

**ESCAMBIA COUNTY ALABAMA**  
**SMALL CLAIMS FILING PROCEDURES**  
**(per ARJA, Rule 21, Small Claims)**

It is important to understand the implications of self-representation. By doing so you are acting as your own lawyer and you are accepting full responsibility in seeing that your claim is successfully presented at each stage of the procedure until it is concluded.

1. To commence the filing of a civil complaint, complete the ***Statement of Claim*** (form SM-01) if for money only, or ***Statement of Claim for Specific Property*** (form SM-02), if for property. Make sure there is a;
  - (a) valid postal address for the plaintiff(s) and the defendant(s).
  - (b) definite claim/suit amount, (do not include court cost in the claim/suit amount).
  - (c) short summary of the reason for the claim/suit in the "Complaint" section.
  - (d) proper signature identifying the filer/Plaintiff.
2. Submit the completed ***Statement of Claim***, with the proper filing fee, to the Circuit Clerk's Office of the county you are filing a suit in. (*No Evidence Is To Be Filed At This Stage*)

The current filing fees for Escambia County Alabama, are as follows:

\$110.00 for claims up to \$1,500.00, ..

\$184.00 for claims over \$1,500.01 up to \$3,000.00, and

\$273.00 for claims over \$3,000.01 up to the maximum claim amount of \$6,000.00 .

The standard fees listed are for one(1) plaintiff and one(1) defendant. Each additional defendant is \$40.00, and each additional plaintiff is \$50.00 .

The filing fee must be paid at the time of the filing. *\*\* personal checks are not accepted. \*\**

3. Upon receipt of a properly completed ***Statement of Claim***, and with the appropriate filing fee, the Clerk will assign your claim a case number. Note that the case number is to be referenced in all verbal and written correspondence with the court. The Clerk will issue a summons with a copy of the complaint, to be served by the Sheriff, or via certified mail if defendant is out-of-state.
4. When the **return of service** is filed with the Clerk, or in the event of a **return of non-service**, the plaintiff will be notified by mail. The defendant will have fourteen(14) days from the date of service to file an answer. For a return of non-service, the plaintiff may (*in writing*) supply the Clerk with a different address and request an alias summons/reissue of service.
5. Depending upon the defendant's response to the complaint, one or more of the following actions may take place:

Agree/Admit - If the defendant files an answer admitting to the allegations in the complaint, as the plaintiff you may file a Motion for Consent Judgment. The filing of a Motion for Consent Judgment need only have the case number listed at the top, followed by what you are requesting of the court and why, and signed and dated at the bottom.

Deny or Admit Only Some - If the defendant files an answer denying the allegations in the complaint, or admitting to owing only some of the amount claimed, but not all, the case will be scheduled for a trial and all parties will be notified approximately fourteen(14) days prior to the court date. Small Claims trials are scheduled each month.

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**SMALL CLAIMS FILING PROCEDURES,** *(continued)*  
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**NOTE IF DEFENDANT DID NOT FILE AN ANSWER:**

If the defendant fails to file an answer to the complaint, or otherwise fails to respond to the complaint, a Default Judgment may be entered in the plaintiff's favor for the amount(s) listed on the complaint.

A request for Default Judgment is a two(2) part process;

- (1) the plaintiff must file an ***Application/Affidavit for Entry of Default*** (form C-25) with the court for the default to be entered by the Clerk.
- (2) the plaintiff must file an ***Application/Affidavit for Entry of Default Judgment*** (form C-25A) to the court before a default judgment can be considered by the court.

Please note that for claims which are greater than \$3,000.00, there is a \$50.00 filing fee for this action.

**NOTE CONCERNING JUDGMENTS/APPEALS:**

The judgment of the court becomes *final* after fourteen (14) days from the entry of the judgment. If either party is dissatisfied with the District Court's decision, the dissatisfied party may appeal the decision within that fourteen (14) days before the judgment is final by filing a Notice of Appeal (*form C-35*) in the Circuit Court. The Notice of Appeal must be accompanied by the appropriate filing fee, or an Affidavit of Substantial Hardship (*form C-10*) for the filing fee, and a Bond or Security for Costs if there was a judgment against you.

**NOTE ON POST- JUDGMENT REMEDIES:**

The party for whom the judgment is entered in favor of (the creditor) is responsible for the collection of the judgment from the party who owes the judgment (the debtor). The Clerk, the Court, or the State are NOT responsible for the collection of said judgment(s). The State does offer the following post-judgment processes to assist in collection of the judgment, including court cost, and other monies if awarded in the judgment. These processes are actionable only after the judgment is Final. (see above).

- A. **Process of Garnishment** (*form C-21*) – is a writ (order) to take part of a debtor's wages or other monies owed to him/her before he or she receives the money. The Writ of Garnishment is served on the debtor, and the debtor's employer, or financial institution, individual, or company holding the money owed to the debtor. (they are the Garnishee).  
For this action, there is a \$90.00 filing fee, which may be added to the amount to be garnished.
- B. **Writ of Execution** (*form C-20*) – is a writ (order) directing the Sheriff to seize specific property owned by the debtor, to either restore possession of the property to the creditor, or to auction the property for which the proceeds from the sale of said property are then (in part) used to pay for all or a portion of the judgment owed to the creditor.  
For this action, there is a \$60.00 filing fee, which may be added to the total cost listed.

**NOTE REGARDING FORMS:**

The forms noted in these instructions may be found at <http://eforms.alacourt.gov> or at the Circuit Clerk's Office, Civil Division, 314 Belleville Avenue, Room 214, Brewton, AL 36426

**IF YOU ARE UNCERTAIN AS TO HOW TO FILE THE APPROPRIATE FORMS BEYOND THESE INSTRUCTIONS, YOU SHOULD CONSULT A LAWYER FOR ADVICE. THE CLERK AND OTHER COURT PERSONNEL ARE PROHIBITED BY LAW TO GIVE YOU LEGAL ADVICE . (per Section 34-3-6 of The Code of Alabama 1975)**