY CO.,-----
-----Lee McGriff-----
---(Corporate Seal)----- Lee McGriff, Attorney in Fact. -----"

and the Plaintiff says the condition of the said bond has been broken by the Defendants in this: That the said Plaintiff did do or have done, certain work and furnish or have furnished, certain materials in and about the construction of the work called for in the contract referred to in the foregoing bond at the instance and request of W. C. Earnest, Jr., who was then and there a sub-contractor of said J. H. Lynch, on said project; that the said Plaintiff did the following work on the said contract:

80.112 yards of Class A concrete @ \$9.00 per yard,	\$ 721.00
placing 6857 pounds of steel @ .01¢ per pound,	68.57
128 yards of Class B concrete @ \$9.00 per yard,	1152.00
320 cement sacks screened @ .05¢ each,	16.00
Total	1957.57

All of which said charges were reasonable and the amounts which the said W. C. Earnest, Jr., agreed to pay the Plaintiff for said work and materials; that the Plaintiff received from said W. C. Earnest, Jr., one check for \$300.00, a concrete mixer for which the Plaintiff agreed to pay \$125.00; lumber for forms for which the Plaintiff agreed to pay \$100.00 and lanterns for which the Plaintiff agreed to pay \$4.00, making the total amount received by Plaintiff for the above described work amount to a total of \$529.00, leaving a balance of \$1428.57, to the damage of the Plaintiff as above stated and the Plaintiff avers that all of said sum of \$1428.57 is still due and unpaid and Plaintiff avers that complete performance of said contract and final settlement thereof has been made and had and that this action was commenced within sixty days after the complete performance of the said contract and final settlement thereof.

J. B. Blackburn
Attorney for Plaintiff.

AMENDED COMPLAINT.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

A. The Plaintiff claims of the Defendants the sum of \$1448.51 due from them by account on to-wit, the 1st day of October 1931, which sum of money together with the interest thereon is still due and unpaid.

B. The Plaintiff claims of the Defendants the sum of \$1448.51 due from them on account stated between the Plaintiff and Defendants on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.

C. The Plaintiff claims from the Defendants the sum of \$1448.51 for the breach of a condition of a bond made by the Defendants on to-wit, the 27th day of September, 1930, payable to the State of Alabama in the sum of \$6115.00, in the following words and figures, to-wit:

"BOND

STATE OF ALABAMA
Montgomery, County.

KNOW ALL MEN BY THESE PRESENTS: That we ----John H. Linch ----, as principal, and ----UNITED STATES FIDELITY & GUARANTY COMPANY, a corporation under the laws of the State of Maryland, and having its principal office in the City of Baltimore, Maryland, as sureties, are held and firmly bound unto the State Board of Administration, in the penal sum of \$6,115.00-----Dollars, for the payment of which well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals, this ---24---day of ---September---, 1930.

PROVIDED, HOWEVER, that the condition of this obligation is such that whereas the above bound ---John H. Lynch----- have this day entered into a contract with the said State Board of Administration, for the building of --9.54---miles of road in --- Baldwin -----County, to-wit: a road leading from --Bay Minette to Stockton-----known as Project Number FAP-211----- a copy of which said contract is hereto attached.

NOW, THEREFORE, in the event the said ---John H. Lynch--- as such contractor shall faithfully and promptly perform said contract and all the conditions and requirements thereof, then this obligation shall be null and void and of the effect, otherwise to remain and be in full force and effect.

PROVIDED, further, that upon the failure of the said ----- John H. Lynch---to promptly and efficiently prosecute said work, in any respect, in accordance with the contract, the above bound ----- as sureties, shall take charge of said work and complete the contract at their own expense, pursuant to its terms, receiving, however, any balance of the funds in the hands of said STATE BOARD OF ADMINISTRATION due under said contract. Said sureties may, if they so elect, by written direction given to the State Board of ADMINISTRATION authorize the STATE BOARD OF ADMINISTRATION to complete the said contract at the expense of said sureties, and such sureties hereby agree and bind themselves to pay the expense of the completion of such work, less any funds of the STATE BOARD OF ADMINISTRATION REMAINING due to above bound contractor.

In the event said principal shall fail or delay the prosecution and completion of said work and said sureties shall also fail to act promptly as hereinbefore provided, then said State Board of Administration may cause ten days notice of such failure to be given, either to said principal or sureties, and at the expiration of said ten days, if said principal or sureties do not proceed promptly to execute said contract, the STATE BOARD OF ADMINISTRATION shall have the authority to cause said work to be done, and when same is complete and the cost thereof estimated, the said principal and sureties shall and hereby agree to pay any excess in the cost of said work above the agreed price to be paid under said contract.

Upon the completion of said contract pursuant to its terms if any funds remain due on said contract, the same shall be paid to said principal or sureties.

The said principal and sureties agree as part of this obligation to pay all such damages of any kind to person or property that may result from a failure in any respect to perform and complete said contract.

The said principals and sureties agree as part of this obligation that such contractor shall promptly make payment to all persons supplying him or them with labor, material, food stuffs or supplies, in the execution of the work provided for in such contract, as provided for in section 28 in the Act of the Legislature approved August 23, 1927, and designated as "The Alabama Highway Code."

The decision of said STATE BOARD OF ADMINISTRATION upon any question connected with the execution of said contract, or any failure or delay in the prosecution of the work by said principal or sureties, shall be final and conclusive.

A copy of the proposal, specifications and the contract hereinbefore referred to is attached and made a part of this obligation, and this instrument is to be construed in connection therewith.

WITNESS our hands and seals, this ----27----day of ----
Sept---1930---J. H. Linch------(L.S.)-----
-----UNITED STATES FIDELITY & GUARANTY CO.,-----
-----Lee McGriff-----
-----Lee McGriff, Attorney in Fact. -----",
(Corporate Seal)

and the Plaintiff says the condition of the said bond has been broken by the Defendants in this: That the said Plaintiff did do or have done, certain work and furnish or have furnished, certain materials in and about the construction of the work called for in the contract referred to in the foregoing bond at the instance and request of W. C. Earnest, Jr., who was then and there a sub-contractor of said J. H. Linch, on said project; that the said Plaintiff did the following work on the said contract:

80.112 yards of Class A concrete @ \$9.00 per yard,	\$ 721.00
placing 6857 pounds of steel @ .01¢ per pound,	68.57
130.261 yards of Class B concrete @ \$9.00 per yard,	1172.34
312 cement sacks screened @ .05¢ each,	15.60
Total	1977.51

All of which said charges were reasonable and the amounts which the said W. C. Earnest Jr., agreed to pay the Plaintiff for said work and materials; that the Plaintiff received from said W. C. Earnest, Jr., one check for \$300.00, a concrete mixer for which the Plaintiff agreed to pay \$125.00; lumber for forms for which the Plaintiff agreed to pay \$100.00 and lanterns for which the Plaintiff agreed to pay \$4.00, making the total amount received by Plaintiff for the above described work amount to a total of \$529.00, leaving a balance of \$1448.51, to the damage of the Plaintiff as above stated and the Plaintiff avers that all of said sum of \$1448.51 is still due and unpaid and Plaintiff avers that complete performance of said contract and final settlement thereof has been made and had

and that this action was commenced within sixty days after the complete performance of the said contract and final settlement thereof

J. B. Blackburn

Attorney for Plaintiff.

the way you
for the plant
and dress their
advice
meet

A \$1506.45

signed
H. J. Hobbs
Foreman.

the way you
for the plant
and dress their
advice
meet
with
Ernest the
amount of \$1448.57
with interest from
Oct. 1, 1931

signed
H. J. Hobbs
Foreman

Amount
Dispersed

LAW OFFICES
WILLIAM P. COBB
BAY MINETTE, ALA.

J.B.Stuart and R.E.Stuart, a
Partnership composed of J.B.
Stuart and R.E.Stuart,
Plaintiff.

-v-

J.H.Linch and The United States
Fidelity and Guaranty Company, a
Corporation,
Defendants.

In The Circuit Court of
Baldwin County, Alabama.

At Law.

Notice to Produce Papers on Trial.

To J.C.Blackburn, Attorney for Plaintiff:

You are hereby notified to produce for trial of the above entitled cause all correspondence between Plaintiffs and defendant, J.H.Linch, including all letters received by Plaintiffs from J.H.Linch and W.C.Earrest, Jr. and letters written by Plaintiffs to said J.H.Linch and W.C.Earrest, Jr., in connection with that certain contract between said J.H.Linch and the State Board of Administration of Alabama in which the said W.C.Earrest, Jr. was a subcontractor, covering construction work on Federal Aid Project No. 211 in Baldwin County, Alabama, and in the event of your failure to produce said correspondence, secondary evidence of the contents of the same will be given.



J. E. Buntin

Attorneys for Defendants.

Service of a copy of the above notice is accepted and further notice is hereby waived.

This the 6th. day of April, 1932.



Attorney for Plaintiffs.

NOTICE TO CREDITORS.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

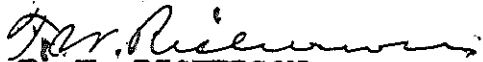
AT LAW.

To the creditors of J. H. Linch, original contractor, and the creditors of any and all sub-contractors who have furnished materials, labor, feed stuffs or supplies used in and as a part of J. H. Linch's contract covering construction work and materials on Federal Aid Project Number 211 in Baldwin County, Alabama:

You are hereby notified that J. B. Stuart and R. H. Stuart, a Partnership composed of J. B. Stuart and R. H. Stuart, did on the 17th day of November, 1931, file in this Court its complaint against J. H. Linch and the United States Fidelity and Guaranty Company, a Corporation, as surety on the bond of the said J. H. Linch, for labor and supplies furnished and used in and as a part of the work on said project called for by J. H. Linch's contract with the State Highway Department of Alabama; and under the provisions of the Acts of the Legislature of Alabama you have a right to intervene in said suit and propound your claim therein.

Dated this the 18th day of November, 1931.

J. B. BLACKBURN
Attorney for Plaintiff.


T. W. RICHERRSON
Clerk of the Circuit Court.

I hereby certify that the forgoing is a true and correct copy of the final estimate on project # F A P-211 in Baldwin County, and of final payment to J. H. Lynch, contractor, on project # F A P-211, the originals of which are on file in the office of the State Auditor at Montgomery, Alabama. I further certify that as State Auditor, I am the custodian of the records in the State Auditor's office and of the instruments above referred to and the proper party to make this certificate.


John H. Lynch
State Auditor.

Sworn to and subscribed

before me this the 5th day

of April 1932.


James A. [Signature]
Notary Public.

STATE OF ALABAMA



AUDITOR'S OFFICE

HIGHWAY WARRANT
NUMBER.HIGHWAY VOUCHER
NUMBER.

1

PAY

TO THE
ORDER OF

CHARGE

TO STATE HIGHWAY FUNDS.

DOLLARS, \$ 873.71

Construction

J. H. Lynch,
Dothan, Alabama.

STATE AUDITOR

REMITTANCE ADVICE
PLEASE DETACH BEFORE DEPOSITING WARRANT

PREVIOUS BALANCE	DATE ENTERED	P. O. NUMBER	VENDOR'S DATE	DISTRIBUTION DEPT' ACC'T	AMOUNT OF INVOICE	%	DEDUCTIONS AMOUNT	BALANCE PAYABLE	
	8-7			1310	873.71			873.71	1
									2
									3
									4
									5
									6
									7
									8
									9
									10
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									12
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									25
									26
									27
									28
									29
									30

Examined, found correct
and approved for payment
for \$ 873.71

OCT 20 1931

Walter K. Smith
Examiner of ACCOUNTS

BOND--SPECIAL

Received of the State Auditor Warrant No. 19 for the
Sum of \$ 873.71, in full settlement for the account
hereunto Attached, against the State of Alabama.

H. R. Cogdell

Dated this 20 day of October 1931.

AUDITED.

A. M. Patterson
CHIEF ACCOUNTANT

APPROVED FOR PAYMENT

Landon G. Smith

DEPARTMENT HEAD

EXAMINED AND APPROVED FOR PAYMENT FOR \$.....

APPROVED..... B. M. Miller
(DATE)

CHIEF EXAMINER OF ACCOUNTS.

GOVERNOR.

DIVIS

4

Baldwin County

Fed. Aid Project No. 211

favor of J. H. Lynch

Sub-Contractor. Est. No. 8-Final

Work Done as Listed from September 24-1930

to October 1-1931

a No. 3

I hereby certify that this estimate is correct, and the amounts are correct, due and unpaid.

(S) J. M. Glass
Resident Engineer.

(S) W. P. Moon
Division Engineer.
By (S) I. B. Rutledge

Less 15% Retained	
	5824.68
Less Previous Payments	4950.97
Amount Due on Estimate	873.71

Division No. 4

Baldwin County

Fed. Aid Project No. 211

In favor of J. H. Lynch

	Totals to Date	Totals Last Month	Current Month
Clearing and Grubbing	5824.68	5824.67	0.01
Drainage	5824.68	5824.67	0.01
Grading			
Surfacing			
Totals	5824.68	5824.67	0.01
Less 15% Withheld		873.70	873.70
Amount of Voucher	5824.68	4950.97	873.71

STATE OF ALABAMA
County of Montgomery

Before me, a notary public in and for said State and County, personally appeared J. H. Lynch
who states upon oath that the within account is correct, due and unpaid.

J. H. Lynch

Sworn and subscribed to before me this 19 day of October 1931

A. M. Patterson

Notary Public.

Approved for Payment

Approved

State Highway Director.

Governor.

Received State Auditor's Warrant for \$ 873.71, in settlement of within account against the State of Alabama, this
day of 1931

J. H. Lynch

The State of Alabama {
Baldwin County--Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the _____

1st Monday in October, 1932

in a certain cause in said Court wherein J.B. Stuart, and R.H. Stuart, a partnership
 composed of J.B. Stuart and R.H. Stuart, ~~Plaintiff's and~~ J.H. Lynch & The United
States Fidelity & Guaranty Company a corporation
 Defendant ~~s~~ a judgment was rendered against said

J.H. Lynch and the United States Fidelity Guaranty Company a corporation

to reverse which Judgment the said J.H. Lynch and The United States
Fidelity and Guaranty Company,

has on ~~this~~ ^{9th day of July 1932} day applied for and obtained from this office an APPEAL, returnable to the
next Term of our Court of Appeals ~~Court~~ of the State of Alabama, to

be held at Montgomery, on the 1st day of Montgomery, 1932 next,

and the necessary bond having been given by the said J.H. Lynch and The United States
Fidelity & Guaranty Co, a corporation with Fidelity & Deposit Company
 of Maryland _____ sureties,

Now, You Are Hereby Commanded, without delay, to cite the said
J.B. Stuart, & R.H. Stuart, a partnership composed of J.B. Stuart and
R.H. Stuart,
 or J.B. Blackburn their attorney, to appear at the
next Term of our Court of Appeals ~~Said Court~~ to defend against the said
 Appeal, if they think proper.

WITNESS, T. W. Richerson, Clerk of the Circuit Court of said County, this 12th
 day of July, A. D., 1932

Attest:

T. W. Richerson Clerk.

Complained

CIRCUIT COURT
BALDWIN COUNTY, ALA.

J.H. Linch, and the United States Fidelity
& Guaranty Company, a corporation,
Appellants,

vs. { Citation in Appeal

J.B. Stuart and R.H. Stuart, a
partnership composed of J.B. Stuart and
R.H. Stuart,
Appellee's.

Issued 12 day of JULY, 1932

Moore Pkg. Co., Day Minette

*Give copy to J.B. Stuart
and R.H. Stuart, R.H.
Stuart, a partnership,
Appellee's of J.B. Stuart
and R.H. Stuart.*

Executed July 12th 1932

on for serving subpoena Ala

att

W.H. Stuart

Deputy Sheriff

J. B. STUART, et als,

Plaintiff,

vs.

J. H. LEMON, et als,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

To J. B. Stuart and R. H. Stuart, partners, etc.,
or J. B. Blackman, Attorney of Record:

Notice is hereby given that the Defendant in the
foregoing cause of action, will take an appeal of said
cause to the Court of Appeals of Alabama, and this will
be your notice of said appeal.

Dated this the 2nd day of June, 1932.

J. E. Brantley
Attorney for Defendant.

I, T. E. Martin, of Counsel for the Defendants in the
foregoing cause, hereby certify that a copy of the foregoing
notice has this day been mailed, postage prepaid, to Hon.
J. B. Blackman, Attorney for Plaintiff in the foregoing
cause, postoffice address Bay Minette, Florida.

Dated this the 2nd day of June, 1932.

T. E. Martin
Of Counsel for Defendants

Notice of Appeal

Filed June 11/1982

Ward B. Bickman

Declarant

[Signature]

[Signature]



BUREAU OF INSURANCE

STATE OF ALABAMA

MONTGOMERY

July 11, 1932

Mr. T. W. Richerson,
Register & Clerk,
Circuit Court, Baldwin County,
Bay Minette, Alabama.

Dear Sir:-

Re: Your letter July 9th.

I have just received your notice that supersedeas bond in appeal has been filed and approved July 9th in the case of J. B. Stuart and R. H. Stuart, vs. J. H. Linch and the United States Fidelity & Guaranty Company.

I notice that the judgment in this case was rendered April 11, 1932. When was the notice of appeal made? In other words, was the judgment of the Court of that County more than thirty days old before the appeal was taken? If so, it appears that I may have to act upon the request of attorney Blackburn, as provided by Section 2649 of the Code, unless Mr. Blackburn is willing to withdraw his request. I am writing him to-day with respect to this matter. In the meantime, I shall appreciate your answering this question.

Yours very truly,

Chas. C. Greer.
Supt. of Insurance.

CCG/eh-



UNITED STATES FIDELITY AND GUARANTY COMPANY

BIRMINGHAM BRANCH OFFICE

LEE MCGRUFF

MANAGER

SIXTH FLOOR, WATTS BUILDING

BIRMINGHAM, ALA.

July 9th, 1932.

TELEPHONES: { 3-2110
3-2118
3-2119

Mr. T. W. Richerson,
Clerk of the Circuit Court,
Baldwin County,
Bay Minette, Alabama.

In Re: J. B. Stuart and R. H. Stuart, A Partnership Composed
of J. B. Stuart and R. H. Stuart. Plaintiff.

VS

J. H. Lynch and the United States Fidelity & Guaranty
Company, A Corporation. Defendants.

Dear Sir:

I was advised on July 6th by the Honorable Charles
C. Greer, Superintendent of Insurance of the State of Alabama, that
execution had been placed in his hands by the Circuit Court of
Baldwin County, Alabama.

The defendants attorney, T. E. Buntin of Dothan,
Alabama, forwarded to this office copy of notice of appeal filed
in said case June 2nd, 1932. I was advised by Attorney Buntin on
June 2nd, 1932 that the defendant had 90 days from May 25th, 1932
in which to affect bill of exceptions and 90 days from that day
in which to affect an appeal, and that if the matter was not
settled the record would be perfected and supersedeas bond filed
in accordance with the law. Promptly upon receipt of notice of
execution in the hands of the Superintendent of Insurance, afore-
said, I got in touch with the defendant, J. H. Lynch, and was told
that Attorney Buntin was away in some soldiers training camp, but
that he would file with you today bond superseding judgment and
cost.

I have so advised the Superintendent of Insurance,
and I will appreciate your prompt advices as to whether or not
the record has been ~~perfected~~ ^{perfected}, aforesaid, and if it has not been
~~perfected~~ ^{perfected} please send me a statement of the judgment, ~~and its~~ penalty
and cost and the matter will be promptly disposed of.

Yours very truly,

ASSISTANT MANAGER

AMB:ss

Dep't EXA

Bay Minette, Alabama.
May 20, 1931.

Mr. W. T. Earnest, Jr.,
Box 536,
Mobile, Alabama.

Dear Sir:-

This will acknowledge receipt of your letter with the enclosed check for \$300.00.

The following is a copy of the estimate furnished by the State Board of Administration for work done on F. A. P. project number 211 for the months of January and February, 1931, which they informed me was paid to Mr. Linch on March 20, 1931.

January 29.526 cu. yds. concrete, 2544 lbs. reinforcing steel,
February 50.586 cu. yds. concrete, 4313 lbs. reinforcing steel.

\$ 0.115 6.57
The amount due us for the above work according to our contract under which you were to pay us \$9.00 per cu. yard for concrete and 1¢ per pound for steel is \$789.57. From this we are to deduct the 15% which is to be retained until the job is completed. This leaves a balance due us of \$671.14, from which there is to be deducted the sum of \$225.00 for mixer and lumber making the amount due us at this time amount to \$446.14. When we deduct your check for \$300.00 from this amount, it leaves the balance due us at this time of \$146.14 and of course the 15% which is retained until the job is completed and which will be due us upon completion of the job.

As you know, Mr. J. H. Linch cancelled his contract with you on February 26, 1931, and instructed us that he and his bondsmen would not be responsible for any further work done under his contract with you. Later Mr. Linch entered into a separate contract with us to complete the job.

The amount of \$146.14 due us for work done in January and February which does not include the 15% that is retained until completion of the job should be paid by you at once. In the event it is not paid by you, we expect to hold Mr. Linch and the sureties on his bond liable for this amount, so please let us have your check for \$146.14 by return mail.

As all work done by us after February 26, 1931, has been done under our contract with Mr. J. H. Linch, we are looking to

-2-

for payment of all amounts due for this particular work.

Very truly yours,

J. E. & R. H. STUART,
By,

J. E. Stuart

JBS:OS

c.c. to J. H. Linch.

Crichton Ala

Feb. 23 - 1931

Mr J B Stewart

Bay Minniet Ala

Dear Sir -

I rec'd your letter some days ago. In reply, will say that I have not rec'd payment on the work that you have done over there, and don't know when I will. As soon as I receive payment, I will try to see that you are paid for the work that you have done up to date. But would advise that you do no more work on that job. As, me and my foreman will not be responsible for any debts + contracts, or obligations of any kind, made either by yourself or Mr Earnest. I will not be bound by any contract made and entered into, between you + Mr Earnest. As it was all done without my knowledge + consent. However, when I receive payment for that work, I will make prompt settlement with you and Mr Earnest, for the work that has been done up to this time, holding you responsible of course, for all material

instructed to your care, and after I
have been convinced, that all bills for
supplies & labor, has been paid. Under
the circumstances, I think it best for
me to cancel my contract with Mr Earnest
and come over & finish the job myself.
As the agreement for finishing this job
is long past due. I am sending
Mr Earnest a copy of this letter.
• Rest assured that I will do all that I can
to see that you get your money. Will
be over there in a few days & will
look you up.

Yours very truly
J. B. Lynch

Bay Minette, Alabama.
May 20, 1931.

Mr. W. T. Earnest, Jr.,
Box 536,
Mobile, Alabama.

Dear Sir:-

This will acknowledge receipt of your letter with the enclosed check for \$300.00.

The following is a copy of the estimate furnished by the State Board of Administration for work done on F. A. P. project number 211 for the months of January and February, 1931, which they informed me was paid to Mr. Lynch on March 20, 1931.

January 29.526 cu. yds. concrete, 2544 lbs. reinforcing steel,
February 50.526 cu. yds. concrete, 4313 lbs. reinforcing steel.

The amount due us for the above work according to our contract under which you were to pay us \$9.00 per cu. yard for concrete and 16 per pound for steel is \$739.57. From this we are to deduct the 15% which is to be retained until the job is completed. This leaves a balance due us of \$671.14, from which there is to be deducted the sum of \$225.00 for mixer and lumber making the amount due us at this time amount to \$446.14. When we deduct your check for \$300.00 from this amount, it leaves the balance due us at this time of \$146.14 and of course the 15% which is retained until the job is completed and which will be due us upon completion of the job.

As you know, Mr. J. H. Lynch cancelled his contract with you on February 26, 1931, and instructed us that he and his bondsmen would not be responsible for any further work done under his contract with you. Later Mr. Lynch entered into a separate contract with us to complete the job.

The amount of \$146.14 due us for work done in January and February which does not include the 15% that is retained until completion of the job should be paid by you at once. In the event this is not paid by you, we expect to hold Mr. Lynch and the sureties on his bond liable for this amount, so please let us have your check for \$146.14 by return mail.

As all work done by us after February 26, 1931, has been done under our contract with Mr. J. H. Lynch, we are looking to him

31

-2-

for payment of all amounts due for this particuler work.

Very truly yours,

J. B. & R. H. STUART,
By

JBS:OS
c.c. to J. H. Linch.

Post
Exhibit a



UNITED STATES FIDELITY AND GUARANTY COMPANY

BIRMINGHAM BRANCH OFFICE

LEE MCGRUFF

MANAGER

SIXTH FLOOR, WATTS BUILDING

BIRMINGHAM, ALA.

TELEPHONES: { 3-2110
3-2118
3-2119

July 14, 1932.

Re: #183952 - J. H. Lynch - FAP-211 - Baldwin County, Ala.

Mr. T. W. Richerson, Register and Clerk,
Circuit Court, Baldwin County,
Bay Minette, Alabama.

Dear Sir:

This acknowledges with thanks your favor dated
July 12th, reading as follows:

"In reply to your letter of date July 9th, 1932,
I beg to advise that in the cause of J. B. Stuart
and R. H. Stuart, a partnership, vs. J. H. Lynch
and the United States Fidelity & Guaranty Company,
Supersedeas Bond in appeal was filed July 9th.

The Bill of Exceptions in this cause has not been
forwarded to me to date, but I think that it has
been prepared and am expecting it within the next
few days."

I will appreciate if you will advise me when the
Bill of Exceptions is filed.

Very truly yours,

ASSISTANT MANAGER

AMB:A

Mobile, Ala
Dec 16/30.

Mr J. B. & R. H. Stewart
Bay Minette Ala

Gentlemen,

As per our conversation yesterday in
regards to building the culvert & head works
on Bay Minette-Stockton road. I propose
to subcontract same to you at the price of
nine (9) dollars per cubic yard of concrete
& one cent per pound on re-steel, payable
on engineers estimate & subject to their in-
spection & approval, with 15% retainage.
I also offer you 1 or 5 miles for \$125.00 &
four hundred on land for \$100.00, payable

10% of estimate each month. The State of
Alabama will furnish material on cars at
Bay Minette & you to take care of unloading
storage & delivery of same on cars.

Respectfully submitted

Walter Bonney

Bay Minette Ala
Dec 17 1930

Mr W. C. Earnest Jr.
Mobile Ala

Dear Sir-

Your proposition for the
building of Culverts & head walls on
the Bay Minette Station road together
with your price for mixer & farm material
and terms of payment received.

And in reply will advise you that we
will accept your proposition and will begin
work at once

Yours Very Truly

B + R. H. Stuart
By J. Stuart

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

vs.

J. H. LINCH AND THE UNITED
STATES FIDELITY AND GUARANTY
COMPANY, a Corporation,

Defendants,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

Now comes the Defendants and with permission of the Court being first had and obtained, amends its demurrers heretofore filed in said cause by filing additional grounds thereto, to each Count of the Complaint separately and severally, and separately and severally assigns all original demurrers heretofore filed and in addition thereto, the following:

Eight.

Count Three of said Complaint contains two separate and distinct causes of action.

Nine.

For that in Count Three there is a misjoinder of causes of action.

Ten.

For that the alleged contract between the Defendant J. H. Linch and the State of Alabama is not set out in full or the substance thereof.

Eleven.

For that the alleged contract between J. H. Linch and W. C. Earnest, Jr., is not set out or the substance thereof.

Twelve.

For that said Count fails to aver whether the contract between J. H. Linch and W. C. Earnest, Jr., is written or verbal.

Thirteen.

For that said Count fails to set out the conditions of the bond alleged to have been made by the Defendant The United State Fidelity & Guaranty Company, a Corporation.

Fourteen.

For that said Count fails to aver that there has been complete performance of said contract and that there has been final settlement thereof.

Fifteen.

For that said Count fails to aver that there has been complete performance of said contract and final settlement thereof and the date of said final settlement.

Sixteen.

For aught appearing in said Count there has not been a complete performance of said contract.

Seventeen.

For aught appearing in said Count there has not been a complete performance of said contract and a final settlement thereof.

Eighteen.

For aught appearing in said Count there has nor been a complete performance of said contract and a final settlement thereof within sixty (60) days prior to the commencement of this cause of action.

Nineteen.

For that said Complaint fails to make W. C. Earnest, Jr., a party Plaintiff or a party Respondent to said cause of action.

Twenty.

For that said Count fails to aver that the Defendant J. H. Linch owes W. C. Earnest, Jr., any sum, or sums, for an on account of said alleged contract and work performed in accordance therewith.

Twenty-one.

For aught appearing in said Count the said J. H. Linch has fully complied with his alleged contract with W. C. Earnest, Jr., and has fully paid and discharged all indebtedness due to the said W. C. Earnest, Jr., as a result of said alleged contract.

Twenty-two.

For that said Count fails to aver that the said W. C. Earnest, Jr., for whom the alleged work was done by the Plaintiff in this cause of action has not paid the Plaintiff in full for said work.

Twenty-three.

For that there is no privity between the Plaintiff and Defendant in this cause of action.

Twenty-four.

For that said Count fails to aver that the Defendant J. H. Linch had any knowledge of the employment of the Plaintiff by the said W. C. Earnest, Jr., in and about any of the work under the said J. H. Linch contract and that the Plaintiff had not been paid for such employment prior to full settlement by the Defendant J. H. Linch with the said W. C. Earnest, Jr.

Twenty-five.

For that said Count fails to aver that the Plaintiff had complied with the Highway Act of the Legislature, Section 28, Sub-Sect. "b", Acts of 1927, page 357.

Twenty-six.

For aught appearing in said Count the said W. C. Earnest, Jr., was an employee of the said J. H. Linch and not authorized to employ the Plaintiff in this cause of action.

Page 3.

Twenty-seven.

For that said Count fails to aver that the said W. C. Earnest, Jr., was a sub-contractor of the said J. H. Lynch or an authorized agent of said J. H. Lynch, acting within the line and scope of his employment when the said Plaintiff was employed by the said W. C. Earnest, Jr.

Wm. P. Kelly

T. E. Buntin

Attorneys for Defendants.

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

FEBRUARY 25,
1932.

Messrs. Wm. P. Cobb and T. E. Buntin,
Attorneys for J. H. Linch and the United States
Fidelity and Guaranty Company, a Corporation,
Bay Minette, Alabama.

Gentlemen:-

Notice is hereby given you as Attorneys for the
Defendants in that certain cause now pending in the Cir-
cuit Court of Baldwin County, Alabama, wherein J. B. Stuart
and R. H. Stuart, a Partnership composed of J. B. Stuart
and R. H. Stuart is Plaintiff and J. H. Linch and the United
States Fidelity and Guaranty Company, a Corporation are De-
fendants, to produce on the day when the said cause is set
for trial at the April term of Circuit Court of Baldwin
County, Alabama, or on the day to which the same may be con-
tinued, the following letter from Walter C. Ernest, Jr., to
J. H. Linch and upon your failure to produce the said letter,
secondary evidence of same will be offered by the Plaintiff:

"Oct. 22/31

Mr. J. H. Linch.
Crichton, Ala.

Dear Mr. Linch:-

Herewith please find a
detailed estimate of Mr. Stewart's account
on the culverts and headwalls in Baldwin
County.

To estimate: Letter dated Sept. 10-31	\$260.57
130.261 CU.yd.C1 "B" con. @ 9.00	1172.34
312 sacks cement screened @ 05¢	<u>15.60</u>
Balance due contractor:	\$1448.51

This letter will authorize you
to settle the above account with Mr. Stewart
and pay him for same.

Yours very truly

E/e

Walter C. Ernest, Jr."

J. B. B. Lockman

Attorney for Plaintiff.

We hereby accept service of a copy
of the foregoing notice on this the
25th day of February, 1932, and waive
further notice of same.

Wm. P. Cobb and T. E. Buntin

By Wm. P. Cobb

J.B.STUART AND R.E.STUART, A PARTNERSHIP
COMPOSED OF J.B.STUART AND R.E.STUART,

PLAINTIFF.

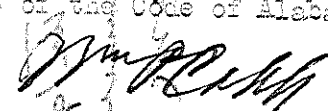
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

-v-

J.E.LINCH AND THE UNITED STATES FIDELITY
AND GUARANTY COMPANY, A CORPORATION,
DEFENDANTS.

DEFENDANTS DEMAND FOR A JURY
TRIAL.

And now come the defendants, J.E.Linch and the United States Fidelity
and Guaranty Company, a corporation, and demand a jury trial in this cause,
under the provisions of sections 8595 and 8596 of the Code of Alabama, 1923.


Attorney for Defendants.

13/2
RECORDED

In the Circuit Court of Baldwin
County, Alabama.

J. B. Stuart and R. H. Stuart, a Partnership
vs.

J. H. Lynch, et al.

Defendants Demand for a Jury Trial

*Filed Dec 17th 1931
J. M. Rice
Clerk*

William P. Cobb,

Attorney for Defendants.

J.B.Stuart and R.E.Stuart, a partnership
composed of J.B.Stuart and R.E.Stuart.

Plaintiff

vs

J.E.Linch, et als

Defendants.

In the Circuit Court of

Baldwin County, Ala.

At Law

Comes the defendant in the foregoing cause and for answer
to the complaint filed in said cause and each count thereof, separately
and severally, says:

1

General Issue

2

Defendants pleads the general issue in short, by consent, with
leave to give in evidence any matter as though the same had been specially
and well pleaded.

Wm P. Cobb

J. E. Buntin

Attorneys for Defendants.

J.B. Stewart etc
et als

vs

J. Whinch et al

Defendants' Pleas
)

Filed this 25th day
of Feb. 1932

T. W. McCusker
Clerk

ve days return to

RICHERSON

erk of the Circuit Court
lwin County

ETTE, ALABAMA

Refused Charges
Are JB Stewart et al
vs
JB Linn et al

Refused
J.W. Hare, Judge #1

1: I charge you that a mere preponderance of evidence is not sufficient to authorize a verdict for the plaintiff unless it is sufficient to satisfy your mind that the plaintiff is entitled to recover.

2: If the evidence in this case is equally balanced you should find for the defendant.

Refused J.W. Hare, Judge

Refused
J.W. Hare
Judge

3: Unless there is a preponderance of the evidence for the Plaintiff which produces in your minds a reasonable conviction or satisfaction that the Plaintiff is entitled to recover in this case, you should find for the Defendants.

Refused
J.W. Hare

4: The Court charges the Jury that if you believe the evidence in this case you will find for the Defendant.

Refused
J.W. Hare
Judge

5: I charge you that the burden of proof is upon the Plaintiff to reasonably satisfy you of the truth of his complaint, otherwise you will find for the Defendants.

Refused
J.W. Hare
Judge

6: The court charges the jury that the burden of proof is upon the plaintiff to reasonably satisfy the jury as to the proof of every material allegation in his complaint, and if he fails to discharge this burden to the reasonable satisfaction of the jury, you cannot find the issue in favor of the plaintiff.

Refused
J.W. Hare
Judge

7: I charge you that the burden is upon the plaintiff to make out his case by a preponderance of evidence and that where the testimony is equally balanced, the plaintiff has failed to carry the burden and the jury must find for the defendant.

Refused
J.W. Hare
Judge

8: If after a fair consideration of all the evidence any individual jury is not ~~reasonable~~ reasonable satisfied therefrom that plaintiff is entitled to a verdict in his favor, you cannot find for the plaintiff

Refused
J.W. Hare
Judge

9: I charge you that if you believe the evidence, you will find for the plaintiff for the sum of \$260.57 under count C of the complaint as amended, together with interest thereon.

Refused
J.W. Hare
Judge

10: If after considering all the evidence you find that the plaintiff had a contract with W.C. Ernest, Jr., for the construction work herein sued upon and that that contract was terminated and that subsequently plaintiff entered into a new contract with the defendant J.H. Linch, then I charge you that you can only find for the plaintiff under count C of the complaint for the work performed under said contract with W.C. Ernest Jr., prior to its termination.

11: I charge you that if you find from the evidence that the plaintiff and defendant J.H.Linch entered into a new contract subsequent to the termination of the Ernest contract, if terminated, then I charge you that for such work performed by the plaintiff under the new contract with Linch, if you find that there was a new contract, the plaintiff would be entitled to pay for such work only in accordance with the terms of the new contract.

Refused
J.H. Ware
Judge

Refused
to have
Judge

a

I charge you gentlemen, if
believe the evidence you
must find for the defendant.

Refused
to have
Judge

B

If you believe the evidence you
cannot find for the Plaintiff
under Count A of the Complaint
as demanded.

Refused
to have
Judge

C

If you believe the evidence you
cannot find for the Plaintiff
under Count B of the Complaint
as demanded.

Refused
to have
Judge

D

If you believe the evidence
you cannot find for the
Plaintiff under Count C of
the Complaint as demanded.

(E)

The court charges the jury that if you believe the evidence in this case you must find for the Plaintiff.

Given,
D. W. Hare
Judge

ive days return to

RICHERSON

lerk of the Circuit Court
ldwin County

NETTE, ALABAMA

Given Charge
and J B Stewart
vs
J B Stewart

J. B. STUART AND R. E. STUART,
a Partnership composed of J. B.
STUART AND R. E. STUART,

Plaintiff,

VS.

J. E. LINCX and the UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

ANSWERS OF DEFENDANT, J. E. LINCX, TO INTERROGATORIES
PROPOUNDED BY THE PLAINTIFF TO THE DEFENDANTS IN THE
ABOVE STYLED CAUSE UNDER SECTION 7764 OF THE CODE OF
ALABAMA, 1923.

No. 1.

I had a contract with the State Board of Administration of
Alabama, which called for construction work on FEDERAL AID PROJECT
NUMBER 211, in Baldwin County, Alabama.

No. 2.

A copy of said contract together with copy of Contractor's
Bond is hereto attached.

No. 3.

My answer to question No. 3 is yes.

No. 4.

I have no written contract and for this reason cannot attach
a copy of same. See answer to question No. 3.

No. 5.

All construction work called for on J. E. Lincx's contract on
FEDERAL AID PROJECT Number 211 in Baldwin County, Alabama, has been com-
pleted.

No. 6.

I have been informed that Plaintiff did some of the work on
contract mentioned in this question, but I am not in a position to say
definitely whether they furnished any material called for in said con-
tract. Material for said construction work was furnished entirely by me
and the State Board of Administration of Alabama. I had no contract with
Plaintiff and cannot answer definitely whether or not any material was
furnished by it under said contract.

No. 7.

My answer to question No. 6 is not "yes". My information now
is that Plaintiff did some work on said contract, but the material was

PROPOSAL

FOR THE CONSTRUCTION OF PROJECT NUMBER FAP-211

In Baldwin Bayminette & Stocton County, Ala.

Date 9/24/30 193---

Proposal of John H. Lynch,

--- of Dothan, Ala.

for constructing the Headwalls & Culverts on Project FAP-211

in County of Baldwin, State of Alabama.

The plans are composed of drawings indentified as follows:

Project FAP-211

The specifications are herto attached.

The following proposal is made on behalf of ---

John H Lynch

and no others, Evidence of my authority to submit the proposal is herewith furnished. The proposal is made without collusion on the part of any person, firm or corporation.

I certify that I have carefully examined the plans listed on the preceding page and the specifications hereto attached, including the special provisions, and have also personally examined the site of the work. On the basis of the specifications and plans, I propose to furnish all necessary machinery tools, apparatus, and other means of construction, and do all the work and furnish all the materials except sand, gravel, cement and reinforcing steel which will be furnished by State Board of Administration, F.O.B. Cars at Nearest R.R. Station, and to finish the entire project in 200 working days. I understood the quantities mentioned below are approximate only and are subject to either increase or decrease, and hereby propose to perform any increased or decreased quantities of work at the unit price bid.

--- Acres of Clearing & Grubbing @ --- Per. Acre.

320 Cu. Yds. Class A Concrete @ 12.00 " Cu. Yd. 3,840.00

150 " " " B " " " 1,800.00

50,000
-----Lbs. Reinforcing Steel @-----^{.011}-----Pcr.Lb. 375.00

-----Ft. of Galvanized Cable----- " Ft.

*****-----Concret Right of Way Markers @-----Each

-----Treated Timber post @-----Each

-----Deadmen for post C-----Each

-----Cu.Yds. Gravel 1St, mile haul @-----Per.Cu.Yd.

-----" " Additional $\frac{1}{2}$ Mile haul @-----" " "

200		50¢	<u>100.00</u>
-----"	" Unclassified Culv.Exc., C-----"		6,115.00

[illegible]

CONTRACT

This Agreement made and entered into this 24 day of September one thousand nine hundred and thirty, by and between the STATE BOARD OF ADMINISTRATION, party of the first part (hereinafter called the STATE BOARD OF ADMINISTRATION) and John E. Lynch party of the second part (hereinafter called Contractor), WITNESSETH:

WHEREAS, the State Board of Administration desires the improvement and construction of a certain section of road hereinafter more particularly described, and the contractor desires to do and perform all the work and labor for the said purpose;

NOW, THEREFORE, in consideration of the promises, the mutual covenants herein contained and the sum of one dollar (\$1.00) by each of the parties to the other in hand paid, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. The contractor promises and agrees to deliver all the material and to do and perform all the work and labor required to be and delivered, done and performed in and about the improvement and construction of a road in Baldwin County, known as Project Number RRP-211, same to be a Concrete Culverts & Roadways in strict and entire conformity with the provisions of the contract, and the notice to contractors and proposal, and the plans and specifications prepared (or approved) by the Highway Director (or the Assistant Engineer), the originals of which are on file in the office of the Highway Director, copies of which are hereto attached, and which said plans and specifications and the notice to contractors and the proposals are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth at length in the body of this agreement.

2. The State Board of Administration agrees and promises to pay to the contractor for said work, when completed in accordance with the provisions of this contract, the price as set forth in the said proposal, amounting approximately to Six-thousand one-hundred & Fifteen Dollars \$6,115.00 Dollars (\$-----).

payments to be made as provided in said specifications upon receipt of regular estimate, properly signed, coming through the office of State Highway Department and upon the terms set forth in the said specifications and pursuant to the terms of this contract. The extent of material furnished for Class A & B concrete is 1.28 tons gravel or 1.07 tons slag, .67 tons sand and 1.5 bbls cement, the cost of any material in excess of this will be deducted from the estimate. When cement is furnished in cloth sacks, the sacks at ten cents each will be charged to your account, and you will receive the credit for the sacks according to cement companies credit memorandum for sacks returned to them.

3. The said work shall be done in accordance with the laws of the State of Alabama under the direct supervision, and the entire satisfaction of the State Highway Commission, subject at all times to the inspection and approval of the Secretary of Agriculture or his agents and in accordance with the rules and regulations made pursuant to that certain Act of the Federal Congress entitled, "An Act to provide that the United States shall aid the States in the construction of rural post roads and for other purposes," approved July 11, 1916.

4. The decision of said State Board of Administration upon any question connected with the execution of this agreement or any failure or delay in the prosecution of the work by the said contractor shall be final and conclusive.

IN WITNESS WHEREOF THE STATE BOARD OF ADMINISTRATION has caused these presents to be executed by C. A. Moffett

-----and John H. Lynch-----
The Contractor,
has hereto set this hand and seal this the day and year above written.

STATE BOARD OF ADMINISTRATION

By Homer Dwyer

President

By J. H. Lynch

Contractor.

BOND

STATE OF ALABAMA,
Montgomery, County.

KNOW ALL MEN BY THESE PRESENTS: That we John H. Linch

-----, as principal, and-----

UNITED STATES FIDELITY & GUARANTY COMPANY,

a corporation under the laws of the State of Maryland, and having
its principal office in the City of Baltimore, Maryland.

-----And

-----, as

sureties, are held and firmly bound unto the State Board of Admin-
istration, in the penal sum of \$6,115.00

-----Dollars, for the payment of which well and truly to be
made, we hereby bind ourselves, our heirs, executors, administrators,
successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands and af-
fixed our seals, this 24-----day of September-----, 1930

PROVIDED, HOWEVER, that the condition of this obligation is
such that whereas the above bound John H. Linch
have this day entered into a contract with the said State Board
of Administration, for the building of 9.54-----miles of road in
Baldwin-----County, to-wit: a road leading from Bay Minette to
Stocton-----known as Project Number FAP-211
a copy of which said contract is hereto attached.

NOW, THEREFORE, in the event the said John H. Linch
as such contractor shall faithfully and promptly perform said
contract and all the conditions and requirements thereof, then this
obligation shall be null and void and of the effect, otherwise to
remain and be in full force and effect.

PROVIDED, further, that upon the failure of the said John
H. Linch-----to promptly and efficiently prosecute said work, in any
respect, in accordance with the contract, the above bound-----
-----as sureties, shall take charge of said work and
complete the contract at their own expense, pursuant to its terms,
receiving, however, any balance of the funds in the hands of said
STATE BOARD OF ADMINISTRATION due under said contract. Said
sureties may, if they so elect, by written direction given to the
State Board of ADMINISTRATION authorize the STATE BOARD OF ADM-
inistration to complete the said contract at the expense of said
sureties, and such sureties hereby agree and bind themselves to pay
the expense of the completion of such work, less any funds of the

STATE BOARD OF ADMINISTRATION REMAINING due to above bound contract-
or.

In the event said principal shall fail or delay the prosecution and completion of said work and said sureties shall also fail to act promptly as hereinbefore provided, then said State Board of Administration may cause ten days notice of such failure to be given, either to said principal or sureties, and at the expiration of said ten days, if said principal or sureties do not proceed promptly to execute said contract, the STATE BOARD OF ADMINISTRATION shall have the authority to cause said work to be done, and when same is complete and the cost thereof estimated, the said principal and sureties shall and hereby agree to pay any excess in the cost of said work above the agreed price to be paid under said contract.

Upon the completion of said contract pursuant to its terms, if any funds remain due on said contract, the same shall be paid to said principal or sureties.

The said principal and sureties agree as part of this obligation to pay all such damages of any kind to person or property that may result from a failure in any respect to perform and complete said contract.

The said principals and sureties agree as part of this obligation that such contractor shall promptly make payment to all persons supplying him or them with labor, material, food stuffs or supplies, in the execution of the work provided for in such contract, as provided for in section 28 in the Act of the Legislature approved August 25, 1927, and designated as "The Alabama Highway Code".

The decision of said STATE BOARD OF ADMINISTRATION upon any question connected with the execution of said contract, or any failure or delay in the prosecution of the work by said principal or sureties, shall be final and conclusive.

A copy of the proposal, specifications and the contract hereinbefore referred to is attached and made a part of this obligation, and this instrument is to be construed in connection therewith.

WITNESS our hands and seals, this 7 day of Apr
1936 J. H. Lusk (L.S.)
** [Signature]

J. B. STUART AND R. E. STUART,
a Partnership composed of J. B.
STUART AND R. E. STUART,

Plaintiff,

VS.

J. E. LINCH and the UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

ANSWERS OF DEFENDANT, THE UNITED STATES FIDELITY
AND GUARANTY COMPANY, A CORPORATION, TO INTERROG-
ATORIES PROPOUNDED BY THE PLAINTIFF TO THE DEFEND-
ANTS IN THE ABOVE STYLED CAUSE UNDER SECTION 7764
OF THE CODE OF ALABAMA, 1923.

No. 1.

We do not have full information and this interrogatory can
doubtless be answered specifically by Mr. J. E. Linch.

No. 2.

We do not have a copy of the contract and bond and if Mr.
Linch cannot furnish the same, it seems to us that the Plaintiff should
be able to get a copy of the bond from the other party to the contract.

No. 3.

We do not know.

No. 4.

Answer to question No. 3 was not "yes". We have not in our
possession copy of said contract called for in this interrogatory.

No. 5.

We do not know.

No. 6.

We do not know.

No. 7.

Our answer to question No. 6 is not "yes". We do not know.

No. 8.

We repeat our answer to question No. 6 was not "yes". We do
not know.

No. 9.

Again we repeat that our answers to question No. 6 is not
"yes". We do not know.

No. 10.

We do not know, we have answered to the foregoing interrogatories
as completely as possible. More detailed information can doubtless be
secured from the Defendant, J. E. Linch.

State of Alabama
Jefferson County

Before me Cassie Lee Miller, a Notary
in and for said state and county, personally

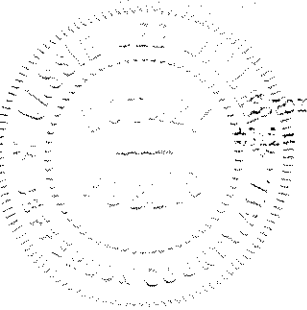
Public
appeared A. W. Boone

, who after being duly sworn, deposes and says that he
is Assistant manager of U. S. Fidelity & Guaranty Co.
and that he is cognizant of the facts and that the foregoing answers to
interrogatories propounded by the Plaintiff in the above styled cause are
true and correct.

A. W. Boone

Sworn to and subscribed before me
the 26 day of January, 1932.

Cassie Lee Miller



J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,


Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW.

MOTION TO REQUIRE PROPER ANSWERS TO
INTERROGATORIES.

Comes the Plaintiff in the above entitled cause by its Attorney and shows unto the Court and your Honor that interrogatories were propounded by the Plaintiff to the Defendant in the said cause and filed with Honorable T. W. Richerson, Clerk of the Circuit Court of Baldwin County, Alabama, on to-wit, November 18, 1931; that a copy of the said interrogatories was served on the Defendant, J. H. Linch, on to-wit, November 28, 1931, and that a copy of the said interrogatories was served on the Defendant, the United States Fidelity and Guaranty Company, a Corporation, on to-wit, November 20, 1931; that on to-wit, January 29, 1932, the Defendant, J. H. Linch, filed his answer to the said interrogatories with the Circuit Clerk of Baldwin County, Alabama, and that on to-wit, January 27, 1932, the United States Fidelity and Guaranty Company, a Corporation, filed its answers to the said interrogatories with the said Circuit Clerk; and that the answers of the said Defendant, J. H. Linch, are not full and are evasive.

WHEREFORE, the Plaintiff moves the Court to attach the said Defendant, J. H. Linch, and cause him to answer fully in open court, or tax him with so much of the costs as may be just and continue the cause until full answers are made or direct judgment by default or render such judgment or decree as would be appropriate if such defaulting party offered no evidence.


Attorney for Plaintiff.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

INTERROGATORIES TO BE PROPOUNDED TO THE DEFENDANTS

UNDER SECTION 7764 OF THE CODE OF 1923.

No. 1. With whom did J. H. Linch have a contract which called for construction work on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 2. Attach a copy of said contract together with the Contractor's Bond to answers hereto.

No. 3. Did J. H. Linch sub-let any of the work called for in his said contract for construction work on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 4. If your answer to question No. 3 is yes, attach a copy of the said contract to your answers hereto.

No. 5. Has all the construction work called for in J. H. Linch's contract on Federal Aid Project Number 211 in Baldwin County, Alabama been completed?

No. 6. Did the Plaintiff in the above entitled cause do any of the work and furnish any of the material called for in J. H. Linch's contract for construction work on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 7. If your answer to question No. 6 is yes, please state for whom these materials were furnished and this work was done and state whether this person, firm or corporation was the contractor or a sub-contractor.

No. 8. If your answer to question No. 6 is yes, were all of the materials furnished and work done by the Plaintiff on Federal Aid Project Number 211 in Baldwin County, Alabama, included in and as a part of J. H. Linch's contract for construction work and materials on the said Federal Aid Project Number 211?

No. 9. If your answer to question No. 6 is yes, have the

Defendants, or either of them, paid the Plaintiff for the work done and materials furnished by the Plaintiff and used in and as a part of the work called for by J. H. Lynch's contract for construction work and materials on Federal Aid Project Number 211 in Baldwin County, Alabama?

No. 10. Give the name or names of all persons, firms or corporations who were sub-contractors under J. H. Lynch for all or a part of the work called for in and by J. H. Lynch's contract for construction work and materials on Federal Aid Project Number 211 in Baldwin County, Alabama.

J. B. Blackburn
Attorney for Plaintiff.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, T. W. Richerson, Clerk of the Circuit Court of said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly sworn, deposes and says: That he is the attorney for the Plaintiff in the above entitled cause and that the answers to the foregoing interrogatories, if well and truly made, will be material testimony for the Plaintiff in the said cause.

J. B. Blackburn
Sworn to and subscribed before me on
this the 18th day of November, 1931.

T. W. Richerson
Clerk of the Circuit Court, Baldwin
County, Alabama.

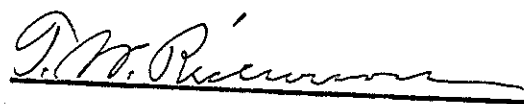
STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon J. H. Lynch and the United States Fidelity and Guaranty Company, a Corporation, to appear within thirty days from the service of this writ in the Circuit Court, to be held for said county at the place of holding same, then and there to answer the complaint of J. B. Stuart and R. H. Stuart, a Partnership composed of J. B. Stuart and R. H. Stuart.

Witness my hand this the 17th day of November, 1931.



Clark of the Circuit Court,
Baldwin County, Alabama.

.....

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff ,

VS.

J. H. LYNCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

1. The Plaintiff claims of the Defendants the sum of \$1428.57 due from them by account on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.

2. The Plaintiff claims of the Defendants the sum of \$1428.57 due from them on account stated between the Plaintiff and

Defendants on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.

3. The Plaintiff claims of the Defendants the sum of \$1428.57 due on account on to-wit, the 1st day of October, 1931, for that on to-wit, October 1st, 1930, J. H. Lynch entered into a written contract with the State of Alabama to do certain concrete construction work on Federal Aid Project Number 211 in Baldwin County, Alabama, and the said United States Fidelity and Guaranty Company, a Corporation, became surety on the bond of the said J. H. Lynch, guaranteeing faithful performance of the said contract and prompt payment of all indebtedness for work done and supplies and materials furnished in the execution of the work provided for in the said contract; that subsequently thereto the said J. H. Lynch entered into a contract with W. C. Earnest, Jr., covering the said concrete construction work and that the said W. C. Earnest, Jr., employed the said Plaintiff to do the said work and furnish certain materials in connection therewith; that the Plaintiff has faithfully completed its work and furnished said materials, all of which was a part of the work called for by the said J. H. Lynch's contract with the State of Alabama, on the said Federal Aid Project Number 211 in Baldwin County, Alabama, which said sum of money together with the interest thereon is still due and unpaid.

The Plaintiff alleges and avers that the amount claimed by them in counts One and Two of this complaint is due them for work done and materials furnished by the said Plaintiff to J. H. Lynch, all of which was a part of the work and materials called for by the said J. H. Lynch's contract with the State of Alabama which covered a part of the construction work on Federal Aid Project Number 211 in Baldwin County, Alabama.



Attorney for Plaintiff.

AMENDED COMPLAINT.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCX AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

1. The Plaintiff claims of the Defendants the sum of \$1428.57 due from them by account on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.

2. The Plaintiff claims of the Defendants the sum of \$1428.57 due from them on account stated between the Plaintiff and Defendants on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.

3. The Plaintiff claims from the Defendants the sum of \$1428.57 for the breach of a condition of a bond made by the Defendants on to-wit, the 27th day of September, 1930, payable to the State of Alabama in the sum of \$6115.00, in the following words and figures, to-wit:

"BOND

STATE OF ALABAMA
Montgomery, County.

KNOW ALL MEN BY THESE PRESENTS: That we ----John H. Linch-----, as principal, and -----UNITED STATES FIDELITY & GUARANTY COMPANY, a corporation under the laws of the State of Maryland, and having its principal office in the City of Baltimore, Maryland., as sureties, are held and firmly bound unto the State Board of Administration, in the penal sum of \$6,115.00-----Dollars, for the payment of which well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals, this ---24---day of ---September---, 1930.

PROVIDED, HOWEVER, that the condition of this obligation is such that whereas the above bound ---John H. Linch-----

have this day entered into a contract with the said State Board of Administration, for the building of --9.54---miles of road in --- Baldwin -----County, to-wit: a road leading from --Bay Minette to Stockton-----known as Project Number FAP-211----- a copy of which said contract is hereto attached.

NOW, THEREFORE, in the event the said ---John H. Lynch--- as such contractor shall faithfully and promptly perform said contract and all the conditions and requirements thereof, then this obligation shall be null and void and of the effect, otherwise to remain and be in full force and effect.

PROVIDED, further, that upon the failure of the said----- John H. Lynch---to promptly and efficiently prosecute said work, in any respect, in accordance with the contract, the above bound -----as sureties, shall take charge of said work and complete the contract at their own expense, pursuant to its terms, receiving, however, any balance of the funds in the hands of said STATE BOARD OF ADMINISTRATION due under said contract. Said sureties may, if they so elect, by written direction given to the State Board OF ADMINISTRATION authorize the STATE BOARD OF ADMINISTRATION to complete the said contract at the expense of said sureties, and such sureties hereby agree and bind themselves to pay the expense of the completion of such work, less any funds of the STATE BOARD OF ADMINISTRATION REMAINING due to above bound contractor.

In the event said principal shall fail or delay the prosecution and completion of said work and said sureties shall also fail to act promptly as hereinbefore provided, then said State Board of Administration may cause ten days notice of such failure to be given, either to said principal or sureties, and at the expiration of said ten days, if said principal or sureties do not proceed promptly to execute said contract, the STATE BOARD OF ADMINISTRATION shall have the authority to cause said work to be done, and when same is complete and the cost thereof estimated, the said principal and sureties shall and hereby agree to pay any excess in the cost of said work above the agreed price to be paid under said contract.

Upon the completion of said contract pursuant to its terms if any funds remain due on said contract, the same shall be paid to said principal or sureties.

The said principal and sureties agree as part of this obligation to pay all such damages of any kind to person or property that may result from a failure in any respect to perform and complete said contract.

The said principals and sureties agree as part of this obligation that such contractor shall promptly make payment to all persons supplying him or them with labor, material, food stuffs or supplies, in the execution of the work provided for in such contract, as provided for in section 28 in the Act of the Legislature approved August 23, 1927, and designated as "The Alabama Highway Code."

The decision of said STATE BOARD OF ADMINISTRATION upon any question connected with the execution of said contract, or any failure or delay in the prosecution of the work be said principal or sureties, shall be final and conclusive.

A copy of the proposal, specifications and the contract

hereinbefore referred to is attached and made a part of this obligation, and this instrument is to be construed in connection there with.

WITNESS our hands and seals, this ----27----day of ----
Sept---1930---J. H. Lynch -----(L.S.)-----
-----UNITED STATES FIDELITY & GUARANTY CO.,-----
-----Lee McGriff-----
---(Corporate Seal)----- Lee McGriff, Attorney in Fact. -----"

and the Plaintiff says the condition of the said bond has been broken by the Defendants in this: That the said Plaintiff did do or have done, certain work and furnish or have furnished, certain materials in and about the construction of the work called for in the contract referred to in the foregoing bond at the instance and request of W. C. Earnest, Jr., who was then and there a sub-contractor of said J. H. Lynch, on said project; that the said Plaintiff did the following work on the said contract:

80.112 yards of Class A concrete @ \$9.00 per yard,	\$ 721.00
placing 6857 pounds of steel @ .01¢ per pound,	68.57
128 yards of Class B concrete @ \$9.00 per yard,	1152.00
320 cement sacks screened @ .05¢ each,	16.00
Total	1957.57

All of which said charges were reasonable and the amounts which the said W. C. Earnest, Jr., agreed to pay the Plaintiff for said work and materials; that the Plaintiff received from said W. C. Earnest, Jr., one check for \$300.00, a concrete mixer for which the Plaintiff agreed to pay \$125.00; lumber for forms for which the Plaintiff agreed to pay \$100.00 and lanterns for which the Plaintiff agreed to pay \$4.00, making the total amount received by Plaintiff for the above described work amount to a total of \$529.00, leaving a balance of \$1428.57, to the damage of the Plaintiff as above stated and the Plaintiff avers that all of said sum of \$1428.57 is still due and unpaid and Plaintiff avers that complete performance of said contract and final settlement thereof has been made and had and that this action was commenced within sixty days after the complete performance of the said contract and final settlement thereof.

J. B. Blackburn
Attorney for Plaintiff.

AMENDED COMPLAINT.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

A. The Plaintiff claims of the Defendants the sum of \$1448.51 due from them by account on to-wit, the 1st day of October 1931, which sum of money together with the interest thereon is still due and unpaid.

B. The Plaintiff claims of the Defendants the sum of \$1448.51 due from them on account stated between the Plaintiff and Defendants on to-wit, the 1st day of October, 1931, which sum of money together with the interest thereon is still due and unpaid.

C. The Plaintiff claims from the Defendants the sum of \$1448.51 for the breach of a condition of a bond made by the Defendants on to-wit, the 27th day of September, 1930, payable to the State of Alabama in the sum of \$6115.00, in the following words and figures, to-wit:

"BOND

STATE OF ALABAMA
Montgomery, County.

KNOW ALL MEN BY THESE PRESENTS: That we ----John H. Linch ----, as principal, and ----UNITED STATES FIDELITY & GUARANTY COMPANY, a corporation under the laws of the State of Maryland, and having its principal office in the City of Baltimore, Maryland, as sureties, are held and firmly bound unto the State Board of Administration, in the penal sum of \$6,115.00-----Dollars, for the payment of which well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals, this ---24---day of ---September---, 1930.

PROVIDED, HOWEVER, that the condition of this obligation is such that whereas the above bound ---John H. Lynch----- have this day entered into a contract with the said State Board of Administration, for the building of --9.54---miles of road in --- Baldwin -----County, to-wit: a road leading from --Bay Minette to Stockton-----known as Project Number FAP-211----- a copy of which said contract is hereto attached.

NOW, THEREFORE, in the event the said ---John H. Lynch--- as such contractor shall faithfully and promptly perform said contract and all the conditions and requirements thereof, then this obligation shall be null and void and of the effect, otherwise to remain and be in full force and effect.

PROVIDED, further, that upon the failure of the said ----- John H. Lynch---to promptly and efficiently prosecute said work, in any respect, in accordance with the contract, the above bound ----- as sureties, shall take charge of said work and complete the contract at their own expense, pursuant to its terms, receiving, however, any balance of the funds in the hands of said STATE BOARD OF ADMINISTRATION due under said contract. Said sureties may, if they so elect, by written direction given to the State Board of ADMINISTRATION authorize the STATE BOARD OF ADMINISTRATION to complete the said contract at the expense of said sureties, and such sureties hereby agree and bind themselves to pay the expense of the completion of such work, less any funds of the STATE BOARD OF ADMINISTRATION REMAINING due to above bound contractor.

In the event said principal shall fail or delay the prosecution and completion of said work and said sureties shall also fail to act promptly as hereinbefore provided, then said State Board of Administration may cause ten days notice of such failure to be given, either to said principal or sureties, and at the expiration of said ten days, if said principal or sureties do not proceed promptly to execute said contract, the STATE BOARD OF ADMINISTRATION shall have the authority to cause said work to be done, and when same is complete and the cost thereof estimated, the said principal and sureties shall and hereby agree to pay any excess in the cost of said work above the agreed price to be paid under said contract.

Upon the completion of said contract pursuant to its terms if any funds remain due on said contract, the same shall be paid to said principal or sureties.

The said principal and sureties agree as part of this obligation to pay all such damages of any kind to person or property that may result from a failure in any respect to perform and complete said contract.

The said principals and sureties agree as part of this obligation that such contractor shall promptly make payment to all persons supplying him or them with labor, material, food stuffs or supplies, in the execution of the work provided for in such contract, as provided for in section 28 in the Act of the Legislature approved August 23, 1927, and designated as "The Alabama Highway Code."

The decision of said STATE BOARD OF ADMINISTRATION upon any question connected with the execution of said contract, or any failure or delay in the prosecution of the work by said principal or sureties, shall be final and conclusive.

A copy of the proposal, specifications and the contract hereinbefore referred to is attached and made a part of this obligation, and this instrument is to be construed in connection therewith.

WITNESS our hands and seals, this ----27----day of ----
Sept---1930---J. H. Lynch------(L.S.)-----
-----UNITED STATES FIDELITY & GUARANTY CO.,---
---(Corporate Seal)---Lee McGriff-----
-----Lee McGriff, Attorney in Fact. -----",

and the Plaintiff says the condition of the said bond has been broken by the Defendants in this: That the said Plaintiff did do or have done, certain work and furnish or have furnished, certain materials in and about the construction of the work called for in the contract referred to in the foregoing bond at the instance and request of W. C. Earnest, Jr., who was then and there a sub-contractor of said J. H. Lynch, on said project; that the said Plaintiff did the following work on the said contract:

80.112 yards of Class A concrete @ \$9.00 per yard,	\$ 721.00
placing 6857 pounds of steel @ .01¢ per pound,	68.57
130.261 yards of Class B concrete @ \$9.00 per yard,	1172.34
312 cement sacks screened @ .05¢ each,	15.60
Total	1977.51

All of which said charges were reasonable and the amounts which the said W. C. Earnest Jr., agreed to pay the Plaintiff for said work and materials; that the Plaintiff received from said W. C. Earnest, Jr., one check for \$300.00, a concrete mixer for which the Plaintiff agreed to pay \$125.00; lumber for forms for which the Plaintiff agreed to pay \$100.00 and lanterns for which the Plaintiff agreed to pay \$4.00, making the total amount received by Plaintiff for the above described work amount to a total of \$529.00, leaving a balance of \$1448.51, to the damage of the Plaintiff as above stated and the Plaintiff avers that all of said sum of \$1448.51 is still due and unpaid and Plaintiff avers that complete performance of said contract and final settlement thereof has been made and had

and that this action was commenced within sixty days after the complete performance of the said contract and final settlement thereof

J. B. Blackburn

Attorney for Plaintiff.

the way you
for the plant
and dress their
advice
meet

A \$1506.45

signed
H. J. Hobbs
Foreman.

the way you
for the plant
and dress their
advice
meet
with
Ernest the
amount of \$1448.57
with interest from
Oct. 1, 1931

signed
H. J. Hobbs
Foreman

Amount
Dispersed

LAW OFFICES
WILLIAM P. COBB
BAY MINETTE, ALA.

J.B.Stuart and R.E.Stuart, a
Partnership composed of J.B.
Stuart and R.E.Stuart,
Plaintiff.

-v-

J.H.Linch and The United States
Fidelity and Guaranty Company, a
Corporation,
Defendants.

In The Circuit Court of
Baldwin County, Alabama.

At Law.

Notice to Produce Papers on Trial.

To J.C.Blackburn, Attorney for Plaintiff:

You are hereby notified to produce for trial of the above entitled cause all correspondence between Plaintiffs and defendant, J.H.Linch, including all letters received by Plaintiffs from J.H.Linch and W.C.Earrest, Jr. and letters written by Plaintiffs to said J.H.Linch and W.C.Earrest, Jr., in connection with that certain contract between said J.H.Linch and the State Board of Administration of Alabama in which the said W.C.Earrest, Jr. was a subcontractor, covering construction work on Federal Aid Project No. 211 in Baldwin County, Alabama, and in the event of your failure to produce said correspondence, secondary evidence of the contents of the same will be given.



J. E. Buntin

Attorneys for Defendants.

Service of a copy of the above notice is accepted and further notice is hereby waived.

This the 6th. day of April, 1932.



J. C. Blackburn
Attorney for Plaintiffs.

NOTICE TO CREDITORS.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

To the creditors of J. H. Linch, original contractor, and the creditors of any and all sub-contractors who have furnished materials, labor, feed stuffs or supplies used in and as a part of J. H. Linch's contract covering construction work and materials on Federal Aid Project Number 211 in Baldwin County, Alabama:

You are hereby notified that J. B. Stuart and R. H. Stuart, a Partnership composed of J. B. Stuart and R. H. Stuart, did on the 17th day of November, 1931, file in this Court its complaint against J. H. Linch and the United States Fidelity and Guaranty Company, a Corporation, as surety on the bond of the said J. H. Linch, for labor and supplies furnished and used in and as a part of the work on said project called for by J. H. Linch's contract with the State Highway Department of Alabama; and under the provisions of the Acts of the Legislature of Alabama you have a right to intervene in said suit and propound your claim therein.

Dated this the 18th day of November, 1931.

J. B. BLACKBURN
Attorney for Plaintiff.


T. W. RICHERRSON
Clerk of the Circuit Court.

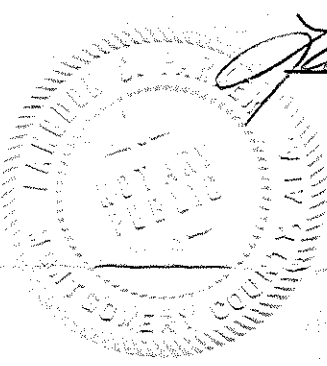
I hereby certify that the forgoing is a true and correct copy of the final estimate on project # F A P-211 in Baldwin County, and of final payment to J. H. Lynch, contractor, on project # F A P-211, the originals of which are on file in the office of the State Auditor at Montgomery, Alabama. I further certify that as State Auditor, I am the custodian of the records in the State Auditor's office and of the instruments above referred to and the proper party to make this certificate.


John H. Lynch
State Auditor.

Sworn to and subscribed

before me this the 5th day

of April 1932.


James A. [Signature]
Notary Public.

STATE OF ALABAMA



AUDITOR'S OFFICE

HIGHWAY WARRANT
NUMBER.HIGHWAY VOUCHER
NUMBER.

1

PAY

TO THE
ORDER OF

CHARGE

TO STATE HIGHWAY FUNDS.

DOLLARS, \$ 873.71

Construction

J. H. Lynch,
Dothan, Alabama.

STATE AUDITOR

REMITTANCE ADVICE
PLEASE DETACH BEFORE DEPOSITING WARRANT

PREVIOUS BALANCE	DATE ENTERED	P. O. NUMBER	VENDOR'S DATE	DISTRIBUTION DEPT' ACC'T	AMOUNT OF INVOICE	%	DEDUCTIONS AMOUNT	BALANCE PAYABLE	
	8-7			1310	873.71			873.71	1
									2
									3
									4
									5
									6
									7
									8
									9
									10
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									25
									26
									27
									28
									29
									30

Examined, found correct
and approved for payment
for \$ 873.71
OCT 20 1931
Walter K. Smith
Examiner of ACCOUNTS

BOND--SPECIAL

Received of the State Auditor Warrant No. 19 for the
Sum of \$ 873.71, in full settlement for the account
hereunto Attached, against the State of Alabama.

H. R. Cogdell

Dated this 20 day of October 1931.

AUDITED.

A. M. Patterson
CHIEF ACCOUNTANT

APPROVED FOR PAYMENT

Landon G. Smith

DEPARTMENT HEAD

EXAMINED AND APPROVED FOR PAYMENT FOR \$.....

APPROVED..... B. M. Miller
(DATE)

CHIEF EXAMINER OF ACCOUNTS.

GOVERNOR.

DIVIS

4

Baldwin County

Fed. Aid Project No. 211

favor of J. H. Lynch

Sub-Contractor. Est. No. 8-Final

Work Done as Listed from September 24-1930

to October 1-1931

a No. 3

I hereby certify that this estimate is correct, and the amounts are correct, due and unpaid.

(S) J. M. Glass
Resident Engineer.

(S) W. P. Moon
Division Engineer.
By (S) I. B. Rutledge

Less 15% Retained	
	5824.68
Less Previous Payments	4950.97
Amount Due on Estimate	873.71

Division No. 4

Baldwin County

Fed. Aid Project No. 211

In favor of J. H. Lynch

	Totals to Date	Totals Last Month	Current Month
Clearing and Grubbing	5824.68	5824.67	0.01
Drainage	5824.68	5824.67	0.01
Grading			
Surfacing			
Totals	5824.68	5824.67	0.01
Less 15% Withheld		873.70	873.70
Amount of Voucher	5824.68	4950.97	873.71

STATE OF ALABAMA
County of Montgomery

Before me, a notary public in and for said State and County, personally appeared J. H. Lynch
who states upon oath that the within account is correct, due and unpaid.

J. H. Lynch

Sworn and subscribed to before me this 19 day of October 1931

A. M. Patterson

Notary Public.

Approved for Payment

Approved

State Highway Director.

Governor.

Received State Auditor's Warrant for \$ 873.71, in settlement of within account against the State of Alabama, this
day of 1931

J. H. Lynch

The State of Alabama
Baldwin County--Circuit Court

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the _____

1st Monday in October, 1932

in a certain cause in said Court wherein J.B. Stuart, and R.H. Stuart, a partnership
 composed of J.B. Stuart and R.H. Stuart, ~~Plaintiff's~~ and J.H. Lynch & The United
States Fidelity & Guaranty Company a corporation
 Defendant ~~s~~ a judgment was rendered against said

J.H. Lynch and the United States Fidelity Guaranty Company a corporation

to reverse which Judgment the said J.H. Lynch and The United States
Fidelity and Guaranty Company,

has on ~~this~~ ^{9th day of July 1932} day applied for and obtained from this office an APPEAL, returnable to the
next Term of our Court of Appeals Court of the State of Alabama, to

be held at Montgomery, on the 1st day of Montgomery, 1932 next,

and the necessary bond having been given by the said J.H. Lynch and The United States
Fidelity & Guaranty Co, a corporation with Fidelity & Deposit Company
of Maryland sureties,

Now, You Are Hereby Commanded, without delay, to cite the said
J.B. Stuart, & R.H. Stuart, a partnership composed of J.B. Stuart and
R.H. Stuart,
 or J.B. Blackburn their attorney, to appear at the
next Term of our Court of Appeals ~~Said Court~~ to defend against the said
 Appeal, if they think proper.

WITNESS, T. W. Richerson, Clerk of the Circuit Court of said County, this 12th
 day of July, A. D., 1932

Attest:

T. W. Richerson Clerk.

Complained

CIRCUIT COURT
BALDWIN COUNTY, ALA.

J.H. Linch, and the United States Fidelity
& Guaranty Company, a corporation,
Appellants,

vs. { Citation in Appeal

J.B. Stuart and R.H. Stuart, a
partnership composed of J.B. Stuart and
R.H. Stuart,
Appellee's.

Issued 12 day of JULY, 1932

Moore Pkg. Co., Day Minette

*Give copy to J.B. Stuart
and R.H. Stuart, R.H.
Stuart, a partnership,
Appellee's of J.B. Stuart
and R.H. Stuart.*

Executed July 12th 1932

on for serving subpoena Ala

att

W.H. Stuart

Deputy Sheriff

By *W.H. Stuart* Sheriff

J. B. STUART, et als,

Plaintiff,

vs.

J. H. LEMON, et als,

Defendants

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

To J. B. Stuart and R. H. Stuart, partners, etc.,
or J. B. Blackman, Attorney of Record:

Notice is hereby given that the Defendant in the
foregoing cause of action, will take an appeal of said
cause to the Court of Appeals of Alabama, and this will
be your notice of said appeal.

Dated this the 2nd day of June, 1932.

J. E. Bruntin
Attorney for Defendant.

I, T. E. Kuntin, of Counsel for the Defendants in the
foregoing cause, hereby certify that a copy of the foregoing
notice has this day been mailed, postage prepaid, to Hon.
J. B. Blackman, Attorney for Plaintiff in the foregoing
cause, postoffice address Bay Minette, Florida.

Dated this the 2nd day of June, 1932.

T. E. Kuntin
Of Counsel for Defendants

Notice of Appeal

Filed June 11/1982

Ward B. Bickman

Declarant

[Signature]

[Signature]



BUREAU OF INSURANCE

STATE OF ALABAMA

MONTGOMERY

July 11, 1932

Mr. T. W. Richerson,
Register & Clerk,
Circuit Court, Baldwin County,
Bay Minette, Alabama.

Dear Sir:-

Re: Your letter July 9th.

I have just received your notice that supersedeas bond in appeal has been filed and approved July 9th in the case of J. B. Stuart and R. H. Stuart, vs. J. H. Linch and the United States Fidelity & Guaranty Company.

I notice that the judgment in this case was rendered April 11, 1932. When was the notice of appeal made? In other words, was the judgment of the Court of that County more than thirty days old before the appeal was taken? If so, it appears that I may have to act upon the request of attorney Blackburn, as provided by Section 2649 of the Code, unless Mr. Blackburn is willing to withdraw his request. I am writing him to-day with respect to this matter. In the meantime, I shall appreciate your answering this question.

Yours very truly,

Chas. C. Greer.
Supt. of Insurance.

CCG/eh-



UNITED STATES FIDELITY AND GUARANTY COMPANY

BIRMINGHAM BRANCH OFFICE

LEE MCGRUFF

MANAGER

SIXTH FLOOR, WATTS BUILDING

BIRMINGHAM, ALA.

July 9th, 1932.

TELEPHONES: { 3-2110
3-2118
3-2119

Mr. T. W. Richerson,
Clerk of the Circuit Court,
Baldwin County,
Bay Minette, Alabama.

In Re: J. B. Stuart and R. H. Stuart, A Partnership Composed
of J. B. Stuart and R. H. Stuart. Plaintiff.

VS

J. H. Lynch and the United States Fidelity & Guaranty
Company, A Corporation. Defendants.

Dear Sir:

I was advised on July 6th by the Honorable Charles
C. Greer, Superintendent of Insurance of the State of Alabama, that
execution had been placed in his hands by the Circuit Court of
Baldwin County, Alabama.

The defendants attorney, T. E. Buntin of Dothan,
Alabama, forwarded to this office copy of notice of appeal filed
in said case June 2nd, 1932. I was advised by Attorney Buntin on
June 2nd, 1932 that the defendant had 90 days from May 25th, 1932
in which to affect bill of exceptions and 90 days from that day
in which to affect an appeal, and that if the matter was not
settled the record would be perfected and supersedeas bond filed
in accordance with the law. Promptly upon receipt of notice of
execution in the hands of the Superintendent of Insurance, afore-
said, I got in touch with the defendant, J. H. Lynch, and was told
that Attorney Buntin was away in some soldiers training camp, but
that he would file with you today bond superseding judgment and
cost.

I have so advised the Superintendent of Insurance,
and I will appreciate your prompt advices as to whether or not
the record has been ~~perfected~~ ^{perfected}, aforesaid, and if it has not been
~~perfected~~ ^{perfected} please send me a statement of the judgment, ~~and its~~ penalty
and cost and the matter will be promptly disposed of.

Yours very truly,

ASSISTANT MANAGER

AMB:ss

Dep't EXA

Bay Minette, Alabama.
May 20, 1931.

Mr. W. T. Earnest, Jr.,
Box 536,
Mobile, Alabama.

Dear Sir:-

This will acknowledge receipt of your letter with the enclosed check for \$300.00.

The following is a copy of the estimate furnished by the State Board of Administration for work done on F. A. P. project number 211 for the months of January and February, 1931, which they informed me was paid to Mr. Linch on March 20, 1931.

January 29.526 cu. yds. concrete, 2544 lbs. reinforcing steel,
February 50.586 cu. yds. concrete, 4313 lbs. reinforcing steel.

\$ 0.115 6.57
The amount due us for the above work according to our contract under which you were to pay us \$9.00 per cu. yard for concrete and 1¢ per pound for steel is \$789.57. From this we are to deduct the 15% which is to be retained until the job is completed. This leaves a balance due us of \$671.14, from which there is to be deducted the sum of \$225.00 for mixer and lumber making the amount due us at this time amount to \$446.14. When we deduct your check for \$300.00 from this amount, it leaves the balance due us at this time of \$146.14 and of course the 15% which is retained until the job is completed and which will be due us upon completion of the job.

As you know, Mr. J. H. Linch cancelled his contract with you on February 26, 1931, and instructed us that he and his bondsmen would not be responsible for any further work done under his contract with you. Later Mr. Linch entered into a separate contract with us to complete the job.

The amount of \$146.14 due us for work done in January and February which does not include the 15% that is retained until completion of the job should be paid by you at once. In the event it is not paid by you, we expect to hold Mr. Linch and the sureties on his bond liable for this amount, so please let us have your check for \$146.14 by return mail.

As all work done by us after February 26, 1931, has been done under our contract with Mr. J. H. Linch, we are looking to

-2-

for payment of all amounts due for this particular work.

Very truly yours,

J. E. & R. H. STUART,
By,

J. E. Stuart

JBS:OS

c.c. to J. H. Linch.

Crichton Ala

Feb. 23 - 1931

Mr J B Stewart

Bay Minniet Ala

Dear Sir -

I rec'd your letter some days ago. In reply, will say that I have not rec'd payment on the work that you have done over there, and don't know when I will. As soon as I receive payment, I will try to see that you are paid for the work that you have done up to date. But would advise that you do no more work on that job. As, me and my foreman will not be responsible for any debts + contracts, or obligations of any kind, made either by yourself or Mr Earnest. I will not be bound by any contract made and entered into, between you + Mr Earnest. As it was all done without my knowledge + consent. However, when I receive payment for that work, I will make prompt settlement with you and Mr Earnest. for the work that has been done up to this time, holding you responsible of course, for all material

instructed to your care, and after I
have been convinced, that all bills for
supplies & labor, has been paid. Under
the circumstances, I think it best for
me to cancel my contract with Mr Earnest
and come over & finish the job myself.
As the agreement for finishing this job
is long past due. I am sending
Mr Earnest a copy of this letter.
Rest assured that I will do all that I can
to see that you get your money. Will
be over there in a few days & will
look you up.

Yours very truly
J. B. Lynch

Bay Minette, Alabama.
May 20, 1931.

Mr. W. T. Earnest, Jr.,
Box 536,
Mobile, Alabama.

Dear Sir:-

This will acknowledge receipt of your letter with the enclosed check for \$300.00.

The following is a copy of the estimate furnished by the State Board of Administration for work done on F. A. P. project number 211 for the months of January and February, 1931, which they informed me was paid to Mr. Lynch on March 20, 1931.

January 29.526 cu. yds. concrete, 2544 lbs. reinforcing steel,
February 50.526 cu. yds. concrete, 4313 lbs. reinforcing steel.

The amount due us for the above work according to our contract under which you were to pay us \$9.00 per cu. yard for concrete and 16 per pound for steel is \$739.57. From this we are to deduct the 15% which is to be retained until the job is completed. This leaves a balance due us of \$671.14, from which there is to be deducted the sum of \$225.00 for mixer and lumber making the amount due us at this time amount to \$446.14. When we deduct your check for \$300.00 from this amount, it leaves the balance due us at this time of \$146.14 and of course the 15% which is retained until the job is completed and which will be due us upon completion of the job.

As you know, Mr. J. H. Lynch cancelled his contract with you on February 26, 1931, and instructed us that he and his bondsmen would not be responsible for any further work done under his contract with you. Later Mr. Lynch entered into a separate contract with us to complete the job.

The amount of \$146.14 due us for work done in January and February which does not include the 15% that is retained until completion of the job should be paid by you at once. In the event this is not paid by you, we expect to hold Mr. Lynch and the sureties on his bond liable for this amount, so please let us have your check for \$146.14 by return mail.

As all work done by us after February 26, 1931, has been done under our contract with Mr. J. H. Lynch, we are looking to him

31

-2-

for payment of all amounts due for this particuler work.

Very truly yours,

J. B. & R. H. STUART,
By

JBS:OS
c.c. to J. H. Linch.

Post
Exhibit a



UNITED STATES FIDELITY AND GUARANTY COMPANY

BIRMINGHAM BRANCH OFFICE

LEE MCGRUFF

MANAGER

SIXTH FLOOR, WATTS BUILDING

BIRMINGHAM, ALA.

TELEPHONES: { 3-2110
3-2118
3-2119

July 14, 1932.

Re: #183952 - J. H. Lynch - FAP-211 - Baldwin County, Ala.

Mr. T. W. Richerson, Register and Clerk,
Circuit Court, Baldwin County,
Bay Minette, Alabama.

Dear Sir:

This acknowledges with thanks your favor dated
July 12th, reading as follows:

"In reply to your letter of date July 9th, 1932,
I beg to advise that in the cause of J. B. Stuart
and R. H. Stuart, a partnership, vs. J. H. Lynch
and the United States Fidelity & Guaranty Company,
Supersedeas Bond in appeal was filed July 9th.

The Bill of Exceptions in this cause has not been
forwarded to me to date, but I think that it has
been prepared and am expecting it within the next
few days."

I will appreciate if you will advise me when the
Bill of Exceptions is filed.

Very truly yours,

ASSISTANT MANAGER

AMB:A

Bay Minnott Ala
Feb 31

Mr Finch
Sumner Ala

Dear Sir:-

I have been informed that you are the original Contractor for the Culverts & Headwalls on the road from Bay Minnott to Stockton and that you let Mr. Earnest have your interest. So Mr. Earnest Contracted the remainder to me. My contract with Mr. Earnest is \$9.00 Per Cu Yd concrete and 1st \$6 for steel. I have 3 Culverts finished and will be on this months estimate the amount will be 29.4 Cu Yd concrete 2600.00 steel. I bought mixer & lumber from Mr. Earnest and in my contract he is to collect 10% of each estimate on mixer & lumber and the state holds 10% leaves about \$217.00 coming to me. Mr. Finch I do not know Mr. Earnest but I can hear of several around here that says he has

not paid them. And as there is very little
in it for ~~the~~ at the price I am getting
~~we~~ do not want to have any trouble in
getting it. Of course if Mr Earnest is
under bond ~~we~~ could collect in the
end. So I am writing you in case you
did not require Mr Earnest to give bond
~~and we~~ will be looking to you for payment
in case Mr Earnest fails. We are paying
all our bills and can at any time show
receipts for same. We ~~have~~ held up 3 weeks
on gravel. Cement will be out
this week have about enough to finish
2 small Culverts that will have all
the head walls and 3 Culverts at least
one Car Cement. I would like for you
to get in behind the department and
have the cement shipped, the Warden
here says he ordered it when he
ordered the gravel. But he seems to
not care much whether we get it or not
We are having to buy wire to try the
steel with also. I hope Mr Earnest will
settle all O.K. Thanking you in advance
for any favors you can render us
we remain
yours Very truly
J. B. Stewart
B. L. Stewart

Mobile, Ala
Dec 16/30.

Mr J. B. & R. H. Stewart
Bay Minette Ala

Gentlemen,

As per our conversation yesterday in
regards to building the culvert & head works
on Bay Minette-Stockton road. I propose
to subcontract same to you at the price of
nine (9) dollars per cubic yard of concrete
& one cent per pound on re-steel, payable
on engineers estimate & subject to their in-
spection & approval, with 15% retainage.
I also offer you 1 or 5 miles for \$125.00 &
four hundred on land for \$100.00, payable

10% of estimate each month. The State of
Alabama will furnish material on cars at
Bay Minette & you to take care of unloading
storage & delivery of same on cars.

Respectfully submitted

Walter Bonney

Bay Minette Ala
Dec 17 1930

Mr W. C. Earnest Jr.
Mobile Ala

Dear Sir-

Your proposition for the
building of Culverts & head walls on
the Bay Minette Station road together
with your price for mixer & farm material
and terms of payment received.

And in reply will advise you that we
will accept your proposition and will begin
work at once

Yours Very Truly

B + R. H. Stuart
By J. Stuart

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

vs.

J. H. LINCH AND THE UNITED
STATES FIDELITY AND GUARANTY
COMPANY, a Corporation,

Defendants,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

Now comes the Defendants and with permission of the Court being first had and obtained, amends its demurrers heretofore filed in said cause by filing additional grounds thereto, to each Count of the Complaint separately and severally, and separately and severally assigns all original demurrers heretofore filed and in addition thereto, the following:

Eight.

Count Three of said Complaint contains two separate and distinct causes of action.

Nine.

For that in Count Three there is a misjoinder of causes of action.

Ten.

For that the alleged contract between the Defendant J. H. Linch and the State of Alabama is not set out in full or the substance thereof.

Eleven.

For that the alleged contract between J. H. Linch and W. C. Earnest, Jr., is not set out or the substance thereof.

Twelve.

For that said Count fails to aver whether the contract between J. H. Linch and W. C. Earnest, Jr., is written or verbal.

Thirteen.

For that said Count fails to set out the conditions of the bond alleged to have been made by the Defendant The United State Fidelity & Guaranty Company, a Corporation.

Fourteen.

For that said Count fails to aver that there has been complete performance of said contract and that there has been final settlement thereof.

Fifteen.

For that said Count fails to aver that there has been complete performance of said contract and final settlement thereof and the date of said final settlement.

Sixteen.

For aught appearing in said Count there has not been a complete performance of said contract.

Seventeen.

For aught appearing in said Count there has not been a complete performance of said contract and a final settlement thereof.

Eighteen.

For aught appearing in said Count there has nor been a complete performance of said contract and a final settlement thereof within sixty (60) days prior to the commencement of this cause of action.

Nineteen.

For that said Complaint fails to make W. C. Earnest, Jr., a party Plaintiff or a party Respondent to said cause of action.

Twenty.

For that said Count fails to aver that the Defendant J. H. Linch owes W. C. Earnest, Jr., any sum, or sums, for an on account of said alleged contract and work performed in accordance therewith.

Twenty-one.

For aught appearing in said Count the said J. H. Linch has fully complied with his alleged contract with W. C. Earnest, Jr., and has fully paid and discharged all indebtedness due to the said W. C. Earnest, Jr., as a result of said alleged contract.

Twenty-two.

For that said Count fails to aver that the said W. C. Earnest, Jr., for whom the alleged work was done by the Plaintiff in this cause of action has not paid the Plaintiff in full for said work.

Twenty-three.

For that there is no privity between the Plaintiff and Defendant in this cause of action.

Twenty-four.

For that said Count fails to aver that the Defendant J. H. Linch had any knowledge of the employment of the Plaintiff by the said W. C. Earnest, Jr., in and about any of the work under the said J. H. Linch contract and that the Plaintiff had not been paid for such employment prior to full settlement by the Defendant J. H. Linch with the said W. C. Earnest, Jr.

Twenty-five.

For that said Count fails to aver that the Plaintiff had complied with the Highway Act of the Legislature, Section 28, Sub-Sect. "b", Acts of 1927, page 357.

Twenty-six.

For aught appearing in said Count the said W. C. Earnest, Jr., was an employee of the said J. H. Linch and not authorized to employ the Plaintiff in this cause of action.

Page 3.

Twenty-seven.

For that said Count fails to aver that the said W. C. Earnest, Jr., was a sub-contractor of the said J. H. Lynch or an authorized agent of said J. H. Lynch, acting within the line and scope of his employment when the said Plaintiff was employed by the said W. C. Earnest, Jr.

Wm. P. Kelly

T. E. Buntin

Attorneys for Defendants.

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

FEBRUARY 25,
1932.

Messrs. Wm. P. Cobb and T. E. Buntin,
Attorneys for J. H. Linch and the United States
Fidelity and Guaranty Company, a Corporation,
Bay Minette, Alabama.

Gentlemen:-

Notice is hereby given you as Attorneys for the
Defendants in that certain cause now pending in the Cir-
cuit Court of Baldwin County, Alabama, wherein J. B. Stuart
and R. H. Stuart, a Partnership composed of J. B. Stuart
and R. H. Stuart is Plaintiff and J. H. Linch and the United
States Fidelity and Guaranty Company, a Corporation are De-
fendants, to produce on the day when the said cause is set
for trial at the April term of Circuit Court of Baldwin
County, Alabama, or on the day to which the same may be con-
tinued, the following letter from Walter C. Ernest, Jr., to
J. H. Linch and upon your failure to produce the said letter,
secondary evidence of same will be offered by the Plaintiff:

"Oct. 22/31

Mr. J. H. Linch.
Crichton, Ala.

Dear Mr. Linch:-

Herewith please find a
detailed estimate of Mr. Stewart's account
on the culverts and headwalls in Baldwin
County.

To estimate: Letter dated Sept. 10-31 \$260.57

130.261 CU.yd.C1 "B" con. @ 9.00	1172.34
312 sacks cement screened @ 05¢	<u>15.60</u>

Balance due contractor: \$1448.51

This letter will authorize you
to settle the above account with Mr. Stewart
and pay him for same.

E/e

Yours very truly

Walter C. Ernest, Jr."

J. B. B. Lockman

Attorney for Plaintiff.

We hereby accept service of a copy
of the foregoing notice on this the
25th day of February, 1932, and waive
further notice of same.

Wm. P. Cobb and T. E. Buntin

By Wm. P. Cobb

J.B.STUART AND R.E.STUART, A PARTNERSHIP
COMPOSED OF J.B.STUART AND R.E.STUART,

PLAINTIFF.

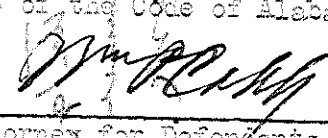
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

-v-

J.E.LINCH AND THE UNITED STATES FIDELITY
AND GUARANTY COMPANY, A CORPORATION,
DEFENDANTS.

DEFENDANTS DEMAND FOR A JURY
TRIAL.

And now come the defendants, J.E.Linch and the United States Fidelity
and Guaranty Company, a corporation, and demand a jury trial in this cause,
under the provisions of sections 8595 and 8596 of the Code of Alabama, 1923.


Attorney for Defendants.

13/2
RECORDED

In the Circuit Court of Baldwin
County, Alabama.

J. B. Stuart and R. H. Stuart, a Partnership
vs.

J. H. Lynch, et al.

Defendants Demand for a Jury Trial

*Filed Dec 17th 1931
J. M. Rice
Clerk*

William P. Cobb,
Attorney for Defendants.

J.B.Stuart and R.E.Stuart, a partnership
composed of J.B.Stuart and R.E.Stuart.

Plaintiff

vs

J.E.Linch, et als

Defendants.

In the Circuit Court of

Baldwin County, Ala.

At Law

Comes the defendant in the foregoing cause and for answer
to the complaint filed in said cause and each count thereof, separately
and severally, says:

1

General Issue

2

Defendants pleads the general issue in short, by consent, with
leave to give in evidence any matter as though the same had been specially
and well pleaded.

Wm P. Cobb

J. E. Buntin

Attorneys for Defendants.

J.B. Stewart etc
vs

vs

J. Whinch et al

Defendants' Pleas

Filed this 25th day

of Feb. 1932

T. W. McCusker

Clerk

*Refused
J.W. Hare, Judge #1*

1: I charge you that a mere preponderance of evidence is not sufficient to authorize a verdict for the plaintiff unless it is sufficient to satisfy your mind that the plaintiff is entitled to recover.

2: If the evidence in this case is equally balanced you should find for the defendant.

Refused J.W. Hare, Judge

*Refused
J.W. Hare
Judge*

3: Unless there is a preponderance of the evidence for the Plaintiff which produces in your minds a reasonable conviction or satisfaction that the Plaintiff is entitled to recover in this case, you should find for the Defendants.

*Refused
J.W. Hare*

4: The Court charges the Jury that if you believe the evidence in this case you will find for the Defendant.

*Refused
J.W. Hare
Judge*

5: I charge you that the burden of proof is upon the Plaintiff to reasonably satisfy you of the truth of his complaint, otherwise you will find for the Defendants.

*Refused
J.W. Hare
Judge*

6: The court charges the jury that the burden of proof is upon the plaintiff to reasonably satisfy the jury as to the proof of every material allegation in his complaint, and if he fails to discharge this burden to the reasonable satisfaction of the jury, you cannot find the issue in favor of the plaintiff.

*Refused
J.W. Hare
Judge*

7: I charge you that the burden is upon the plaintiff to make out his case by a preponderance of evidence and that where the testimony is equally balanced, the plaintiff has failed to carry the burden and the jury must find for the defendant.

8: If after a fair consideration of all the evidence any individual jury is not ~~reasonable~~ reasonable satisfied therefrom that plaintiff is entitled to a verdict in his favor, you cannot find for the plaintiff

*Refused
J.W. Hare
Judge*

9: I charge you that if you believe the evidence, you will find for the plaintiff for the sum of \$260.57 under count C of the complaint as amended, together with interest thereon.

*Refused
J.W. Hare
Judge*

*Refused
J.W. Hare
Judge*

10: If after considering all the evidence you find that the plaintiff had a contract with W.C. Ernest, Jr., for the construction work herein sued upon and that that contract was terminated and that subsequently plaintiff entered into a new contract with the defendant J.H. Linch, then I charge you that you can only find for the plaintiff under count C of the complaint for the work performed under said contract with W.C. Ernest Jr., prior to its termination.

11: I charge you that if you find from the evidence that the plaintiff and defendant J.H.Linch entered into a new contract subsequent to the termination of the Ernest contract, if terminated, then I charge you that for such work performed by the plaintiff under the new contract with Linch, if you find that there was a new contract, the plaintiff would be entitled to pay for such work only in accordance with the terms of the new contract.

Refused
J.H. Ware
Judge

ive days return to

RICHERSON

lerk of the Circuit Court
ldwin County

NETTE, ALABAMA

Given Charge
and J B Stewart
vs
J B Stewart

12 The Court charges you That if
after considering all the evidence
in this case your mind is left
in a state of confusion, then
you cannot find for plaintiff
for an amount in excess of
\$260.⁵⁷ and interest from Oct. 1, 1931

Given,
J. W. Starr
Judge

- 1 Summons Complaint
- 2 Answer
- 3 - Notice to Creditors
- 4 Interrogatories
- 5 Answers to Interrogatories (Two)
- 6 Denial
- 7 Amended Complaint
- 8 Motion to require answers to interrogatories
- 9 Denial
- 10 Copy of Denial
- 11 Plff's demand for production of written instrument
- 12 Def's demand for Jury Trial
- 13 Def's plea
- 14 Agreement between Counsel
- 15 Certified copy of final estimate of damages from plaintiff dated Feb 23rd 1931
- 17 letter from Stuart to Errett dated Feb 2 1931 -
- 18 letter from Errett & Errett dated May 20 - 1931 The copy of same
- 19 letter from Errett & JB Voth Stuart Dec 16 - 1930
- 20 Copy of letter from JB Voth Stuart to Errett Jr Dec 17 - 1930
- 21 Def's demand for production of written instrument
- 22 4 miscellaneous letters
- 23 Def's motion for mistrial
- 24 Notice of appeal
- 25 Certificate of appeal
- 26 Appointed through
- 27 Same above
- 28 Informal copy

The State of Alabama }
Baldwin County

CIRCUIT COURT---LAW SIDE

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon

to appear within thirty days from the service of this writ in the Circuit Court, to be held for said County, at the place of holding the same, then and there to answer the complaint of

Witness my hand, this

day of

19

Clerk.

COMPLAINT

No.

Received in office

19

day of

Sheriff of

County, Ala.

VS.

Executed by serving

cop

of the within Summons and Complaint on

IN CIRCUIT COURT OF BALDWIN COUNTY

Term 19

SUMMONS AND COMPLAINT

Filed in office this

day of

A. D. 19

Clerk.

Plaintiff's Attorney.

Moore Printing Co. : : : Bay Minette, Ala.

day of

19

This the

Defendant

County, Ala.

Sheriff of

By Deputy Sheriff.

Refused charges.

1. I charge you that a mere preponderance of evidence is not sufficient to authorize a verdict for the plaintiff unless it is sufficient to satisfy your mind that the plaintiff is entitled to recover.
Refused F. W. Hare, Judge.
2. If the evidence in this case is equally balanced you should find for the defendant.
Refused F. W. Hare, Judge.
3. Unless there is a preponderance of the evidence for the Plaintiff which produces in your minds a reasonable conviction or satisfaction that the Plaintiff is entitled to recover in this case, you should find for the Defendants.
Refused F. W. Hare, Judge.
4. The Court charges the Jury that if you believe the evidence in this case you will find for the Defendant.
Refused F. W. Hare, Judge.
5. I charge you that the burden of proof is upon the Plaintiff to reasonably satisfy you of the truth of his complaint, otherwise you will find for the Defendants.
Refused F. W. Hare, Judge.
6. The court charges the jury that the burden of proof is upon the plaintiff to reasonably satisfy the jury as to the proof of every material allegation in his complaint, and if he fails to discharge this burden to the reasonable satisfaction of the jury, you cannot find the issue in favor of the plaintiff.
Refused F. W. Hare, Judge.
7. I charge you that the burden is upon the plaintiff to make out his case by a preponderance of evidence and that where the testimony is equally blanced, the plaintiff has failed to carry the burden and the jury must find for the defendant.
Refused F. W. Hare, Judge.
8. If after a fair consideration of all the evidence any individual jury is not reasonably satisfied therefrom that plaintiff is entitled to a verdict in his favor, you cannot find for the plaintiff.
Refused F. W. Hare, Judge.
9. I charge you that if you believe the evidence, you will find for the plaintiff for the sum of \$260.57 under count C of the complaint as amended, together with interest thereon.
Refused F. W. Hare, Judge.
10. If after considering all the evidence you find that the plaintiff had a contract with W. G. Ernest, Jr., for the constr*ction work herein sued upon and that that contract was terminated and that subsequently plaintiff entered into a new contract with the defendant J. H. Lynch, then I charge you that you can only find for the plaintiff under count C of the complaint for the work performed under said contract with W. G. Ernest, Jr., prior to its termination.
Refused F. W. Hare, Judge.
11. I charge you that if you find from the evidence that the plaintiff and defendant J. H. Lynch entered into a new contract subsequent to the termination of the Ernest contract, if terminated, then I charge you that for such work performed by the plaintiff under the new contract with Lynch, if you find that there was a new contract, the plaintiff would be entitled to pay for such work only in accordance with the terms of the new contract.
Refused F. W. Hare, Judge.

B

If you believe the evidence you cannot find for the Plaintiff under count A of the complaint as amended.

A

I charge you gentlemen, if you believe the evidence you must find for the defendant.

D

If you believe the evidence you cannot find for the Plaintiff under Count C of the Complaint as amended.

Refused F. W. Hare, Judge.

C

If you believe the evidence you cannot find for the Plaintiff under Count B of the Complaint as amended.
Given F. W. Hare, Judge.

E

The court charges the jury that if you believe the evidence in this case you must find for the Plaintiff.
Given F. W. Hare, Judge.

12. The court charges you that if after considering all the evidence in this case your mind is left in a state of confusion, then you cannot find for plaintiff for an amount in excess of \$260.57 and interest from October 1, 1931.
Given F. W. Hare, Judge.

T. E. BUNTIN
ATTORNEY AT LAW
DOTHAN, ALABAMA
August 16th-1932.

Mr. J. W. Richerson, Clerk,
Circuit Court, Baldwin County,
Bay Minette, Alabama.

In Re- Stuart vs. Lynch.

Dear Sir:

I have just received a copy of
the letter from Messrs. Ball & Ball, addressed to Mr.
Blackburn, in which they state the entire file of
Stuart, et als, vs. Lynch was forwarded to Mr. Blackburn.

Doubtless by this time it is in your
office. Please be kind enough to send me the entire file
especially including therein interrogatories and answers thereto,
and all exhibits and all letters that were offered in evidence
which were not allowed by the Judge.

Please give this your prompt attention
as our time is getting short for the preparing of bill
of exceptions.

Yours very truly,


T.E. BUNTIN.

J. B. STUART & R. H. STUART,
A Partnership,

Plaintiffs,
vs.

J. H. LINCH and THE UNITED
STATES FIDELITY & GUARANTY
COMPANY, A Corporation,

Defendants.

IN THE CIRCUIT COURT-BALDWIN COUNTY,
ALABAMA..... AT LAW.

Now come the Plaintiffs, by and through their
Counsel, J. B. Blackburn, and the Defendants, by and through
their Counsel, T. E. Buntin, and agree as follows:

That the Defendants this day have paid into
Court the sum of Six Hundred - 75/100 DOLLARS,
(\$650.00), in full, final and complete discharge of the
judgment and costs, rendered in said cause in behalf of the
Plaintiffs against the Defendants.

Said sum of money having been paid into Court, the
Clerk of said Court is hereby authorized and empowered to
mark the judgment cancelled and fully satisfied. The Clerk
of said Court is further authorized to issue his certificate
certifying that said judgment and costs rendered in this cause
in behalf of the Plaintiffs has been fully paid by the Defendants,
the judgment record properly satisfied and the Defendants dischar-
ged as to said judgment.

Dated this the 14th day of October, 1932.

J. B. Blackburn
COUNSEL FOR PLAINTIFFS

T. E. Buntin
COUNSEL FOR DEFENDANTS.

CERTIFICATE OF VERIFICATION

IN CIRCUIT COURT

AT LAW

BALDWIN COUNTY

J. B. STUART & R. H. STUART,

Plaintiffs,

vs.

J. H. LINCH and THE UNITED STATES FIDELITY & GUARANTY COMPANY, A Corporation,

Defendants.

IN THE CIRCUIT COURT-BALDWIN COUNTY, ALABAMA..... AT LAW.

Now come the Plaintiffs, by and through their Counsel, J. B. Blackburn, and the Defendants, by and through their Counsel, T. E. Buntin, and agree as follows:

That the Defendants this day have paid into Court the sum of Six Hundred - 75/100 DOLLARS, (\$650.00), in full, final and complete discharge of the judgment and costs, rendered in said cause in behalf of the Plaintiffs against the Defendants.

Said sum of money having been paid into Court, the Clerk of said Court is hereby authorized and empowered to mark the judgment cancelled and fully satisfied. The Clerk of said Court is further authorized to issue his certificate certifying that said judgment and costs rendered in this cause in behalf of the Plaintiffs has been fully paid by the Defendants, the judgment record properly satisfied and the Defendants discharged as to said judgment.

Dated this the 14th day of October, 1932.

J. B. Blackburn
COUNSEL FOR PLAINTIFFS

T. E. Buntin
COUNSEL FOR DEFENDANTS.

CERTIFICATE OF VERIFICATION

IN CIRCUIT COURT

AT LAW

BALDWIN COUNTY

J. B. STUART & R. H. STUART,

Plaintiffs,

vs.

J. H. LINCH and THE UNITED STATES FIDELITY & GUARANTY COMPANY, A Corporation,

Defendants.

IN THE CIRCUIT COURT-BALDWIN COUNTY, ALABAMA..... AT LAW.

Now come the Plaintiffs, by and through their Counsel, J. B. Blackburn, and the Defendants, by and through their Counsel, T. E. Buntin, and agree as follows:

That the Defendants this day have paid into Court the sum of Six Hundred - 75/100 DOLLARS, (\$650.00), in full, final and complete discharge of the judgment and costs, rendered in said cause in behalf of the Plaintiffs against the Defendants.

Said sum of money having been paid into Court, the Clerk of said Court is hereby authorized and empowered to mark the judgment cancelled and fully satisfied. The Clerk of said Court is further authorized to issue his certificate certifying that said judgment and costs rendered in this cause in behalf of the Plaintiffs has been fully paid by the Defendants, the judgment record properly satisfied and the Defendants discharged as to said judgment.

Dated this the 14th day of October, 1932.

J. B. Blackburn
COUNSEL FOR PLAINTIFFS

T. E. Buntin
COUNSEL FOR DEFENDANTS.

CERTIFICATE OF VERIFICATION

STATE OF ALABAMA

In Circuit Court

AT LAW

BALDWIN COUNTY

J. B. STUART & R. H. STUART, a Partnership,

Plaintiffs,
vs.

J. H. LITCH, UNITED STATES FIDELITY & GUARANTY COMPANY, a Corporation,

Defendants.

AGREEMENT

FILED this the 14 day of October, 1932.

Clerk

That the undersigned, J. B. Stuart & R. H. Stuart, a Partnership, and J. H. Litch, United States Fidelity & Guaranty Company, a Corporation, do hereby agree that the judgment rendered in the above entitled case, in favor of the plaintiffs, be set aside and the case remanded to the court of said county to be further adjudicated to leave the certificate of said judgment cancelled and null and void. The Clerk of said court is hereby authorized and empowered to carry out the above terms of said judgment, and to enter the same into the records of said court.

Witness my hand and seal this 14th day of October, 1932.

(S 1932 05) J. B. STUART & R. H. STUART, a Partnership, Plaintiffs.

J. H. LITCH, Defendant.

Witness my hand and seal this 14th day of October, 1932.

J. B. STUART & R. H. STUART, a Partnership, Plaintiffs.

J. H. LITCH, Defendant.

COPIES OF THIS AGREEMENT
J. B. STUART & R. H. STUART, a Partnership,
Plaintiffs,
J. H. LITCH, Defendant.

IN THE CIRCUIT COURT OF BALDWIN COUNTY

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

AGREEMENT.

It is agreed between J. B. Blackburn, Attorney
for the Plaintiff and William P. Cobb, one of the Attorneys for
the Defendant, in the above entitled cause that the defendant's
motion for a new trial in the said cause be, and it is hereby
submitted to the Court for decision on the day heretofore set for
hearing same, without argument by counsel.

J. B. Blackburn
Wm P Cobb

Dated this 13th day
7 May, 1932.



NOBLE H. SEAY
REPORTER

REPORTER OF DECISIONS
SUPREME COURT AND COURT OF APPEALS
MONTGOMERY, ALABAMA

May 20, 1932.

Judge F.W.Hare,
Monroeville, Alabama,

Dear Judge Hare:

In Re: Stuart -v-Linch et al.

Before leaving Bay Minette several days ago, I agreed with Mr. J.B. to submit defendants motion for a new trial in the above styled cause without argument. You will recall that you entered an order in this case on April 21st. continuing the matter for thirty days, and I am writing to ask that you rule on the motion to-morrow with the understanding that either side will be allowed an exception.

Mr. Blackburn has no doubt delivered the file to you according to our agreement before I left, and you will no doubt rule on the motion without this letter, but I am taking the liberty of calling your attention to the matter in order that it is not overlooked.

In the event you should not rule on the motion to-morrow, please enter appropriate order keeping the motion alive.

Thanking you in advance and with expressions of my cordial regard, I am,

Yours very truly,

Wm. P. Cobb
Wm. P. Cobb.

P.S. I will be back in Bay minette
early next week.

Cobb.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

vs.

J. H. LINCH AND THE UNITED
STATES FIDELITY AND GUARANTY
COMPANY, a Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

Now comes the Defendants and with permission of the Court being first had and obtained, amends its demurrers heretofore filed in said cause by filing additional grounds thereto, to each Count of the Complaint separately and severally, and separately and severally assigns all original demurrers heretofore filed and in addition thereto, the following:

Eight.

Count Three of said Complaint contains two separate and distinct causes of action.

Nine.

For that in Count Three there is a misjoinder of causes of action.

Ten.

For that the alleged contract between the Defendant J. H. Linch and the State of Alabama is not set out in full or the substance thereof.

Eleven.

For that the alleged contract between J. H. Linch and W. C. Earnest, Jr., is not set out or the substance thereof.

Twelve.

For that said Count fails to aver whether the contract between J. H. Linch and W. C. Earnest, Jr., is written or verbal.

Thirteen.

For that said Count fails to set out the conditions of the bond alleged to have been made by the Defendant The United State Fidelity & Guaranty Company, a Corporation.

Fourteen.

For that said Count fails to aver that there has been complete performance of said contract and that there has been final settlement thereof.

Fifteen.

For that said Count fails to aver that there has been complete performance of said contract and final settlement thereof and the date of said final settlement.

Sixteen.

For aught appearing in said Count there has not been a complete performance of said contract.

Seventeen.

For aught appearing in said Count there has not been a complete performance of said contract and a final settlement thereof.

Eighteen.

For aught appearing in said Count there has not been a complete performance of said contract and a final settlement thereof within sixty (60) days prior to the commencement of this cause of action.

Nineteen.

✓ For that said Complaint fails to make W. C. Earnest, Jr., a party Plaintiff or a party Respondent to said cause of action.

Twenty.

For that said Count fails to aver that the Defendant J. H. Linch owes W. C. Earnest, Jr., any sum, or sums, for an account of said alleged contract and work performed in accordance therewith.

Twenty-one.

✓ For aught appearing in said Count the said J. H. Linch has fully complied with his alleged contract with W. C. Earnest, Jr., and has fully paid and discharged all indebtedness due to the said W. C. Earnest, Jr., as a result of said alleged contract.

Twenty-two.

For that said Count fails to aver that the said W. C. Earnest, Jr., for whom the alleged work was done by the Plaintiff in this cause of action has not paid the Plaintiff in full for said work.

Twenty-three.

For that there is no privity between the Plaintiff and Defendant in this cause of action.

Twenty-four.

For that said Count fails to aver that the Defendant J. H. Linch had any knowledge of the employment of the Plaintiff by the said W. C. Earnest, Jr., in and about any of the work under the said J. H. Linch contract and that the Plaintiff had not been paid for such employment prior to full settlement by the Defendant J. H. Linch with the said W. C. Earnest, Jr.

Twenty-five.

For that said Count fails to aver that the Plaintiff had complied with the Highway Act of the Legislature, Section 28, Sub-Sect. "b", Acts of 1927, page 357.

Twenty-six.

For aught appearing in said Count the said W. C. Earnest, Jr., was an employee of the said J. H. Linch and not authorized to employ the Plaintiff in this cause of action.

Page 3.

Twenty-seven.

For that said Count fails to aver that the said W. C. Earnest, Jr., was a sub-contractor of the said J. H. Linch or an authorized agent of said J. H. Linch, acting within the line and scope of his employment when the said Plaintiff was employed by the said W. C. Earnest, Jr.

Wm R. Cobb

T. E. Bunker

Attorneys for Defendants.

130
 9
 7170
 130,261
 9
 72,349

Present
 105
 Signed
 [Signature]

[Signature]
 Treasurer

Filed 2/24/53
 J. W. Williams
 Clerk

About 100

STATE OF ALABAMA }

HOUSTON COUNTY }

We, J. H. Linch, Dothan, Alabama, and United States Fidelity & Guaranty Company of Baltimore, Md., as principals, and Fidelity & Deposit Company, of Maryland, Baltimore, Md., as surety,

are held and firmly bound unto J. B. Stuart & R. H. Stuart, a partnership, composed of J. B. Stuart and R. H. Stuart, in the sum of

THIRTY FOUR HUNDRED DOLLARS (\$3400.00), for the payment of which,

well and truly to be made, we and each of us, do jointly and

severally bind ourselves, our heirs, executors and administrators,

firmly by these presents.

Sealed with our seals, and dated this the 9th day of July, 1932.

The condition of the above obligation is such, that, whereas, at the April 1932 term of the Circuit Court of Baldwin County, (Ala) held in and for said County, judgment was rendered against the above bound J. H. Linch in a cause therein, pending styled, J. B. Stuart & R. H. Stuart, a partnership composed of J. B. Stuart and R. H. Stuart, versus J. H. Linch and The United States Fidelity & Guaranty Company (A Corporation), and for \$160.34, costs of suit; from which judgment the said J. H. Linch and The United States Fidelity & Guaranty Company have applied for and obtained an appeal to the Supreme Court of the State of Alabama; and,

WHEREAS, it is desired to stay or suspend the execution of such judgment, until the final determination of said appeal;

and the United States Fidelity
Now, if the said J. H. Linch/~~shall~~ and Guaranty Company, shall prosecute said appeal, to effect, or if they fail therein, shall satisfy such judgment as the Supreme Court of Alabama may render in the premises then this obligation to be null and void, otherwise to be and remain of full force and effect.

Taken and Approved
this the 9th day
of July 1932.

D. W. P. [Signature]
Clerk Circuit Court

J. H. Linch L.S.
Principal
UNITED STATES FIDELITY & GUARANTY CO.,
By [Signature]
Atty-in-fact, Co-principal
FIDELITY & DEPOSIT COMPANY,
of Maryland,
By [Signature]
Atty-in-fact, Surety

J. B. STUART and R. H. STUART,)
a partnership composed of)
J. B. Stuart and R. H. Stuart,)

Plaintiff,)

vs.)

J. H. LINCH and THE UNITED)
STATES FIDELITY AND GUARANTY)
COMPANY, A Corporation,)

Defendants.)

O IN CIRCUIT COURT, BALDWIN COUNTY,

AT LAW.

M O T I O N -- F O R -- N E W -- T R I A L

Now comes the Defendant in the above cause and moves the Court to set aside the verdict and Judgment and grant a new trial and in support of said Motion assigns the following grounds:

1. The verdict was contrary to the law.
2. The verdict was contrary to the evidence.
3. The verdict was contrary to the law and the evidence.
4. The Court erred in giving the affirmative charge for the Plaintiff at the request of the Plaintiff.
5. The Court erred in refusing to give written charge No. 1 at the request of the Defendant.
6. The Court erred in refusing to give written charge No. 2 at the request of the Defendant.
7. The Court erred in refusing to give written charge No. 3 at the request of the Defendant.
8. The Court erred in refusing to give written charge No. 4 at the request of the Defendant.
9. The Court erred in refusing to give written charge No. 5 at the request of the Defendant.
10. The Court erred in refusing to give written charge No. 6 at the request of the Defendant.
11. The Court erred in refusing to give written charge No. 7 at the request of the Defendant.
12. The Court erred in refusing to give written charge No. 8 at the request of the Defendant.
13. The Court erred in refusing to give written charge No. 9 at the request of the Defendant.
14. The Court erred in refusing to give written charge No. 10 at the request of the Defendant.
15. The Court erred in refusing to give written charge No. 11 at the request of the Defendant.

#2.

16. The Court erred in refusing to give written charge "A" at the request of the Defendant.
17. The Court erred in refusing to give written charge "B" at the request of the Defendant.
18. The Court erred in refusing to give written charge "C" at the request of the Defendant.
19. The Court erred in refusing to give written charge "D" at the request of the Defendant.
20. The Court erred in admitting in evidence the certified copy of the State Auditor of the final estimates of the work done under the contract of the Contractor, J. H. Lynch, covering construction work on Federal Aid Project No. 211, in Baldwin County, Alabama, over the objection of the Defendant.
21. The Court erred in over-ruling Defendant's demurrers to the complaint, as amended, and each count thereof.
22. The Court erred in its oral charge to the Jury wherein the Court charged the Jury that the Jury might find for the Plaintiff under Count A, in any amount not less than Two Hundred Sixty and 57/100 Dollars (\$260.57) and not more than the amount sued for, together with the interest thereon under the contract between the Plaintiff and W. C. Earnest, Jr.

W. P. Cobb

W. P. COBB

T. E. Buntin

T. E. BUNTIN

Attorneys for Defendant.

State of Alabama)
Baldwin County)

I, W. P. COBB, of Counsel for the Defendant in the foregoing cause, hereby certify that a copy of the foregoing Motion has this day been delivered to J. B. BLACKBURN, Counsel for Plaintiff in the foregoing cause, and notified that said Motion will be called up before the presiding Judge of said Court, on, to-wit, the 29 day of April 1932.
Dated this the 21st day of April, 1932. *W. P. Cobb*

Of Counsel for Defendant.

4/21/32: The above and foregoing motion is ordered continued for 30 days from this date

5/20/32: The above motion is ordered continued to May 25th, 1932. J. W. Hare, Judge

5/25/32: Motion ordered overruled J. W. Hare, Judge

Refused
to have
Judge

a

I charge you gentlemen, if
believe the evidence you
must find for the defendant.

Refused
to have
Judge

B

If you believe the evidence you
cannot find for the Plaintiff
under Count A of the Complaint
as demanded.

Refused
to have
Judge

C

If you believe the evidence you
cannot find for the Plaintiff
under Count B of the Complaint
as demanded.

Refused
to have
Judge

D

If you believe the evidence
you cannot find for the
Plaintiff under Count C of
the Complaint as demanded.

*Refused
J.W. Hare, Judge #1*

1: I charge you that a mere preponderance of evidence is not sufficient to authorize a verdict for the plaintiff unless it is sufficient to satisfy your mind that the plaintiff is entitled to recover.

2: If the evidence in this case is equally balanced you should find for the defendant.

Refused J.W. Hare, Judge

*Refused
J.W. Hare
Judge*

3: Unless there is a preponderance of the evidence for the Plaintiff which produces in your minds a reasonable conviction or satisfaction that the Plaintiff is entitled to recover in this case, you should find for the Defendants.

*Refused
J.W. Hare*

4: The Court charges the Jury that if you believe the evidence in this case you will find for the Defendant.

*Refused
J.W. Hare
Judge*

5: I charge you that the burden of proof is upon the Plaintiff to reasonably satisfy you of the truth of his complaint, otherwise you will find for the Defendants.

*Refused
J.W. Hare
Judge*

6: The court charges the jury that the burden of proof is upon the plaintiff to reasonably satisfy the jury as to the proof of every material allegation in his complaint, and if he fails to discharge this burden to the reasonable satisfaction of the jury, you cannot find the issue in favor of the plaintiff.

*Refused
J.W. Hare
Judge*

7: I charge you that the burden is upon the plaintiff to make out his case by a preponderance of evidence and that where the testimony is equally balanced, the plaintiff has failed to carry the burden and the jury must find for the defendant.

8: If after a fair consideration of all the evidence any individual jury is not ~~reasonable~~ reasonable satisfied therefrom that plaintiff is entitled to a verdict in his favor, you cannot find for the plaintiff

*Refused
J.W. Hare
Judge*

9: I charge you that if you believe the evidence, you will find for the plaintiff for the sum of \$260.57 under count C of the complaint as amended, together with interest thereon.

*Refused
J.W. Hare
Judge*

*Refused
J.W. Hare
Judge*

10: If after considering all the evidence you find that the plaintiff had a contract with W.C. Ernest, Jr., for the construction work herein sued upon and that that contract was terminated and that subsequently plaintiff entered into a new contract with the defendant J.H. Linch, then I charge you that you can only find for the plaintiff under count C of the complaint for the work performed under said contract with W.C. Ernest Jr., prior to its termination.

- 1 Summons Complaint
- 2 Answer
- 3 - Notice to Creditors
- 4 Interrogatories
- 5 Answers to Interrogatories (Two)
- 6 Denial
- 7 Amended Complaint
- 8 Motion to require answers to interrogatories
- 9 Denial
- 10 Copy of Denial
- 11 Plff's demand for production of written instrument
- 12 Def's demand for Jury Trial
- 13 Def's plea
- 14 Agreement between Counsel
- 15 Certified copy of final estimate
~~letter from J.B. Smith dated Feb 23rd 1931~~
- 16 Letter from Stuart to Smith dated Feb 2 1931 -
- 17 Letter from Stuart & Emmett dated May 20 - 1931 The copy of same
- 18 Letter from Emmett to J.B. Smith dated Dec 16 - 1930
- 19 Copy of letter from J.B. Smith to Emmett Jr Dec 17 - 1930
- 20 Def's demand for production of written instrument
- 21 4 Miscellaneous letters
- 22 Def's motion for summary
- 23 Notice of appeal
- 24 Certificate of appeal
- 25 Appointed through
- 26 Same above
- 27 Informal copy
- 28

The State of Alabama }
Baldwin County

CIRCUIT COURT---LAW SIDE

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon

to appear within thirty days from the service of this writ in the Circuit Court, to be held for said County, at the place of holding the same, then and there to answer the complaint of

Witness my hand, this

day of

19

Clerk.

COMPLAINT

No.

Received in office

19

day of

County, Ala.

VS.

Sheriff of

Executed by serving
of the within Summons and Complaint on

cop

IN CIRCUIT COURT OF BALDWIN COUNTY

Term 19

SUMMONS AND COMPLAINT

19

day of

Defendant

Filed in office this

day of

A. D. 19

County, Ala.

Clerk.

By Deputy Sheriff.

Plaintiff's Attorney.

Moore Printing Co. Bay Minette, Ala.

Refused charges.

1. I charge you that a mere preponderance of evidence is not sufficient to authorize a verdict for the plaintiff unless it is sufficient to satisfy your mind that the plaintiff is entitled to recover.
Refused F. W. Hare, Judge.
2. If the evidence in this case is equally balanced you should find for the defendant.
Refused F. W. Hare, Judge.
3. Unless there is a preponderance of the evidence for the Plaintiff which produces in your minds a reasonable conviction or satisfaction that the Plaintiff is entitled to recover in this case, you should find for the Defendants.
Refused F. W. Hare, Judge.
4. The Court charges the Jury that if you believe the evidence in this case you will find for the Defendant.
Refused F. W. Hare, Judge.
5. I charge you that the burden of proof is upon the Plaintiff to reasonably satisfy you of the truth of his complaint, otherwise you will find for the Defendants.
Refused F. W. Hare, Judge.
6. The court charges the jury that the burden of proof is upon the plaintiff to reasonably satisfy the jury as to the proof of every material allegation in his complaint, and if he fails to discharge this burden to the reasonable satisfaction of the jury, you cannot find the issue in favor of the plaintiff.
Refused F. W. Hare, Judge.
7. I charge you that the burden is upon the plaintiff to make out his case by a preponderance of evidence and that where the testimony is equally blanced, the plaintiff has failed to carry the burden and the jury must find for the defendant.
Refused F. W. Hare, Judge.
8. If after a fair consideration of all the evidence any individual jury is not reasonably satisfied therefrom that plaintiff is entitled to a verdict in his favor, you cannot find for the plaintiff.
Refused F. W. Hare, Judge.
9. I charge you that if you believe the evidence, you will find for the plaintiff for the sum of \$260.57 under count C of the complaint as amended, together with interest thereon.
Refused F. W. Hare, Judge.
10. If after considering all the evidence you find that the plaintiff had a contract with W. G. Ernest, Jr., for the constr*ction work herein sued upon and that that contract was terminated and that subsequently plaintiff entered into a new contract with the defendant J. H. Lynch, then I charge you that you can only find for the plaintiff under count C of the complaint for the work performed under said contract with W. G. Ernest, Jr., prior to its termination.
Refused F. W. Hare, Judge.
11. I charge you that if you find from the evidence that the plaintiff and defendant J. H. Lynch entered into a new contract subsequent to the termination of the Ernest contract, if terminated, then I charge you that for such work performed by the plaintiff under the new contract with Lynch, if you find that there was a new contract, the plaintiff would be entitled to pay for such work only in accordance with the terms of the new contract.
Refused F. W. Hare, Judge.

B

If you believe the evidence you cannot find for the Plaintiff under count A of the complaint as amended.

A

I charge you gentlemen, if you believe the evidence you must find for the defendant.

D

If you believe the evidence you cannot find for the Plaintiff under Count C of the Complaint as amended.

Refused F. W. Hare, Judge.

C

If you believe the evidence you cannot find for the Plaintiff under Count B of the Complaint as amended.
Given F. W. Hare, Judge.

E

The court charges the jury that if you believe the evidence in this case you must find for the Plaintiff.
Given F. W. Hare, Judge.

12. The court charges you that if after considering all the evidence in this case your mind is left in a state of confusion, then you cannot find for plaintiff for an amount in excess of \$260.57 and interest from October 1, 1931.
Given F. W. Hare, Judge.

T. E. BUNTIN
ATTORNEY AT LAW
DOTHAN, ALABAMA
August 16th-1932.

Mr. J. W. Richerson, Clerk,
Circuit Court, Baldwin County,
Bay Minette, Alabama.

In Re- Stuart vs. Lynch.

Dear Sir:

I have just received a copy of
the letter from Messrs. Ball & Ball, addressed to Mr.
Blackburn, in which they state the entire file of
Stuart, et als, vs. Lynch was forwarded to Mr. Blackburn.

Doubtless by this time it is in your
office. Please be kind enough to send me the entire file
especially including therein interrogatories and answers thereto,
and all exhibits and all letters that were offered in evidence
which were not allowed by the Judge.

Please give this your prompt attention
as our time is getting short for the preparing of bill
of exceptions.

Yours very truly,


T.E. BUNTIN.

J. B. STUART & R. H. STUART,
A Partnership,

Plaintiffs,
vs.

J. H. LINCH and THE UNITED
STATES FIDELITY & GUARANTY
COMPANY, A Corporation,

Defendants.

IN THE CIRCUIT COURT-BALDWIN COUNTY,
ALABAMA..... AT LAW.

Now come the Plaintiffs, by and through their
Counsel, J. B. Blackburn, and the Defendants, by and through
their Counsel, T. E. Buntin, and agree as follows:

That the Defendants this day have paid into
Court the sum of Six Hundred - 75/100 DOLLARS,
(\$650.00), in full, final and complete discharge of the
judgment and costs, rendered in said cause in behalf of the
Plaintiffs against the Defendants.

Said sum of money having been paid into Court, the
Clerk of said Court is hereby authorized and empowered to
mark the judgment cancelled and fully satisfied. The Clerk
of said Court is further authorized to issue his certificate
certifying that said judgment and costs rendered in this cause
in behalf of the Plaintiffs has been fully paid by the Defendants,
the judgment record properly satisfied and the Defendants dischar-
ged as to said judgment.

Dated this the 14th day of October, 1932.

J. B. Blackburn
COUNSEL FOR PLAINTIFFS

T. E. Buntin
COUNSEL FOR DEFENDANTS.

CERTIFIED BY CLERK

IN CIRCUIT COURT

AT LAW

BALDWIN COUNTY

J. B. STUART & R. H. STUART

Plaintiffs

J. H. LINCH and THE UNITED STATES FIDELITY & GUARANTY COMPANY

Defendants

October 14, 1932

CLERK

STATE OF ALABAMA

In Circuit Court

AT LAW

BALDWIN COUNTY

J. B. STUART & R. H. STUART, a Partnership,

Plaintiffs,
vs.

J. H. LITCH, UNITED STATES FIDELITY & GUARANTY COMPANY, a Corporation,

Defendants.

AGREEMENT

FILED this the 14 day of October, 1932.

Clerk

That the undersigned, J. B. Stuart & R. H. Stuart, a Partnership, and J. H. Litch, United States Fidelity & Guaranty Company, a Corporation, do hereby agree that the judgment rendered in the above captioned case in favor of the plaintiffs has been fully paid by the defendants, and that said judgment and costs rendered in said case of said court is hereby authorized to leave the clerk's office and the judgment cancelled and fully satisfied. The clerk of said court is hereby authorized and empowered to sign and enter of record a notice of satisfaction and endorsement to said entry of record, which shall be filed into court, and the plaintiffs advise the defendants.

Witness my hand and seal this 14th day of October, 1932.

That the defendants and counsel have read into court the above contract, J. B. Stuart, and agree as follows:

Contract, J. B. Stuart, and the defendants, do hereby authorize from some the plaintiffs, do hereby authorize

COBBYMA, a Corporation,
JAMES FIDELITY & GUARANTY
J. H. LITCH and J. H. LITCH

As

Plaintiffs,

J. B. STUART & R. H. STUART,

IN THE CIRCUIT COURT-BALDWIN COUNTY

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

VS.

J. H. LINCH AND THE UNITED STATES
FIDELITY AND GUARANTY COMPANY, a
Corporation,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

AGREEMENT.

It is agreed between J. B. Blackburn, Attorney
for the Plaintiff and William P. Cobb, one of the Attorneys for
the Defendant, in the above entitled cause that the defendant's
motion for a new trial in the said cause be, and it is hereby
submitted to the Court for decision on the day heretofore set for
hearing same, without argument by counsel.

J. B. Blackburn
Wm P Cobb

Dated this 13th day
7 May, 1932.



NOBLE H. SEAY
REPORTER

REPORTER OF DECISIONS
SUPREME COURT AND COURT OF APPEALS
MONTGOMERY, ALABAMA

May 20, 1932.

Judge F.W.Hare,
Monroeville, Alabama,

Dear Judge Hare:

In Re: Stuart -v-Linch et al.

Before leaving Bay Minette several days ago, I agreed with Mr. J.B. to submit defendants motion for a new trial in the above styled cause without argument. You will recall that you entered an order in this case on April 21st. continuing the matter for thirty days, and I am writing to ask that you rule on the motion to-morrow with the understanding that either side will be allowed an exception.

Mr. Blackburn has no doubt delivered the file to you according to our agreement before I left, and you will no doubt rule on the motion without this letter, but I am taking the liberty of calling your attention to the matter in order that it is not overlooked.

In the event you should not rule on the motion to-morrow, please enter appropriate order keeping the motion alive.

Thanking you in advance and with expressions of my cordial regard, I am,

Yours very truly,

Wm. P. Cobb
Wm. P. Cobb.

P.S. I will be back in Bay minette
early next week.

Cobb.

J. B. STUART AND R. H. STUART,
a Partnership composed of J. B.
Stuart and R. H. Stuart,

Plaintiff,

vs.

J. H. LINCH AND THE UNITED
STATES FIDELITY AND GUARANTY
COMPANY, a Corporation,

Defendants,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

AT LAW.

Now comes the Defendants and with permission of the Court being first had and obtained, amends its demurrers heretofore filed in said cause by filing additional grounds thereto, to each Count of the Complaint separately and severally, and separately and severally assigns all original demurrers heretofore filed and in addition thereto, the following:

Eight.

Count Three of said Complaint contains two separate and distinct causes of action.

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For that in Count Three there is a misjoinder of causes of action.

Ten.

For that the alleged contract between the Defendant J. H. Linch and the State of Alabama is not set out in full or the substance thereof.

Eleven.

For that the alleged contract between J. H. Linch and W. C. Earnest, Jr., is not set out or the substance thereof.

Twelve.

For that said Count fails to aver whether the contract between J. H. Linch and W. C. Earnest, Jr., is written or verbal.

Thirteen.

For that said Count fails to set out the conditions of the bond alleged to have been made by the Defendant The United State Fidelity & Guaranty Company, a Corporation.

Fourteen.

For that said Count fails to aver that there has been complete performance of said contract and that there has been final settlement thereof.

Fifteen.

For that said Count fails to aver that there has been complete performance of said contract and final settlement thereof and the date of said final settlement.

Sixteen.

For aught appearing in said Count there has not been a complete performance of said contract.

Seventeen.

For aught appearing in said Count there has not been a complete performance of said contract and a final settlement thereof.

Eighteen.

For aught appearing in said Count there has not been a complete performance of said contract and a final settlement thereof within sixty (60) days prior to the commencement of this cause of action.

Nineteen.

✓ For that said Complaint fails to make W. C. Earnest, Jr., a party Plaintiff or a party Respondent to said cause of action.

Twenty.

For that said Count fails to aver that the Defendant J. H. Linch owes W. C. Earnest, Jr., any sum, or sums, for an on account of said alleged contract and work performed in accordance therewith.

Twenty-one.

✓ For aught appearing in said Count the said J. H. Linch has fully complied with his alleged contract with W. C. Earnest, Jr., and has fully paid and discharged all indebtedness due to the said W. C. Earnest, Jr., as a result of said alleged contract.

Twenty-two.

For that said Count fails to aver that the said W. C. Earnest, Jr., for whom the alleged work was done by the Plaintiff in this cause of action has not paid the Plaintiff in full for said work.

Twenty-three.

For that there is no privity between the Plaintiff and Defendant in this cause of action.

Twenty-four.

For that said Count fails to aver that the Defendant J. H. Linch had any knowledge of the employment of the Plaintiff by the said W. C. Earnest, Jr., in and about any of the work under the said J. H. Linch contract and that the Plaintiff had not been paid for such employment prior to full settlement by the Defendant J. H. Linch with the said W. C. Earnest, Jr.

Twenty-five.

For that said Count fails to aver that the Plaintiff had complied with the Highway Act of the Legislature, Section 28, Sub-Sect. "b", Acts of 1927, page 357.

Twenty-six.

For aught appearing in said Count the said W. C. Earnest, Jr., was an employee of the said J. H. Linch and not authorized to employ the Plaintiff in this cause of action.

Page 3.

Twenty-seven.

For that said Count fails to aver that the said W. C. Earnest, Jr., was a sub-contractor of the said J. H. Linch or an authorized agent of said J. H. Linch, acting within the line and scope of his employment when the said Plaintiff was employed by the said W. C. Earnest, Jr.

Wm R. Cobb

T. E. Bunker

Attorneys for Defendants.

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 130,261
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 72,349

Plum

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Syrus

Reynolds

Reynolds

Filed 2/24/53
 J. W. Williams
 Clerk

Abstract sold

STATE OF ALABAMA }

HOUSTON COUNTY }

We, J. H. Linch, Dothan, Alabama, and United States Fidelity & Guaranty Company of Baltimore, Md., as principals, and Fidelity & Deposit Company, of Maryland, Baltimore, Md., as surety,

are held and firmly bound unto J.B. Stuart & R. H. Stuart, a partnership, composed of J. B. Stuart and R. H. Stuart, in the sum of

THIRTY FOUR HUNDRED DOLLARS (\$3400.00), for the payment of which,

well and truly to be made, we and each of us, do jointly and

severally bind ourselves, our heirs, executors and administrators,

firmly by these presents.

Sealed with our seals, and dated this the 9th day of July, 1932.

The condition of the above obligation is such, that, whereas, at the April 1932 term of the Circuit Court of Baldwin County, (Ala) held in and for said County, judgment was rendered against the above bound J. H. Linch in a cause therein, pending styled, J. B. Stuart & R. H. Stuart, a partnership composed of J. B. Stuart and R. H. Stuart, versus J. H. Linch and The United States Fidelity & Guaranty Company (A Corporation), and for \$160.34, costs of suit; from which judgment the said J. H. Linch and The United States Fidelity & Guaranty Company have applied for and obtained an appeal to the Supreme Court of the State of Alabama; and,

WHEREAS, it is desired to stay or suspend the execution of such judgment, until the final determination of said appeal;

and the United States Fidelity
Now, if the said J. H. Linch/~~stark~~ and Guaranty Company, shall prosecute said appeal, to effect, or if they fail therein, shall satisfy such judgment as the Supreme Court of Alabama may render in the premises then this obligation to be null and void, otherwise to be and remain of full force and effect.

Taken and Approved
this the 9th day
of July 1932.

D. W. P. [Signature]
Clerk Circuit Court

J. H. Linch L.S.
Principal
UNITED STATES FIDELITY & GUARANTY CO.,
By [Signature]
Atty-in-fact, Co-principal
FIDELITY & DEPOSIT COMPANY,
of Maryland,
By [Signature]
Atty-in-fact, Surety

J. B. STUART and R. H. STUART,)
a partnership composed of)
J. B. Stuart and R. H. Stuart,)

Plaintiff,)

vs.)

J. H. LINCH and THE UNITED)
STATES FIDELITY AND GUARANTY)
COMPANY, A Corporation,)

Defendants.)

O IN CIRCUIT COURT, BALDWIN COUNTY,

AT LAW.

M O T I O N -- F O R -- N E W -- T R I A L

Now comes the Defendant in the above cause and moves the Court to set aside the verdict and Judgment and grant a new trial and in support of said Motion assigns the following grounds:

1. The verdict was contrary to the law.
2. The verdict was contrary to the evidence.
3. The verdict was contrary to the law and the evidence.
4. The Court erred in giving the affirmative charge for the Plaintiff at the request of the Plaintiff.
5. The Court erred in refusing to give written charge No. 1 at the request of the Defendant.
6. The Court erred in refusing to give written charge No. 2 at the request of the Defendant.
7. The Court erred in refusing to give written charge No. 3 at the request of the Defendant.
8. The Court erred in refusing to give written charge No. 4 at the request of the Defendant.
9. The Court erred in refusing to give written charge No. 5 at the request of the Defendant.
10. The Court erred in refusing to give written charge No. 6 at the request of the Defendant.
11. The Court erred in refusing to give written charge No. 7 at the request of the Defendant.
12. The Court erred in refusing to give written charge No. 8 at the request of the Defendant.
13. The Court erred in refusing to give written charge No. 9 at the request of the Defendant.
14. The Court erred in refusing to give written charge No. 10 at the request of the Defendant.
15. The Court erred in refusing to give written charge No. 11 at the request of the Defendant.

#2.

16. The Court erred in refusing to give written charge "A" at the request of the Defendant.
17. The Court erred in refusing to give written charge "B" at the request of the Defendant.
18. The Court erred in refusing to give written charge "C" at the request of the Defendant.
19. The Court erred in refusing to give written charge "D" at the request of the Defendant.
20. The Court erred in admitting in evidence the certified copy of the State Auditor of the final estimates of the work done under the contract of the Contractor, J. H. Lynch, covering construction work on Federal Aid Project No. 211, in Baldwin County, Alabama, over the objection of the Defendant.
21. The Court erred in over-ruling Defendant's demurrers to the complaint, as amended, and each count thereof.
22. The Court erred in its oral charge to the Jury wherein the Court charged the Jury that the Jury might find for the Plaintiff under Count A, in any amount not less than Two Hundred Sixty and 57/100 Dollars (\$260.57) and not more than the amount sued for, together with the interest thereon under the contract between the Plaintiff and W. C. Earnest, Jr.

W. P. Cobb

W. P. COBB

T. E. Buntin

T. E. BUNTIN

Attorneys for Defendant.

State of Alabama)
Baldwin County)

I, W. P. COBB, of Counsel for the Defendant in the foregoing cause, hereby certify that a copy of the foregoing Motion has this day been delivered to J. B. BLACKBURN, Counsel for Plaintiff in the foregoing cause, and notified that said Motion will be called up before the presiding Judge of said Court, on, to-wit, the 29 day of April 1932.
Dated this the 21st day of April, 1932. *W. P. Cobb*

Of Counsel for Defendant.

4/21/32: The above and foregoing motion is ordered continued for 30 days from this date

5/20/32: The above motion is ordered continued to May 25th, 1932. J. W. Hare, Judge

5/25/32: Motion ordered overruled J. W. Hare, Judge