

10, 113

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA, AP IAW

CASE NO. 36790 - HODNETTE

JURY

BROWN, HUDGENS, FULFORD, SINTZ  
& RICHARDSON  
BY: JOHN D. RICHARDSON, III  
McDERMOTT & SLEPIAN  
BY: WILLIAM H. McDERMOTT

FRED PICKETT

VS. Suit for \$5,000.00 due on account for work and labor done.

N.J.

LINDEN CONSTRUCTION COMPANY, JOHN DOE, RICHARD ROE, MARY DOE, A,B,C,  
the persons, firms, partnerships, corporations, or other legal entities  
who employed the Plaintiff to do work and who are unknown at the present  
time, but will be added by amendment when ascertained, Jointly, Individually  
and severally

PLEADINGS, PROCESS, ETC, \* FILING DATE \*

- 1. Complaint and Summons
- 2. Plea in Abatement

9-15-71  
10-7-71

C & S served on Linden Const. Co. on September 24, 1971.

November 5, 1971 - Plea in Abatement confessed and sustained, case transferred  
to Baldwin County, Alabama for further proceedings.  
/s/ Robert E. Hodentte, Jr.

I, JOHN E. MANDEVILLE, in my capacity as Clerk of the Circuit Court of Mobile County, Alabama, hereby certify that the above  
is a true and correct transcript of all the minutes, orders and other proceedings in the above styled case in this Court.  
In Witness whereof I have hereunto set my hand and attached my Official Seal as such Clerk of said Court at Mobile, Mobile  
County, Alabama, on this the 9th day of November 1971.

*John E. Mandeville* Clerk

70 PAGE 270

VOL

FRED PICKETT,	:	IN THE CIRCUIT COURT
Plaintiff,	:	
VS.	:	OF MOBILE COUNTY,
LINDEN CONSTRUCTION COMPANY,	:	
JOHN DOE, RICHARD ROE,	:	
MARY DOE, A, B, C, the persons,	:	ALABAMA
firms, partnerships,	:	
corporations, or other legal	:	
entities who employed the	:	
Plaintiff to do work and who	:	AT LAW
are unknown at the present	:	
time, but will be added by	:	
amendment when ascertained,	:	
jointly, individually and	:	
severally,	:	
Defendants.	:	CASE NO. <u>36190</u>

COUNT ONE

Plaintiff claims of the Defendants, to-wit, the sum of FIVE THOUSAND AND NO/100 (\$5,000.00) DOLLARS due from them by account between the Defendants and the Plaintiff on, to-wit, the 22nd day of April, 1970, for work and labor done by the Plaintiff for the Defendants during a period of, to-wit, August 28, 1968 through, to-wit, April 22, 1970, which sum of money, with the interest thereon, is still unpaid and is the property of the Plaintiff.

COUNT TWO

Plaintiff claims of the Defendants, to-wit, the sum of FIVE THOUSAND AND NO/100 (\$5,000.00) DOLLARS due from them by account on, to-wit, the 22nd day of April, 1970 for work and labor done for the Defendants by the Plaintiff during a period of, to-wit, August 28, 1968 through, to-wit, April 22, 1970, at their request, which sum of money with the interest thereon is still unpaid.

BROWN, HUDGENS, FULFORD,  
SINTZ & RICHARDSON  
Attorneys for Plaintiff

BY: *John D. Richardson, III*

JOHN D. RICHARDSON, III

Defendant may be served:

SILVERHILL, ALABAMA

*Plaintiff demands served by*  
*John D. Richardson, III*  
VOL 70 PAGE 271  
SEP 15 11 05 AM '71  
I CERTIFY THIS WAS FILED IN

**THE STATE OF ALABAMA**  
MOBILE COUNTY

**CIRCUIT COURT**

To Any Sheriff of the State of Alabama:

You are hereby commanded to summon

LINDEN CONSTRUCTION COMPANY, JOHN DOE, RICHARD ROE, MARY DOE,  
A, B, C, the persons, firms, partnerships, corporations, or other  
legal entities who employed the Plaintiff to do work and who are  
unknown at the present time, but will be added by amendment when  
ascertained, jointly, Individually and severally

to appear within thirty days from service of this process, in the Circuit Court of Mobile County, Alabama,  
at the place of holding the same, then and there to answer the complaint of

FRED PICKETT

WITNESS: John E. Mandeville, Clerk of said Court, this 15th day of September, 19 71

Attest:

John E. Mandeville  
Clerk

**SHERIFF'S RETURN**

Received \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ and on \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, I served a copy of  
the within \_\_\_\_\_ on \_\_\_\_\_  
by service on \_\_\_\_\_

RAY D. BRIDGES, SHERIFF

By \_\_\_\_\_ D.S.

Ex 9-24-71

VOL

70 PAGE 272

Received 21 day of Sept 1971  
and on 24 day of Sept 1971  
I served a copy of this within 10 days  
on Denden Const. Co.  
By service on \_\_\_\_\_  
\_\_\_\_\_

TAYLOR WILKINS, Sheriff  
By H. Brown D.S.  
6 mi R.T.  
& Hill.

TAYLOR WILKINS, SHERIFF OF BALDWIN  
COUNTY, ALABAMA, CLAIM \$1.50 EACH  
FOR SERVING \_\_\_\_\_ PROCESSIES AND S. COUNTY, ALA.  
TRAVEL EXPENSE ON EACH OF \$6.00 60 mi  
PROCESSIES) OR A TOTAL OF \$7.50 3 37 PM '71

*Mail* No. 36790 *RH* *B*

JUDGE \_\_\_\_\_ DOCKET \_\_\_\_\_  
CIVIL DIVISION

---

**CIRCUIT COURT**  
MOBILE COUNTY

---

FRED PICKETT

VS. } Complaint and Summons

LINDEN CONSTRUCTION COMPANY, etc.

---

Issued 15th day of September, 19 71

---

Defendant's Address  
Silverhill, Alabama

SEP 21 1971  
TAYLOR WILKINS  
SHERIFF

---

JOHN D. RICHARDSON, III  
Plaintiff's Attorney

FRED PICKETT, : IN THE CIRCUIT COURT OF  
Plaintiff : MOBILE COUNTY, ALABAMA  
vs. : AT LAW  
LINDEN CONSTRUCTION COMPANY, : NO. 36, 790 *RH*  
et al., :  
Defendants :

PLEA IN ABATEMENT

Comes now Linden Construction Company and, appearing specially and only for the purpose of filing this plea, pleads that this cause be abated and transferred to the Circuit Court of Baldwin County, Alabama, and in support of said plea in abatement says as follows:

1. Linden Construction Company, Inc. is a corporation organized and existing under the laws of the State of Florida, with an agent of record in that State and with its principal place of business in Silverhill, Baldwin County, Alabama. Its address shown on the complaint in this cause is listed as Silverhill, Alabama and that location is in fact the location of its principal office and place of business.

2. No part of the alleged work and labor done for Linden Construction Company, Inc. or any of the other named Defendants by the Plaintiff was performed in Mobile County, Alabama.

3. The named Defendant, Linden Construction Company, Inc., has not done any work in Mobile County, Alabama during the period of time encompassed by this suit and is not at this time doing any work in Mobile County, Alabama.

WHEREFORE, THE PREMISES CONSIDERED, Defendant Linden Construction Company pleads that this cause be abated and transferred to the Circuit Court of Baldwin County, Alabama.

McDERMOTT & SLEPIAN  
Attorneys for Defendant  
Linden Construction Company

By *William H. McDermott*

William H. McDermott

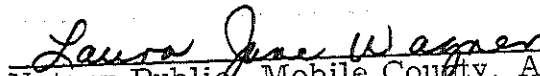
STATE OF ALABAMA :

COUNTY OF MOBILE :

Before me, the undersigned authority in and for said State and County, personally appeared William H. McDermott, who, known to me and being by me first duly sworn, does depose on oath and say that he is one of the attorneys of record for the Defendant Linden Construction Company in the above styled cause and that as such attorney he makes this affidavit; that he is informed and believes and upon such information and belief avers that the matters of fact set forth in the foregoing affidavit are true and correct.

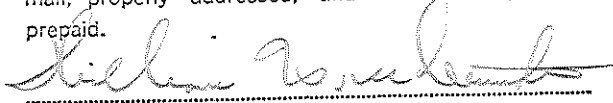
 (SEAL)  
William H. McDermott

Sworn to and subscribed before me by the said William H. McDermott on this the 7th day of October, 1971.

  
Notary Public, Mobile County, Alabama

#### CERTIFICATE OF SERVICE

I do hereby certify that I have on this 7th day of October, 1971, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.



STATE OF ALABAMA MOBILE CO.  
I CERTIFY THIS PLEADING  
WAS FILED ON

OCT 7 2 37 PM '71

-2-

VOL

70

PAGE 274

  
CLERK

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Minute Book 44  
Page 288

STATE OF ALABAMA, }  
COUNTY OF MOBILE }

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

I, JOHN E. MANDEVILLE, Clerk of the Circuit Court of Mobile County, Alabama, do hereby  
certify that the foregoing is a full, true and correct copy of ORDER OF COURT

as rendered by the said Circuit Court on the 5th day of November, 1971, in the cause  
entitled No. 36790 - FRED PICKETT

\_\_\_\_\_, Plaintiff,

versus LINDEN CONSTRUCTION COMPANY, JOHN DOE, RICHARD ROE, MARY DOE,  
A,B,C, the persons, firms, partnerships, corporations, or other legal entities  
who employed the Plaintiff to do work and who are unknown at the present time,  
but will be added by amendment when ascertained, Jointly, Individually and  
severally

Defendant, (~~Together with unknown persons in the month~~), as the same remains of record in this office in  
Minute Book No. 44, Page No. 288

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at office  
in the City of Mobile, Alabama, on this the 9th day of November, 19 71.

ATTEST:

  
Clerk, Circuit Court, Mobile County, Alabama.



**CIVIL DIVISION, CIRCUIT COURT, MOBILE COUNTY**

FRED PICKETT

Plaintiff

No. 36790

**VS.**

LINDEN CONSTRUCTION COMPANY, etc.

Defendant

(Act No. 740, Reg. Session Ala. Legislature 1957  
Appvd. Sept. 20, 1957)  
(Amend Sec. 21, Title 11, Code Ala. 1940)

# BILL OF COST

(Act No. 571, Reg. Sec. Leg. 1955)  
(Amend Sec. 34 and 100, Title 11, Code Ala. 1940)

| CLERK'S FEES                                                         | Pltff. | Deft. | SHERIFF'S FEES                                                                                      | Pltff. | Deft. |
|----------------------------------------------------------------------|--------|-------|-----------------------------------------------------------------------------------------------------|--------|-------|
| Suits for \$100 or less .....\$ 8.00                                 |        |       | Mileage \$6.00                                                                                      | 7 50   |       |
| Suits for over \$100 but less<br>than \$1,000 ..... 10.00            |        |       | Serving Summons & Complaint .....\$ 1.50                                                            |        |       |
| Suits for \$1,000 and over ..... 20.00                               | 20 00  |       | Serving Writ of Garnishment ..... 1.50                                                              |        |       |
| Suits in detinue, ejectment, etc. .... 10.00                         |        |       | Serving Sci Fa.-Notices ..... 1.50                                                                  |        |       |
| Suits not otherwise provided ..... 10.00                             |        |       | Levying Attachment & Return ..... 6.25                                                              |        |       |
| Writs, Mandamus, Prohibition, etc. .... 15.00                        |        |       | Executing Writ Possession ..... 5.00                                                                |        |       |
| Appeals from Court General                                           |        |       | Seizing personal property under<br>Writ of Detinue ..... 6.00                                       |        |       |
| Sessions ..... 15.00                                                 |        |       | Serving subpoenas, each ..... .75                                                                   |        |       |
| Appeals from Probate Court ..... 20.00                               |        |       | Impanelling Jury ..... .75                                                                          |        |       |
| Appeals from JP Courts ..... 6.00                                    |        |       | Taking & Approving Bond ..... 2.00                                                                  |        |       |
| Appeals from State Dept of Pub.<br>Safety, and other State           |        |       | Collecting Costs Execution ..... 1.50                                                               |        |       |
| Agencies ..... 10.00                                                 |        |       | Serving Contempt Writ ..... 1.50                                                                    |        |       |
| Workmen's Compensation Settle. .... 10.00                            |        |       | Making Deed for Property sold ..... 2.50                                                            |        |       |
| Garnishment on Judgment ..... 6.00                                   |        |       | Commission, collecting money<br>on executions, 1st \$200 5%;<br>\$200 to \$500 4%; over \$500 3% \$ |        |       |
| Order of Sale, Motions to sell. .... 6.00                            |        |       |                                                                                                     |        |       |
| Recording executions from State                                      |        |       | Total .....\$                                                                                       | 7 50   |       |
| Agencies ..... 3.00                                                  |        |       |                                                                                                     |        |       |
| Cert. Copy of Record - per                                           |        |       | RECAPITULATION                                                                                      |        |       |
| 100 words ..... .15                                                  | 80     |       | Clerk ..... 20 80                                                                                   |        |       |
| Taking Appeal Bond ..... .75                                         |        |       | Sheriff <u>Taylor Wilkins</u> ..... 7 50                                                            |        |       |
| Record for Supreme Court etc.,                                       |        |       | <u>CTADM. FUND</u> ..... 2 00                                                                       |        |       |
| per 100 words ..... .15                                              |        |       | Inferior Civil Court ..... 2 00                                                                     |        |       |
| Add'l Copies of Record for Supreme<br>Court, per 100 words ..... .05 |        |       | Justice Peace fees <u>Fair Trial Tax</u>                                                            |        |       |
| Checking - including Reporters                                       |        |       | Witness fees                                                                                        |        |       |
| Transcript of Evidence ..... 10.00                                   |        |       | Commissioner's fees                                                                                 |        |       |
| Certifying Abstract in lieu of                                       |        |       | Certificate of Judgment                                                                             |        |       |
| Transcript on Appeal ..... 5.00                                      |        |       | Judgment                                                                                            |        |       |
| Collecting Money on Judgments                                        |        |       | 10% Damages                                                                                         |        |       |
| over 30 days old, 1/2 the per-<br>centage allowed Sheriffs ..... \$  |        |       | Interest                                                                                            |        |       |
|                                                                      |        |       | Stenographer's fees (\$10.00 Day) ..... 1 50                                                        |        |       |
|                                                                      |        |       | Library fee ..... 1.50                                                                              | 1 50   |       |
|                                                                      |        |       | Trial Tax (County) ..... 1.50                                                                       | 1 50   |       |
|                                                                      |        |       | Trial Tax (State) ..... 1.50                                                                        | 1 50   |       |
|                                                                      |        |       | Advertisement                                                                                       |        |       |
| Total .....\$                                                        | 20 80  |       | Garnishee's fees                                                                                    |        |       |

I respectfully beg to advise that if this bill for costs is not paid before \_\_\_\_\_ 19\_\_\_\_\_, it will be my unpleasant duty to issue execution for same.

JOHN E. MANDEVILLE, Clerk

|                     |   |                      |
|---------------------|---|----------------------|
| FRED PICKETT,       | : | IN THE CIRCUIT COURT |
| Plaintiff,          | : | OF BALDWIN COUNTY,   |
| VS.                 | : | ALABAMA              |
| LINDEN CONSTRUCTION | : | AT LAW               |
| COMPANY, ET AL,     | : |                      |
| Defendants.         | : | CASE NO. 10,113      |

AMENDED COMPLAINT

Comes now the Plaintiff in the above styled cause and amends his complaint to read as follows:

COUNT THREE

Plaintiff claims of the Defendants the sum of FIVE THOUSAND AND NO/100 (\$5,000.00) DOLLARS due from them for work and labor done for the Defendants by the Plaintiff during a period of, to-wit, August 28, 1968 through, to-wit, April 22, 1970 at their request which sum of money with the interest thereon is still unpaid.

COUNT FOUR

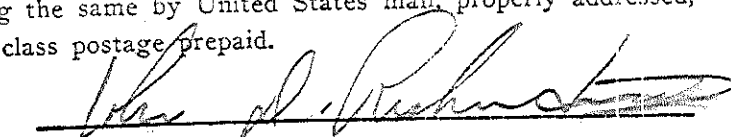
Plaintiff claims of the Defendants the sum of FIVE THOUSAND AND NO/100 (\$5,000.00) DOLLARS due from them by account on the 22nd day of April, 1970 which sum of money with the interest thereon is still unpaid.

BROWN, HUDGENS, FULFORD,  
SINTZ & RICHARDSON  
Attorneys for Plaintiff

BY:   
JOHN D. RICHARDSON, III

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 24th day of July, 19 72, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.



FILED

JUL 25 1972

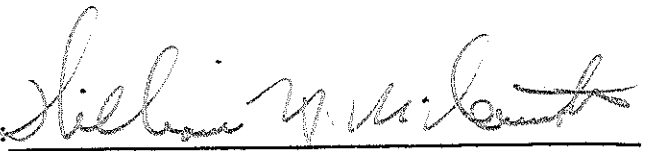
EUNICE B. BLACKMON CIRCUIT CLERK

|                                         |   |                         |
|-----------------------------------------|---|-------------------------|
| FRED PICKETT,                           | : | IN THE CIRCUIT COURT OF |
| Plaintiff,                              | : | BALDWIN COUNTY, ALABAMA |
| VS.                                     | : | AT LAW                  |
| LINDEN CONSTRUCTION<br>COMPANY, ET AL., | : | NO. 10,113              |
| Defendants.                             | : |                         |

Comes now the Defendant Linden Construction Company and to the Complaint heretofore filed, as last amended, and to each count thereof, separately and severally, pleads as follows, separately and severally:

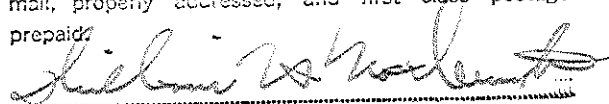
1. The allegations contained therein are untrue.
2. For further answer, Defendant Linden Construction Company says that it has paid to Plaintiff all amounts to which he was entitled as a result of his employment by this Defendant, before the action was commenced.

McDERMOTT & SLEPIAN  
Attorneys for Defendant  
Linden Construction Company

By:   
William H. McDermott

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 20th day of July, 1972, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.



FILED

AUG 1 1972

EUNICE B. BLACKMON CIRCUIT  
CLERK

|                     |   |                         |
|---------------------|---|-------------------------|
| FRED PICKETT,       | : | IN THE CIRCUIT COURT OF |
|                     | : |                         |
| Plaintiff,          | : | BALDWIN COUNTY, ALABAMA |
|                     | : |                         |
| VS.                 | : | AT LAW                  |
|                     | : |                         |
| LINDEN CONSTRUCTION | : | NO. 10,113              |
| COMPANY, ET AL.,    | : |                         |
|                     | : |                         |
| Defendants.         | : |                         |

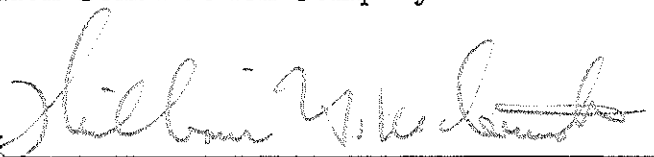
OBJECTIONS TO INTERROGATORIES

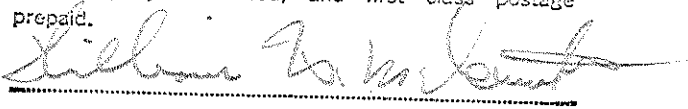
Comes now Linden Construction Company, one of the Defendants in the above styled cause and the Defendant to which interrogatories have been propounded by the Plaintiff, and objects to the interrogatories so propounded to it by the Plaintiff and as grounds therefor sets down and assigns, separately and severally, the following:

1. The interrogatories are irrelevant.
2. The answers to the interrogatories propounded constitute irrelevant and immaterial evidence.
3. The interrogatories propounded are irrelevant and immaterial.

And Defendant Linden Construction Company does respectively move the Court to strike the interrogatories heretofore propounded to it by the Plaintiff.

McDERMOTT & SLEPIAN  
Attorneys for Defendant  
Linden Construction Company

By:   
William H. McDermott

**CERTIFICATE OF SERVICE**  
I do hereby certify that I have on this 10th day  
of August, 1972, served a copy of the  
foregoing pleading on counsel for all parties to this  
proceeding by mailing the same by United States  
mail, properly addressed, and first class postage  
prepaid.  


**FILED**

AUG 11 1972

EUNICE B. BLACKMON CIRCUIT  
CLERK

|                     |   |                      |
|---------------------|---|----------------------|
| FRED PICKETT,       | : | IN THE CIRCUIT COURT |
| Plaintiff,          | : | OF BALDWIN COUNTY,   |
| VS.                 | : | ALABAMA              |
| LINDEN CONSTRUCTION | : | AT LAW               |
| COMPANY, ET AL,     | : |                      |
| Defendants.         | : | CASE NO. 10,113      |

AMENDED COMPLAINT

Comes now the Plaintiff in the above styled cause and amends his Complaint heretofore filed in said cause by adding thereto the following Count:

COUNT FIVE

Plaintiff claims of the Defendant the sum of SEVEN HUNDRED EIGHTEEN AND NO/100 (\$718.00) DOLLARS to recover from the Defendant unpaid overtime compensation and an additional equal amount as liquidated damages and a reasonable attorney's fee, pursuant to Section 16(b) of the Fair Labor Standard Act of 1938 (52 Statutes 1060, as amended; 29 U.S.C. 201 et seq.). The Plaintiff avers that he was employed by the Defendant from, to-wit, August 28, 1968 through and including, to-wit, April 22, 1970. That during the above mentioned time, the Plaintiff worked on numerous occasions more than forty (40) hours per week and the Defendant fails and refuses to compensate the Plaintiff at a rate of one and one-half (1½) times his regular rate for such overtime. The Plaintiff further avers that the Defendant is engaged in commerce, that the work performed by the Plaintiff was while he was engaged in work in commerce and that the work done by the Plaintiff was at the Defendant's request, hence this suit.

**FILED**

**AUG 23 1972**

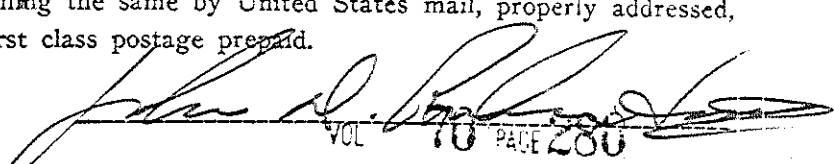
**EUNICE B. BLACKMON** CIRCUIT CLERK

BROWN, HUDGENS, FULFORD,  
SINTZ & RICHARDSON  
Attorneys for Plaintiff

BY:   
JOHN D. RICHARDSON, III

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 22nd day of AUGUST, 19 72, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.

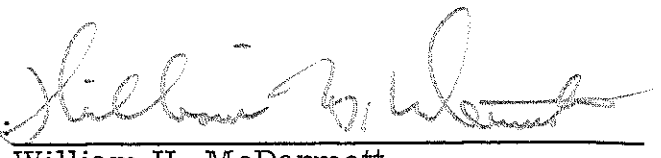
  
VOL 70 PAGE 280

|                     |   |                         |
|---------------------|---|-------------------------|
| FRED PICKETT,       | : | IN THE CIRCUIT COURT OF |
|                     | : |                         |
| Plaintiff,          | : | BALDWIN COUNTY, ALABAMA |
|                     | : |                         |
| VS.                 | : | AT LAW                  |
|                     | : |                         |
| LINDEN CONSTRUCTION | : | NO. 10,113              |
| COMPANY, ET AL.,    | : |                         |
|                     | : |                         |
| Defendants.         | : |                         |

MOTION TO STAY PROCEEDINGS

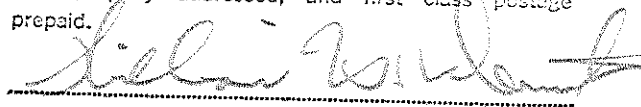
Comes now Linden Construction Company, one of the Defendants in the above styled cause, and respectfully moves the Court to stay all proceedings in this cause and as grounds therefor shows unto the Court that the Defendant, Linden Construction Company, Inc., has voluntarily invoked the provisions of Chapter XI of the Bankruptcy Act in the United States District Court for the Southern District of Alabama, Southern Division, being case no. 33,123 therein, that said proceedings are now pending before the Referee in Bankruptcy for said Court and as a result thereof, said Defendant is entitled to have these proceedings stayed awaiting the outcome thereof.

McDERMOTT & SLEPIAN  
Attorneys for Defendant  
Linden Construction Company

By:   
William H. McDermott

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 9th day of September, 1972, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.



**FILED**

SEP 11 1972

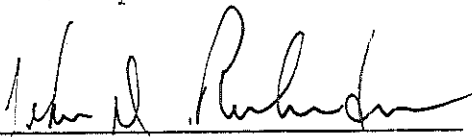
EUNICE B. BLACKMON CIRCUIT CLERK


|                     |   |                      |
|---------------------|---|----------------------|
| FRED PICKETT,       | : | IN THE CIRCUIT COURT |
| Plaintiff,          | : | OF BALDWIN COUNTY,   |
| VS.                 | : | ALABAMA              |
| LINDEN CONSTRUCTION | : | AT LAW               |
| COMPANY, ET AL,     | : |                      |
| Defendants.         | : | CASE NO. 10,113      |

OBJECTION TO MOTION TO STAY PROCEEDINGS

Comes now the Plaintiff, Fred Pickett, in the above styled cause and objects to a granting of the Motion to Stay the proceedings commenced in this Honorable Court and states as grounds for said objection that the initiation of proceedings under Chapter XI of the Bankruptcy Act is an insufficient ground to bar a proceeding to enforce rights accrued to the Plaintiff under the Fair Labor Standard Act.

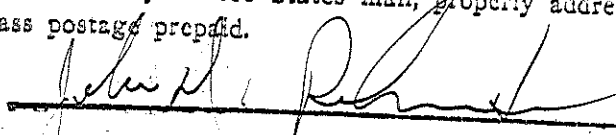
BROWN, HUDGENS, FULFORD,  
SINTZ & RICHARDSON  
Attorneys for Plaintiff

BY:   
JOHN D. RICHARDSON

  
DANIEL A. PIKE

**CERTIFICATE OF SERVICE**

I do hereby certify that I have on this 26th  
day of Oct, 19 72 served a copy of the  
foregoing pleading on counsel for all parties to this proceeding  
by mailing the same by United States mail, properly addressed,  
and first class postage prepaid.



**FILED**

**OCT 28 1972**

**EUNICE B. BLACKMON** CIRCUIT CLERK

|                              |   |                                |
|------------------------------|---|--------------------------------|
| FRED PICKETT,                | : | IN THE CIRCUIT COURT OF        |
|                              | : |                                |
| Plaintiff                    | : | BALDWIN COUNTY, ALABAMA        |
|                              | : |                                |
| vs.                          | : | AT LAW                         |
|                              | : |                                |
| LINDEN CONSTRUCTION COMPANY, | : | NO. <u>10,113</u>              |
| et al.,                      | : |                                |
|                              | : | (Formerly Mobile Circuit Court |
| Defendants                   | : | No. 36,790)                    |

DEMURRER

Comes now the Defendant Linden Construction Company and demurs to the complaint heretofore filed and to each count thereof, separately and severally, and as grounds therefor sets down and assigns, separately and severally, the following:

1. There is a misjoinder of causes of action in each count.
2. Count One appears to be a suit "by account" as well as "for work and labor done" and constitutes a misjoinder of causes of action.
3. There is no allegation that the alleged work and labor done by the Plaintiff was done at the request of Defendants.
4. Count Two appears to be a suit "by account" as well as "for work and labor done" and constitutes a misjoinder of causes of action.

McDERMOTT & SLEPIAN  
Attorneys for Defendant  
Linden Construction Company

By *William H. McDermott*  
William H. McDermott

**FILED**

NOV 17 1971

EUNICE B. BLACKMON CIRCUIT  
CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 10th day of November, 1971, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail, properly addressed, and first class postage prepaid.

*William H. McDermott*



FRED PICKETT,  
Plaintiff,  
VS.  
LINDEN CONSTRUCTION  
COMPANY, ET AL,  
Defendants.

:  
:  
:  
:  
:  
:

IN THE CIRCUIT COURT  
OF BALDWIN COUNTY,  
ALABAMA  
AT LAW  
CASE NO. 10,113

INTERROGATORIES TO THE DEFENDANT

Comes now the Plaintiff in the above styled cause and desiring the testimony of the Defendant, LINDEN CONSTRUCTION COMPANY, propounds the following interrogatories to be answered, separately and severally, in the matter and form provided by law, viz:

1. Does the Linden Construction Company have an ownership interest in any real property?
2. If so, for each parcel of property, state:
  - a. The address and legal description of the property
  - b. The size of the property
  - c. The description of each structure and other improvements on the property
  - d. The name and address of each person other than you with an ownership interest in the property
  - e. The ownership of the property as stated in the documents of title, and the location of each such document
  - f. The present value of your equity interest in the property
3. List each item and state the estimated value of the personal property owned by the Linden Construction Company.
4. Is any of the real or personal property owned by the Linden Construction Company either individually, jointly, or otherwise, encumbered by either a real estate mortgage, chattel mortgage or any other type of lien?
5. If so, for each item of property, state:
  - a. Description of the property encumbered
  - b. The nature of each encumbrance
  - c. The date when the property was encumbered
  - d. The name and address of each person who holds an encumbrance
  - e. The consideration received for each encumbrance
  - f. The name and address of each person who made the consideration for the encumbrance
  - g. The date and place of recordation in sufficient description of the recording data for each encumbrance, to identify it
6. Has any item of the Linden Construction Company property been pledged to secure a debt?
7. If so, for each item of property, state:
  - a. A description of the property pledged
  - b. The amount of the debt that the property was pledged to secure
  - c. How the debt was incurred
  - d. The date on which debt was occurred
  - e. The place where the debt was incurred
  - f. The name and address of each pledgee
  - g. The date on which possession of the property pledged was transferred to the pledgee

8. Does the Linden Construction Company have an ownership interest in any other business?
9. If so, for each business, state:
  - a. The name of the business
  - b. The address of the principal place of business or general office
  - c. The address of each place at which the business is conducted
  - d. The type of business conducted
  - e. The form of business organization
  - f. The date the Linden Construction Company acquired its interest in the business
  - g. The present value of its interest in the business and its percentage of the total value of the business
  - h. The office or position in the business held by all of the officers of the Linden Construction Company
  - i. The name and address of each officer and director or partner of the business
  - j. The name and address of each bank at which the business maintains any type checking or deposit account or from which the business has borrowed money
10. Were any articles of incorporation, partnership or certificate of doing business under a fictitious name filed with any governmental agency by any of the enterprises mentioned in the preceding interrogatory?
11. If so, for each such filing, state:
  - a. The nature of the document filed
  - b. The location of the office where filed
  - c. The date of filing
12. Does the Linden Construction Company own any stocks, bonds, or other securities of any class in any government, governmental organization, company, firm or corporation, whether foreign or domestic?
13. If so, for each organization, state:
  - a. The name and address of the organization which the Defendant owns any preparatory or security interest of any sort
  - b. A description of each security or other evidence of ownership
  - c. The serial number of each bond, share, stock certificate or other evidence of ownership or security
  - d. The date on which each bond, share, stock certificate or other similar interest was acquired by you
  - e. How each bond, share, stock certificate or other interest was acquired by you (whether by purchase, gift or other means)
  - f. The name and address of each person, firm or corporation from whom each bond, share, stock certificate or other interest was acquired, regardless of mode of acquisition
  - g. The name, address and telephone number of any person, firm or corporation with whom Defendant shares under any form of joint ownership or community interest, any degree of ownership or control of any of the above securities
  - h. Whether or not you presently owe any money to any one for the purpose of the securities
14. Are any of the bonds, shares, stock certificates or other securities owned by you pledged, mortgaged or subject to any option to repurchase by any one?

15. If so, state:
  - a. The name and address of each person, firm or corporation holding such interest in your securities
  - b. The date such interest was acquired
  - c. The description of the interest
16. Does the Linden Construction Company maintain any business bank accounts?
17. If so, for each account, state:
  - a. Where the account is located
  - b. The name of the bank and branch holding the account
  - c. The name under which the account is held
  - d. The balance of the account as of July 24, 1972
18. Does the Linden Construction Company maintain any personal checking or savings accounts?
19. If so, for each account, state:
  - a. Where the account is located
  - b. Under what name the account is held
  - c. The name of the bank and branch holding the account
  - d. The balance of the account as of July 24, 1972
20. Does the Defendant have a joint savings or checking account with any one?
21. If so, for each account, state:
  - a. Where the account is located
  - b. The name of the bank or branch holding the account
  - c. The name under which it is held
  - d. The balance of the account as of July 24, 1972
22. Does the Linden Construction Company have any money on deposit, either in a checking account or savings account in any name other than your own?
23. If so, for each account, state:
  - a. Where the account is maintained
  - b. The name under which the account is maintained
  - c. The name of the bank or branch where the account is located
  - d. The amount of the account as of July 24, 1972
  - e. The amount or portion of the account which belongs to the Defendant
24. Does the Linden Construction Company have any accounts in any bank which you are holding in trust for any one else?
25. If so, for each account, state:
  - a. The name of the bank or branch where the account is maintained
  - b. The date on which the account was opened
  - c. The source of the deposits in the account
  - d. The name and address of each beneficiary who has an interest in the account
  - e. Whether or not any beneficiary of the account is related to you, and, if so, the relationship
26. Do you have access to any safety deposit box or other depository for securities, cash or other valuables?
27. If so, for each depository, state:
  - a. The name and address of each person, firm or corporation to whom the depository is rented or leased
  - b. The name of the bank or branch where the depository is located
  - c. The name and address of each person having access to the depository

- d. A description of the property contained in the depository as of July 24, 1972
  - e. The date on which you last entered the depository
28. Have any of the contents of the above mentioned depositories been removed during the past twelve months?
29. If so, for each item removed, state:
- a. A description of the property removed
  - b. The exact date of the removal
  - c. Why it was removed
  - d. The name and address of each person who removed it
  - e. The name and address of each person, firm or corporation to whom the property was conveyed or transferred
30. Do you own any interest of any kind in any patent or copyright?
31. If so, for each interest owned, state:
- a. The registered number of the patent or copyright
  - b. A description of the item patented or copyrighted
  - c. The name and address of each person, firm or corporation who shares some interest in the patent or copyright, and the amount or percentage of each interest
  - d. The amount of income you receive from the patent or copyright per year
32. Have any officers of the Defendant, Linden Construction Company, at any time during the period August 28, 1968 through April 22, 1970, paid or had paid for you the premiums on any life insurance policy payable to you, your estate, your wife, or her estate?
33. If so, for each policy, state:
- a. The name and address of the company that issued it
  - b. The number of the policy
  - c. The face value of the policy on the death of the insured
  - d. The present value of the policy
  - e. The date the policy was issued
  - f. The total consideration paid to the company that issued it between the date of issuance of the policy and the present date
  - g. The name and address of each person, firm or corporation who made each payment
  - h. The date on which each payment was made
  - i. The present whereabouts of each document or contract of insurance issued to you in connection with, or as evidence of, the policy of insurance
  - j. The name, address and telephone number of each person who has custody of a copy of the document or contract
34. Has the name of the beneficiary of any of these insurance policies been changed between August 28, 1968 and the present date?
35. If so, state:
- a. The date on which the change of beneficiaries took place
  - b. The name of each new beneficiary
  - c. Why, in each case, the beneficiary was changed
36. If you will do so without a motion to produce, attach a copy of each document or contract of insurance to your answers to these interrogatories.
37. Does the Defendant Linden Construction Company now own any choses in action of any nature?

38. If so, as to each, state:
- The general nature of the claim
  - The name and address of each person who you claim is liable
  - Whether the claim or chose in action is for a liquidated amount
  - The amount you claim as damages
  - Whether any suit or action has been brought to reduce the claim to judgment, and, if so
    - The title and number of the case and the court in which the action is pending
    - The date of filing the action
    - The current status of the case
  - Whether any offer of settlement has been made, and, if so, by whom and for what amount
  - Whether any compromise agreement has been reached, and, if so, the further acts required to effect the settlement
39. Has the Defendant Linden Construction Company at any time since August 28, 1968 given consideration for any property which has been conveyed or transferred and is now being held for you in the name of some person other than yourself?
40. If so, state:
- The name and address of each titleholder
  - The date each conveyance or transfer was made
  - A description of each item or piece of property conveyed
  - The amount of the consideration given for such property
41. Do you hold any property as executor of a testamentary or inter vivos trust?
42. If so, state:
- A description of the property held in trust
  - The name and address of the trustor or settlor
  - The name and address of each beneficiary of the trust
  - Whether or not you have a general power of appointment over any property contained in the trust
  - The date the trust was created
43. During the past three years have you created or contributed to any trust for the benefit of others?
44. If so, state:
- When the trust was created
  - A description of the property contributed by you
  - The name and address of each trustee
  - The name and address of each beneficiary of the trust
  - Whether or not any of the beneficiaries are related
45. According to your business records, what is the present amount of your accounts receivable?
46. Within the past twelve months have any of your accounts receivable been assigned, or otherwise disposed of other than by collection?
47. If so, state:
- The name of the account
  - When the account was assigned or otherwise disposed of
  - The name and address of each assignee or other transferee
  - Whether the assignment or other disposition covered only present accounts receivable


- e. Whether or not the assignment or other disposition also included future accounts receivable, and, if so, to what extent
  - f. The amount of consideration received for the assignment or other disposition
48. Has the Linden Construction Company at any time since August 28, 1968 conveyed or disposed of any property either by sale, gift or otherwise?
49. If so, for each disposition, state:
- a. A description of the property disposed of
  - b. The date of disposition
  - c. The name and address of each person to whom disposition was made
  - d. How disposition was made, by sale, gift or otherwise
  - e. What consideration was received
50. Has the Linden Construction Company at any time since August 28, 1968 suffered any casualty loss from fire, wind, theft or otherwise?
51. If so, for each loss, state:
- a. A description of the property lost or damaged
  - b. The cause of the loss
  - c. The date of the loss
  - d. The amount of the loss
  - e. Whether or not the loss was covered by insurance, and, if so
    - 1. The name of the insurance carrier
    - 2. The policy limits
    - 3. Whether or not a claim has been filed with the insurance carrier, and, if so, when
    - 4. Whether or not the claim has been paid, and, if so, when and in what amount
52. Does the Linden Construction Company at the present time have any creditors?
53. If so, for each creditor, state:
- a. The name and address of each creditor
  - b. The amount of the debt owed
  - c. The date the debt was incurred
  - d. The consideration you received for the debt
  - e. A description of the security given to secure the debt
54. Does the Linden Construction Company claim that any of the real property, personal property, or other property owned by it is exempt from the claims of its creditors?
55. If so, for each item of property, state:
- a. A description of the property and its estimated value
  - b. The reason for claiming the property to be exempt
56. Do you keep any books or other written memoranda of your income and business affairs?
57. If so, state:
- a. In what form the books or memoranda are kept
  - b. When the books or memoranda were first maintained
  - c. The name, address and telephone number of each person, firm or corporation who prepared the books or memoranda for you
  - d. Whether the books or memoranda are presently maintained
  - e. Whether or not the books or memoranda accurately reflect the income contained in your federal income tax returns for each respective year

- f. Whether or not the books or memoranda accurately reflect the information contained in your state income tax returns for each respective year
  - g. The present whereabouts of all books or memoranda for the period August 28, 1968 through April 22, 1970.
  - h. The name, address and telephone number of each person, firm or corporation who has custody of these books
58. If you will do so without a motion to produce, attach a copy of each of your above-mentioned books and memoranda for the period August 28, 1968 through April 22, 1970 to your answers to these interrogatories, or state a time and place when and where the books and memoranda may be inspected.
59. Have you, within the past five years, either destroyed or disposed of any books of account, memoranda or other records relating to your business or income?
60. If so, state:
- a. When the books of account or records were destroyed or otherwise disposed of
  - b. Why they were destroyed or disposed of
  - c. What the name and address is of the person who destroyed or disposed of the books or memoranda
61. Have you employed, or had employed in your behalf, the services of a certified public accountant or a public accountant at any time within the past five years?
62. If so, for each accountant and firm, state:
- a. The name and address of the accountant employed
  - b. The inclusive dates on which the accountant was employed
  - c. Why the accountant was employed
  - d. A description of the services performed by each accountant
63. Have you personally prepared and issued any financial statement within the past five years?
64. If so, state:
- a. The purpose for which each statement was prepared and issued
  - b. The name and address of each person, firm, corporation, partnership, mercantile or trade agency, or other organization to whom they were issued
65. If you will do so without a motion to produce, attach a copy of each such financial statement to your answers to these interrogatories.
66. Has the Linden Construction Company within the past three years been checked by the Wage and Hour Division of the Federal Government?
67. If the answer is yes:
- a. Give the name and address of each person making the check or who supervised the taking of the check
  - b. The name and address of each person having possession or a copy of the results of the check
  - c. The total dollar value found owed by the Linden Construction Company to its employees
  - d. Whether or not the government sued to recover these wages for the employees of the Linden Construction Company
  - e. Give the names and addresses of all employees that the wage and hour check found that the Linden Construction Company owed
  - f. Give the amount owed to each employee

- g. List the time and place that a wage and hour check has been made at your establishment in the past ten years
  - h. List the results of each check
68. List the names of the employees which the wage and hour investigator said you owed money because of your failure to pay overtime. Beside each name list the amounts owed.
69. If you claim that you do not owe the Plaintiff back wages:  
a. List all of the reason why you feel that you do not owe the Plaintiff
70. List all jobs which Linden Construction Company has performed for any agency of the Federal Government in the past five years.  
a. For each of the jobs listed state whether or not the Plaintiff was employed on the job by the Defendant  
b. Produce time cards with time clock punches denoting all hours worked by the Plaintiff on each job  
c. List the name of the supervisor for which the Plaintiff worked on each job  
d. State the total amount of wages paid to the Plaintiff on each job  
e. For each job state whether the Defendant was paying its employees under the terms of the Fair Labor Standards Act, The Contract Work Hours Standard Act, McNamara-O'Hara, or Walsh Healy Act.

BROWN, HUDGENS, FULFORD,  
SINTZ & RICHARDSON  
Attorneys for Plaintiff

BY:

  
JOHN D. RICHARDSON, III

STATE OF ALABAMA )  
COUNTY OF MOBILE )

Before me, the undersigned authority in and for said County in said State, this day personally appeared JOHN D. RICHARDSON, III who is known to me, and who being by me first duly sworn, upon oath deposes and says that he is one of the attorneys for the plaintiff in the above entitled cause, and as such is authorized to make this affidavit; that the answers of the defendant, LINDEN CONSTRUCTION COMPANY, to the foregoing interrogatories, when well and truly made and filed, will be material testimony for said plaintiff on the trial of this cause.

  
JOHN D. RICHARDSON, III

SWORN TO and SUBSCRIBED before  
me this 27th day of July, 1972.

  
NOTARY PUBLIC  
STATE OF ALABAMA AT LARGE

PLAINTIFF MAY BE SERVED BY SERVICE  
UPON ATTORNEY OF RECORD:  
WILLIAM H. McDERMOTT, ESQUIRE  
211 N. CONCEPTION STREET  
MOBILE, ALABAMA

**FILED**

JUL 31 1972

EUNICE B. BLACKMON CIRCUIT CLERK



*F. Lynn*  
*CL*  
FRED PICKETT

*Baldwin*  
*Antler*  
*9429*

VS:

LINDEN CONSTRUCTION COMPANY, et al

CASE # 10,113

INTERROGATORIES TO THE DEFENDANT

FILED

JUL 31 1972

EUNICE B. BLACKMON  
CIRCUIT CLERK

EXECUTED

This 3 day of August, 1972  
by serving a copy of the within on

*Mr. Kittrell*  
RAY D. BRIDGES, Sheriff

By *F. Lynn* D.S.

*Kittrell Q 3X*  
SERVE: Hon. William H. McDermott, Esquire  
211 N. Conception Street  
Mobile, Alabama

BROWN, HUDGENS, FULFORD, SINTZ & RICHARDSON  
ATTORNEYS AT LAW

SUITE 210 VAN ANTWERP BUILDING

MOBILE, ALABAMA

36602

ALTON R. BROWN, JR.  
A. NEIL HUDGENS  
JAMES E. FULFORD  
PETER V. SINTZ  
JOHN D. RICHARDSON, III  
J. GEORGE WHITFIELD, JR.  
CLAUDE D. HARRELL

AREA CODE 205  
432-2792

July 24, 1972

Mrs. Eunice Blackmon, Clerk  
Circuit Court - Baldwin County  
Baldwin County Court House  
Bay Minette, Alabama 36507

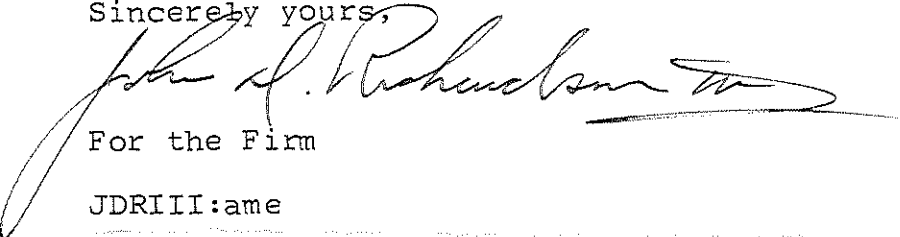
Re: Fred Pickett  
vs.  
Linden Construction Company, et al  
Case No. 10,113

---

Dear Mrs. Blackmon:

Please find enclosed an Amended Complaint in the above styled case.  
Please set this case as soon as possible for trial.

Sincerely yours,



For the Firm

JDR:III:ame

Enclosure

McDERMOTT & SLEPIAN

ATTORNEYS AT LAW  
211 NORTH CONCEPTION STREET  
MOBILE, ALABAMA  
36601

WILLIAM H. McDERMOTT  
RONALD P. SLEPIAN  
BRAXTON L. KITTRELL, JR.  
WILLIAM ROY WILLARD, JR.  
CHARLES J. FLEMING

MAILING ADDRESS:  
POST OFFICE DRAWER 2025  
PHONE 432-1671

September 8, 1972

Clerk of the Circuit Court  
Baldwin County Courthouse  
Bay Minette, Alabama 36507

In re: Fred Pickett -vs- Linden Construction  
Company, et al.,  
Circuit Court No. 10,113, at Law

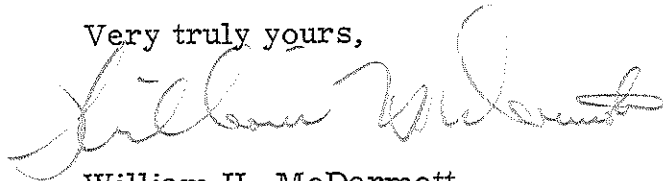
Dear Sir:

We have earlier secured consent of Judge Mashburn to postpone by consent our objections to interrogatories earlier filed by the Plaintiff. We now enclose herewith, as promised, a motion to stay further proceedings in this cause because of the fact that Chapter XI proceedings under the Bankruptcy Act are now pending for Linden Construction Company, Inc. in the United States District Court in Mobile. A copy of this motion is being sent to the attorneys for the Plaintiff.

I suppose it would be in order to set down for hearing the enclosed motion on your next motion docket unless the attorneys for the Plaintiff agree to said motion.

With best wishes, I am

Very truly yours,



William H. McDermott  
For the Firm

cc: Mr. John D. Richardson  
Mr. Dan Pike  
Brown, Hudgens, Fulford, Sintz & Richardson  
Suite 210 Van Antwerp Building  
Mobile, Alabama 36602

encl.

.s

Bay Minette, Ala.,

July 31 1972

To the Sheriff of

Mobile

County,

Mobile

Alabama

I enclose herewith

an interrogatories for  
service on Hon. Wm. H.  
McDermott, Esq. Attorney @ Law  
Mobile, Alabama & Thanks!

Please serve and return as early as possible.

Taylor Wilkins

Sheriff, Baldwin County, Alabama

(If not found in your county, please advise promptly giving information as to present location if possible)