

**ESCAMBIA COUNTY ALABAMA**  
**EVICTION / UNLAWFUL DETAINER PROCEDURE**

*(pursuant to 35-9-1, et seq., 35-9A-101, et seq., and 6-6-310, et seq., Code of Alabama)*

These *simplified procedural instructions* are a courtesy of this county’s Circuit Clerk. It is important to understand the implications of self-representation, for 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.

**PRIOR to filing the Eviction/Unlawful Detainer with the court**, the landlord must give the tenant(s) a written ***Notice of Termination***. This notice may be delivered to the tenant(s), in person, by certified mail, and/or by securely posting the notice at the entry to the premises. Any of these actions must be approved and endorsed/signed by the landlord. The notice must identify the tenant(s), provide a description of the premises (full address), and state the reason for the termination, (amount of monetary deficiency or violation(s) of rental agreement).

If the breach is for non-payment of rent (*form a*), a seven(7) day notice is adequate. The ***7 day period is counted in business days***, (*do not count weekends or Holidays*). All other ‘days’ are counted as calendar days, and the day the notice is given is not counted.

If the breach is for non-compliance(s) other than non-payment of rent (*form b*), a fourteen(14) day notice is required. (the 14 day period is counted in calendar days)

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**\* A copy of the Notice of Termination will be required to be filed with the \***  
**\* Statement of Claim - Eviction/Unlawful Detainer form (*form C-59*). \***

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1. If the issues are not resolved, and the landlord has not accept any rent (partial or whole), and the tenant has not surrendered possession of the premises to the landlord within the notice period, then the landlord may file the eviction/unlawful detainer by submitting a completed ***Statement of Claim - Eviction/Unlawful Detainer (form C-59)***, along with the filing fee of \$305.00, and a copy of the ***Notice of Termination***. This fee is for one(1) plaintiff and one(1) defendant, and each additional plaintiff is \$50.00, and each additional defendant is \$40.00 .

Payment of filing fee may be made by Money Order, or Cashier’s Check (payable to the ***Circuit Clerk of Escambia County, P.O. Box 856, Brewton, AL 36427***), or Cash.

\*\*\*\*\* ***Personal checks are not accepted.*** \*\*\*\*\*

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***NO Evidence Is To Be Filed At This Stage of the case.***

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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 LEGALADVICE . (per Section 34-3-6 of The Code of Alabama 1975)

**ESCAMBIA COUNTY ALABAMA**  
**EVICTION / UNLAWFUL DETAINER PROCEDURE** *(continued)*

2. Once you file your Complaint, copy of Notice, and Affidavits, the Clerk will assign a case number to your case. Take note of this **case number**, it is to be referenced in all verbal and written correspondence with the court.

3. When the **return of service** or the **return of non-service** is filed with the Clerk, the Plaintiff will be notified by first-class mail.

-or-

You may elect to receive all court notices by e-mail and/or text on your phone. If so, complete and file the ***Election To Receive Court Notices By e-Mail Or Text In Lieu Of First-Class Mail (PS-24)*** with the Circuit Clerk's Office, 314 Belleville Avenue, Room 214, Brewton, AL 36426

4. Once properly served the defendant has seven(7) days from the date they were served to answer to the complaint regarding property, and fourteen(14) days from the date they were served to answer to the complaint regarding any money claims on the complaint. You will be notified (copied) of this response if one is filed.

If the Defendant is not served, the Plaintiff may request, in writing, for service to be reissued.

5. Depending upon the Defendant's response to the complaint, one or more of the following actions may take place, if they :

Agree - If the Defendant files a response admitting to the allegations in the complaint, the plaintiff may file a Motion for Consent Judgment to request an action from the court. There is no state supplied form for this. The filing of a motion must have the case number listed at the top, followed by what you are requesting of the court and why, then signed by the Plaintiff (filer).

Deny -or- Admit to Only Some - If the Defendant files a response denying the allegations in the complaint, or admitting to owing only some of the amount claimed but not all, the case will be given a court date and all parties will be notified approximately at least ten(10) days prior to the court date set.

No Response - If the Defendant does not file a response to the complaint, the Plaintiff may request a Default Judgment in their favor for the amount(s) listed on the complaint. A request for Default Judgment is a two(2) part process;

(part 1) the Plaintiff must complete and file an ***Application/Affidavit for Entry of Default (C-25)***, for each Defendant, with the Clerk for the default to be entered by the Clerk.

(part 2) the Plaintiff must complete and file an ***Application/Affidavit for Entry of Default Judgment (C-25B)*** with the Clerk before a default judgment may be considered by the Judge.

***There is a \$50.00 filing fee for each Defendant.***

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**ESCAMBIA COUNTY ALABAMA**  
**EVICTION / UNLAWFUL DETAINER PROCEDURE for**  
**REMEDIES to COLLECT ON A JUDGMENT and/or**  
**RETRIEVE POSSESSION of PROPERTY.**

**NOTE CONCERNING JUDGMENTS/APPEALS:**

The judgment on property becomes final after seven(7) days from the entry of the judgment.  
The monetary judgment becomes final after fourteen(14) days from the entry of the judgment.  
If either party is dissatisfied with the District Court's decision, with regards to property and/or money, the dissatisfied party may appeal the decision 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-CIVIL*) for the filing fee, and a Bond or Security for Costs if there was a judgment against you, as well as any due back rent and future rent with the Clerk of Court to stop any actions from the plaintiff to regain possession of the property during the appeal process.

**NOTE REGARDING THE WRIT OF POSSESSION:**

Federal law mandates an automatic-Stay of seven(7) days from the date of the judgment before any action may be executed. **A Writ of Possession, which is a court Order to the Sheriff to return property to the property owner, may be requested ONLY after the automatic-Stay time has fully elapsed.** By law a Writ of Possession can ONLY be issued upon a written request by the Landlord.

**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, court costs, and other monies as awarded in the order. **These processes are actionable only after the monetary judgment becomes final, which is after fourteen(14) days from the date of the Order.**

- 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.