

IN THE _____ COURT OF

(County),
(State)

(Name of Plaintiff) PLAINTIFF

V. CAUSE NO. _____ - _____

(Name of Defendants) DEFENDANTS

COMPLAINT

COMES NOW _____ (Name of Plaintiff), Plaintiff in the above-styled and numbered cause, by and through his attorneys, and files this his Complaint against Defendants, _____
(Name of Contractor), hereinafter called **Defendant Contractor**, and _____
(Name of Surety), hereinafter called **Defendant Surety**, and in support thereof would show unto the Court the following matters and facts:

1. Plaintiff is an adult resident citizen of _____

(city, county, state).
2. Defendant Contractor is an adult resident citizen of _____

(city, county, state).
3. Defendant Surety is a corporation organized and existing under the laws of the state of _____, with its principal office located at _____

(street address, city, county, state, zip code).
4. On _____ (date), Plaintiff entered into a written contract with Defendant Contractor for the construction by Defendant Contractor of a building in _____

(city, county, state). A copy of said contract is attached hereto as **Exhibit A**, and incorporated herein by reference.
5. On _____ (date), in accordance with the contract, Defendant Surety executed and delivered to Plaintiff, and Plaintiff accepted, its bond ensuring

the faithful performance by *Defendant Contractor* of the contract according to its terms, plans, and specifications, and promising to pay to Plaintiff, on *Defendant Contractor's* failure to so perform, all damages caused by such a failure, in a sum not exceeding \$_____. A true and copy of the bond is attached hereto as **Exhibit B**, and incorporated herein by reference.

6. *Defendant Contractor* has failed and refused to faithfully perform the contract, in that **(statement of facts demonstrating that contractor abandoned project)** _____

_____.

7. No notice of completion for the building has been filed.

8. On _____ **(date)**, and on numerous occasions after that date, Plaintiff made written demand on *Defendant Contractor* to perform the contract, but *Defendant Contractor* has failed, refused, and neglected to do so. A copy of a written demand, dated _____ **(date)**, is attached hereto as **Exhibit C**, and incorporated herein by reference.

9. As a proximate result of *Defendant Contractor's* failure and refusal to faithfully perform the contract, Plaintiff has been damaged in the amount of \$_____, which represents the difference between the contract price and the cost of the agreement obtained by Plaintiff from _____ **(name of new contractor)**, a new contractor, to complete the performance of *Defendant Contractor* under the original contract. *Defendant Surety* is liable to Plaintiff on the bond to pay these damages, as well as any other damages or loss sustained by Plaintiff because of *Defendant Contractor's* breach of contract.

10. In compliance with the condition of the bond relating to notice to the *Defendant Surety*, Plaintiff, on _____ **(date of notice)**, gave *Defendant Surety* written notice of the failure and refusal of *Defendant Contractor* to faithfully perform the contract and of the damages sustained by Plaintiff as a consequence of *Defendant Contractor's* breach of contract. On _____ **(date of demand)**, Plaintiff made demand on *Defendant Surety* for payment of Plaintiff's damages, but *Defendant Surety* failed and refused, and continues to fail and refuse, to do so. A copy of the said notice is attached hereto as **Exhibit D** and a copy of said demand is attached hereto as **Exhibit E**, both of which are incorporated herein by reference.

11. Plaintiff has faithfully and fully performed all of the conditions and covenants on his part to be performed under the terms of the contract

WHEREFORE, Plaintiff requests judgment against Defendants, and each of them, for the following:

1. Damages in the amount of \$_____, with interest at the rate of _____%, from _____ *(date of breach)*, until paid;
2. Reasonable attorneys' fees and costs of suit incurred; and
3. Such other and further relief as the Court deems just and proper.

Witness my signature this the ____ day of _____, 20____.

Respectfully submitted,

(Name of Plaintiff)

By: _____
(Name of Plaintiff's Attorney)
State Bar No. _____
One of His Attorneys

OF COUNSEL:

(Name of Plaintiff's Attorney)

Post Office Box _____ - _____

City, State, Zip Code _____

Telephone: _____ - _____ - _____