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 Small Claim suit, complete the ***Statement of Claim*** if for money only (form SM-01), -or- complete the ***Statement of Claim for Specific Property*** if for property and/or money (form SM-02). The forms mentioned herein are available at the http://eforms.alacourt.gov or at the Escambia County Clerk's Office, 314 Belleville Ave., Room 214, Brewton, AL 36426.

(1.A) To complete the form selected, the minimal requirements needed are;

(a) a valid postal address for the Plaintiff - the one filing the claim.
(b) a valid postal address for the Defendant(s) - the one(s) being sued.
(c) a definite claim amount, (do ***not*** include court cost in the claim amount), or an accurate description of the specific property with its monetary value.
(d) a short summary of the reason for the claim.
(e) a proper signature identifying the filer/Plaintiff.

(1.B) The filing fee for a Small Claims suit in Escambia County Alabama is;

$110.00 for a claim of up to $1,500.00,..
$184.00 for a claim from $1,500.01 and up to $3,000.00, and
$273.00 for a claim from $3,000.01 and up to $6,000.00 (the maximum).

The fees listed are for one(1) plaintiff and one(1) defendant if the defendant is to be served within the State of Alabama. *If defendant is to be served outside the State of Alabama the filing fee will be different than listed above. (contact the Clerk's office for a quote).*
Each additional plaintiff is $50.00, and each additional defendant is $40.00 .
The filing fee must be paid at the time of the filing by Money Order, Cashier's Check, or (in person only) Cash. ** *personal checks and credit cards are* ***not*** *accepted.* **

****(*No Evidence Is To Be Filed At This Stage.*)****

*******ALL Evidence must be printed and presented at trial. NO cellphones allowed in Court.*** **

The completed form(s) and method of payment may be mailed to;
Escambia County Clerk's Office, P.O. Box 856, Brewton, AL 36427

2. Once filed with the Clerk, the claim will be assigned a case number and a copy of the Summons, Complaint, and receipt will be mailed to you. Take Note of the **Case Number.** It is to be referenced in all verbal and written correspondence with the court.

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)

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

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*** (form PS-24) with the Circuit Clerk's Office, 314 Belleville Avenue, Room 214, Brewton, AL 36426

4. Once properly served the Defendant will have fourteen(14) days from the date of service to file a response. You will be notified by mail of any response or filing. If the Defendant is not served, the Plaintiff may request in writing for service to be reissued to a different address. (*fees may apply*).

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 fourteen(14) days prior to the court date set.

No Response - If the Defendant does not file a response to the complaint, the Plaintiff may request for a Default Judgment, in their favor, for the amount 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*** (form C-25) 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*** (form C-25**A**) with the Clerk before a default judgment may be considered by the Judge. There is no filing fee for this unless the claim amount is $3,000.00 or greater, for which a $50.00 filing fee applies.

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)

ESCAMBIA COUNTY ALABAMA

SMALL CLAIMS FILING PROCEDURES for REMEDIES to COLLECT ON A JUDGMENT

(per ARJA, Rule 21, Small Claims)

NOTE CONCERNING JUDGMENTS AND APPEALS:

The judgment of the court becomes *final* on the fourteenth (14) day from the entry of the judgment, (*the date the Judge signed*). If either party is dissatisfied with the Court's decision, the dissatisfied party may appeal the decision within the fourteen (14) days prior to the judgment being final, by filing a Notice of Appeal (*form C-35*) with the District court Clerk. The Notice of Appeal must be accompanied by the filing fee ($274.00), or an Affidavit of Substantial Hardship (*form C-10-CIVIL*) to have the filing fee waived.

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 forms for the following post-judgment processes to assist in collection of the judgment, including court cost, and other monies if awarded in the ORDER. 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, 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)

State of Alabama Unified Judicial System Form SM-1 (front) Rev. 10/26	**STATEMENT OF CLAIM** **(Complaint)** **General**	**Case Number** SM 20____-_____

IN THE SMALL CLAIMS COURT OF ESCAMBIA **, ALABAMA**
(Name of County)

_____ **Plaintiff** **v.** _____ **Defendant**

Plaintiff's Home Address _____

_____

_____

Plaintiff's Attorney's Address _____

_____

_____

Plaintiff's email address (if self-represented):

_____

Defendant's Home Address _____

_____

_____

Additional Defendant(s) and Addresses _____

_____

_____

NOTICE TO EACH DEFENDANT – READ CAREFULLY

YOU ARE BEING SUED IN THE SMALL CLAIMS COURT BY THE PLAINTIFF(S) SHOWN ABOVE. THE JUDGE HAS NOT YET MADE ANY DECISION IN THIS CASE, AND YOU HAVE THE RIGHT TO A TRIAL TO TELL YOUR SIDE.

HOWEVER, IF YOU, OR YOUR LAWYER, FAIL TO FILL OUT THE ENCLOSED ANSWER FORM AND DELIVER OR MAIL IT TO THE CLERK AT THE ADDRESS SHOWN BELOW, SO THAT IT WILL GET TO THE CLERK'S OFFICE WITHIN FOURTEEN (14) DAYS AFTER YOU RECEIVE THESE PAPERS, A JUDGMENT CAN BE TAKEN AGAINST YOU FOR THE MONEY OR PROPERTY DEMANDED IN THE FOLLOWING COMPLAINT, ONCE A JUDGMENT HAS BEEN ENTERED AGAINST YOU, YOUR PAYCHECK CAN BE GARNISHED AND/OR YOUR HOME OR PROPERTY SOLD TO SATISFY THAT JUDGMENT.

COMPLAINT

1. I claim the defendant owes the plaintiff the sum of $_____ because:

2. Plaintiff also claims from the defendant court costs in the sum of $ _____ (see note below), plus $_____ for interest and $_____ for lawyers' fees (only if plaintiff is represented by a licensed, practicing attorney and if the contract or note you signed so provides.)

NOTE: The total amount of court costs may be more than this amount when the case is finally settled. The clerk will inform you of any additional costs at the close of the case.

CLERK'S ADDRESS:
/S/JOHN ROBERT FOUNTAIN
CIRCUIT CLERK & REGISTER, ESCAMBIA COUNTY
P.O. BOX 856, BREWTON, ALABAMA 36427

Clerk's Phone No. (251) 867 - 0305 x285

(See instructions on the Back)

_____
Plaintiff or Plaintiff's Attorney (Signature)

Attorney Code _____

_____
Plaintiff's or Plaintiffs Attorney's Phone Number

Date of Filing _____ (office use ONLY)

Form SM-1 (back) Rev. 3/95

INSTRUCTIONS TO THE PLAINTIFF'S

This is your case, and if you are acting as your own lawyer, you are responsible in seeing that your claim is successfully presented at each stage of the procedure until it is concluded.

1. You must complete one of these forms for each defendant you wish to sue. Each defendant must be described by his/her correct legal name and address (not a post office box). Be as brief as possible but include every important name, date and place
2. To start your case you must file the completed form with the clerk assigned to Small Claims cases. The clerk will stamp a copy for you to show that the case has been filed and will insert the number of the case on the front of this form.
3. You are responsible for seeing that each defendant receives a copy of this form. If you haven't heard from anyone about the case in about fourteen days, then check with the clerk's office, to make sure that each defendant has been served.
4. If any of the defendants ask for a trial you will be notified of the place, the date, and the time. You must be present or your case will be dismissed. You may take a judgment by default fourteen (14) days after the defendant has received a copy of this form, if the defendant fails to file his/her Answer.
5. You are responsible to see to the enforcement of any judgment that is awarded to you. It is not the responsibility of the court or the clerk to collect the judgment for you.

ANY TIME YOU CONTACT THE CLERK ABOUT THIS CASE YOU MUST REFER TO THE CASE NUMBER ON THE FRONT.

INSTRUCTIONS TO SHERIFF OR PROCESS SERVER

To Any Sheriff or Any Person Authorized by Rule 4.1(b)(1) or 4.1(b)(2) of the Alabama Rules of Civil Procedure to Effect Service in the State of Alabama.

You are hereby commanded to serve this summons and a copy of the Statement of Claim in this action upon the defendant(s) named _____

_____

and make proper return to this court.

Date _____ /S/JOHN ROBERT FOUNTAIN By_____
Clerk

RETURN ON SERVICE:

Served on defendant(s) named _____

_____

by delivering a copy of the Summons and Statement of Claim to him/her in _____

County, Alabama, on (Date) _____.

_____
Process Server Signature

_____
Title of Process Server

This service by certified mail of this Summons and Statement of Claim is initiated upon the request of _____
_____ pursuant to Rule 4.1.(c) of the Alabama Rules of Civil Procedure.

Date Requested _____ Date Mailed _____

Return Receipt Date _____ /S/JOHN R FOUNTAIN By_____
Clerk

State of Alabama Unified Judicial System Form SM-2 (front) Rev. 10/26	**STATEMENT OF CLAIM** **(Complaint)** **For Specific Property**	**Case Number** SM 20____-_____

IN THE SMALL CLAIMS COURT OF ESCAMBIA **, ALABAMA**
(Name of County)

_____ **v.** _____
Defendant

Plaintiff's
Home Address

_____

_____

Plaintiff's Attorney's
Address _____

_____

_____

Plaintiff's email address (if self-represented):

_____

Defendant's
Home Address _____

_____

_____

Additional
Defendant(s)
and Addresses _____

_____

_____

NOTICE TO EACH DEFENDANT – READ CAREFULLY

YOU ARE BEING SUED IN THE SMALL CLAIMS COURT BY THE PLAINTIFF(S) SHOWN ABOVE. THE JUDGE HAS NOT YET MADE ANY DECISION IN THIS CASE, AND YOU HAVE THE RIGHT TO A TRIAL TO TELL YOUR SIDE.

HOWEVER, IF YOU, OR YOUR LAWYER, FAIL TO FILL OUT THE ENCLOSED ANSWER FORM AND DELIVER OR MAIL IT TO THE CLERK AT THE ADDRESS SHOWN BELOW, SO THAT IT WILL GET TO THE CLERK'S OFFICE WITHIN FOURTEEN (14) DAYS AFTER YOU RECEIVE THESE PAPERS, A JUDGMENT CAN BE TAKEN AGAINST YOU FOR THE MONEY OR PROPERTY DEMANDED IN THE FOLLOWING COMPLAINT, ONCE A JUDGMENT HAS BEEN ENTERED AGAINST YOU, YOUR PAYCHECK CAN BE GARNISHED AND/OR YOUR HOME OR PROPERTY SOLD TO SATISFY THAT JUDGMENT.

COMPLAINT

1. Plaintiff demands right to possession from the defendant(s) of the following property:

   _____

   _____

   _____

   _____

   Otherwise, plaintiff claims sum of $_____ from the defendant(s) as the alternate value of this property:

2. Plaintiff also claims from the defendant the sum of $ _____ for the use of this property from _____ to the present.

3. Plaintiff also claims from the defendant(s) court costs in the sum of $ _____ (see note below), and $_____ for lawyers' fees (only if plaintiff is represented by a licensed, practicing attorney and if the contract or note you signed so provides.)

   NOTE: The total amount of court costs may be more than this amount when the case is finally settled. The clerk will inform you of any additional costs at the close of the case.

CLERK'S ADDRESS:
/S/JOHN ROBERT FOUNTAIN
P.O. BOX 856, BREWTON, AL 36427

Clerk's Phone No. (251) 867 - 0305 x285

(See instructions on the Back)

_____
Plaintiff or Plaintiff's Attorney (Signature)

Attorney Code _____

_____
Plaintiff's or Plaintiffs Attorney's Phone Number

Date of Filing _____ (office use ONLY)

Form SM-2 (back) Rev. 3/95

INSTRUCTIONS TO THE PLAINTIFF'S

This is your case, and if you are acting as your own lawyer, you are responsible in seeing that your claim is successfully presented at each stage of the procedure until it is concluded.

The clerk of the court has a brochure which tells you how to handle a Small Claims case. This brochure is free to you on request..

1. You must complete one of these forms for each defendant you wish to sue. Each defendant must be described by his/her correct legal name and address (not a post office box). Be as brief as possible but include every important name, date and place
2. To start your case you must file the completed form with the clerk assigned to Small Claims cases. The clerk will stamp a copy for you to show that the case has been filed and will insert the number of the case on the front of this form.
3. You are responsible for seeing that each defendant receives a copy of this form. If you haven't heard from anyone about the case in about fourteen days, then check with the clerk's office, to make sure that each defendant has been served.
4. If any of the defendants ask for a trial you will be notified of the place, the date, and the time. You must be present or your case will be dismissed. You may take a judgment by default fourteen (14) days after the defendant has received a copy of this form, if the defendant fails to file his/her Answer.
5. You are responsible to see to the enforcement of any judgment that is awarded to you. The Small Claims brochure will tell you how to go about recovering your money. It is not the responsibility of the court or the clerk to collect the judgment for you.

ANY TIME YOU CONTACT THE CLERK ABOUT THIS CASE YOU MUST REFER TO THE CASE NUMBER ON THE FRONT.

INSTRUCTIONS TO SHERIFF OR PROCESS SERVER

To Any Sheriff or Any Person Authorized by Rule 4.1(b)(1) or 4.1(b)(2) of the Alabama Rules of Civil Procedure to Effect Service in the State of Alabama.

You are hereby commanded to serve this summons and a copy of the Statement of Claim in this action upon the defendant(s) named

_____

_____

and make proper return to this court.

Date _____ /S/JOHN R FOUNTAIN By _____
Clerk

RETURN ON SERVICE:

Served on defendant(s) named _____

_____

by delivering a copy of the Summons and Statement of Claim to him/her in _____

County, Alabama, on (Date) _____,

_____
Process Server Signature

_____
Title of Process Server

This service by certified mail of this Summons and Statement of Claim is initiated upon the request of _____ pursuant to Rule 4.1.(c) of the Alabama Rules of Civil Procedure.

Date Requested _____ Date Mailed _____

Return Receipt Date _____ /S/JOHN R FOUNTAIN By _____
Clerk

State of Alabama Unified Judicial System Form PS-24 Rev. 4/2018	**ELECTION TO RECEIVE COURT NOTICES BY E-MAIL OR TEXT IN LIEU OF FIRST-CLASS MAIL**	

In the District/Circuit Court of ESCAMBIA **County, Alabama**

CASE NUMBERS: _____ _____ _____

_____ _____ _____

I, _____, a party to the above listed case hereby elect to receive court notices in this matter by e-mail and/or text. I understand that by choosing notice by e-mail/text, I will not receive notice through the postal service.

I understand to cancel this election to receive notice by e-mail/text, I must do so in writing to the Circuit Clerk.

I recognize my election to receive notice by e-mail/text or to cancel that election does not affect the service due my attorney through the court's electronic filing system, or to myself if I am a registered user of the electronic filing system.

I understand that it is my responsibility to immediately notify the clerk's office should my e-mail address, phone number, or other contact information change, or if there are any other problems that would prevent receiving notice from the court.

By agreeing to receive text messages about my case, I understand that **STANDARD FEES AND TEXT MESSAGING RATES MAY APPLY BASED ON MY PLAN WITH MY MOBILE DEVICE CARRIER.** I understand that I am responsible for any such fees. I understand that the court cannot guarantee text message delivery. Text messages are merely a courtesy, and it is my responsibility to monitor my registered email address regularly for all notices.

SIGNED: _____ DATE: _____

PRINTED NAME: _____

PRINTED E-MAIL ADDRESS: (Required. Please Print Legibly)

_____@_____

CELL PHONE NUMBER: _____

CELL PHONE CARRIER: _____