

DEBT COLLECTION

BRIEF DESCRIPTION

- ❖ Debt is a financial obligation owed by an individual (the debtor) to a company, bank, or similar institution (the creditor). Debt can be secured or unsecured. Secured debt means that the debtor provides some form of collateral (e.g. a car) to assure repayment of the debt; unsecured debt means that no collateral (e.g. a hospital bill) exists to assure repayment of the debt. Collateral offsets the risk the creditor takes in lending money.
- ❖ Creditors hold a place of power over their debtor because they have legally enforceable rights to recover their losses. If the debtor stops payments to the creditor, the creditor may:
 - Stop conducting business with the debtor
 - Report the debt to a collection agency
 - Take legal action

ADDITIONAL INFORMATION

- ❖ Can be found at:
 - <http://nedap.org/resources/consumer.html>
 - <http://www.ftc.gov/bcp/menus/consumer/credit/debt.shtm>
 - <http://www.legal-aid.org/selfhelp/docs/DebtCollection3.pdf>
 - <http://www.legal-aid.org/selfhelp/docs/CreditorSues.pdf>
 - <http://nedap.org/resources/documents/DCDisputeLetterwithElectronicForm.pdf>
(sample dispute letter)
 - <http://nedap.org/resources/documents/CeaseLetterwithElectronicForm.pdf>
(sample cease letter)
- ❖ The Fair Debt Collection Practices Act (FDCPA)
 - The FDCPA deals with common household debts and is enforced by the Federal Trade Commission (FTC). The purpose of the FDCPA is to “prohibit debt collectors from using abusive, unfair, or deceptive practices” to collect from a debtor.
 - The FDCPA requires that creditors:
 - i. Not contact the debtor before 8:00 am or after 9:00 pm
 - ii. Not contact the debtor at his/her place of employment (if they are aware the individual’s employer disapproves)

- iii. Not “harass, oppress, or abuse” the debtor
- iv. Be honest regarding the debts owed
- v. Identify themselves on the phone
- vi. Stop contacting the debtor if told to do so in writing

❖ Debt Management

- Before calling a creditor, debtors should review the following chart:

<p><u>Before contacting a creditor, a debtor should:</u></p>	<ol style="list-style-type: none"> 1. Be aware of his/her obligations 2. Have a list of prioritized debts 3. Determine how much of the debt they can pay 4. Record the conversation if possible
<p><u>A debtor should (typically) not negotiate payment with a creditor when:</u></p>	<ol style="list-style-type: none"> 1. The debtor has limited income 2. The debt is not a high priority on the debtor’s prioritized list 3. The debt is so old the statute of limitations has or is about to expire 4. The debtor’s income is from a protected source (e.g. social security, welfare, Veterans Administration, child support, or pension)

- If the debtor determines they want to pay the debt, immediate contact with a creditor is typically beneficial. Debtors should remain calm and explain their strong desire to repay the debt (often this leads to creditors becoming lenient). Creditors typically will seek to strike a deal and debtors should be careful not to offer the full amount they can afford to pay, leaving room to bargain with the creditor.
- When possible, debtors should get all agreements made with their creditor in writing. Debtors should also be aware of predatory behavior by creditors (i.e. obtaining bank account information, writing post-dated checks, etc.) and avoid them when possible.

❖ Disputing the Debt

- If the debtor determines they want to dispute the debt, they have three rights under the Fair Debt Collection Practices Act (FDCPA).

- i. **Right to Notice of the Debt** – within five days the creditor must send to the debtor (1) the amount of debt owed, (2) the name of the creditor, and (3) what options you have if you think something is incorrect.
 - ii. **Right to Contest the Debt** – within 30 days of notice of the debt, a letter can be sent to the creditor requesting the name and contact information of the original creditor (at this point the creditor must stop contacting the debtor).
 - iii. **Right to Verify the Debt** – once the debtor has contested the debt, the creditor must not contact the debtor again until they have sent enough information that the debtor can corroborate the authenticity of the debt. If the debtor feels they are a victim of identity theft, they should request a copy of the original signed contract from the creditor.
- If the debtor disputes the debt, the creditor’s actions will depend on whether the debt is secured or unsecured.
 - i. **Secured** – creditors typically can recover the collateral initially used to acquire the debt. Recovery of secured debt without a court order is usually permissible (court order is required for a home foreclosure).
 - ii. **Unsecured** – creditors must get a court order to garnish wages or seize assets. Actions by creditors to recover debt will likely negatively affect the debtor’s credit and can be expensive to resolve.

❖ High-Interest Credit Card Debt

- If the debtor owes high-interest credit card debt, they might benefit from contacting a Community Development Credit Union in their area to discuss the possibility of debt consolidation for those that qualify. In Birmingham, there are two credit unions that are part of the National Federation of Community Development Credit Unions:

<u>New Pilgrim Federal Credit Union</u> (205) 326-3852	641 Goldwire Way, SW Birmingham, Alabama 35202
<u>NRS Community Development Credit Union</u> (205) 833-3556	PO Box 130520 Birmingham, Alabama 35213

STATUTE OF LIMITATIONS

- ❖ The statute of limitations for an action seeking recovery of money from a loan is six years if the action is for a debt that has liquidated and identifiable assets. An action to recover money from a loan with debt that is unliquidated or unsettled in nature is subject to a three year statute of limitations.

FILING INSTRUCTIONS

- ❖ The type of form an individual needs to file a claim for debt collection depends on the amount of the claim in question:

<u>Amount in Question</u>	<u>Type of Form</u>	<u>Found on Page</u>
Between \$3,000.01 and \$10,000	Complaint Form (Except Small Claims & Detinue Actions) – Form C-88	Can be found on page: 24
Between \$1.00 and \$3,000.00	Complaint Form (General) – Form SM-1	Can be found on page: 27
The value of the specific property in question (below \$3,000.00).	Complaint Form (Specific Property) – Form SM-2	Can be found on page: 30

- ❖ The type of form an individual needs to respond to a debt collection claim depends on the action they wish to take:

<u>Form Name</u>	<u>Found on Page</u>
Defendant's Answer – Form SM-3	Can be found on page: 39
Defendant's Counterclaim – Form SM-6	Can be found on page: 42

COMPLAINT FORM (EXCEPT SMALL CLAIMS & DETINUE ACTIONS)

GENERAL PURPOSE

- ❖ The Statement of Claim – Complaint (Except Small Claims & Detinue Actions) is the State of Alabama Unified Judicial System Form C-88 (Civil Summons).
- ❖ The purpose of this form is to file a claim to seek money damages between \$3,000.00 and \$10,000.00. This form is not to be used for claims below \$3,000.00 and/or claims seeking recovery of property.

STATUTE OF LIMITATIONS

- ❖ The complaint must be filed within the applicable statute of limitations for the type of claim being filed.

GENERAL NOTES

- ❖ This form must be completely filled out and the client's handwriting must be legible.

FILING INSTRUCTIONS

- ❖ It is important that all blanks in this form are complete before an individual files the form.
- ❖ This form is filed with Alabama Unified Judicial System Form C-34 (Civil Summons).

FEES & COSTS

- ❖ The filing fee for one defendant is \$216.00.
- ❖ For each additional defendant a \$10.00 service fee is required (but no additional filing fee).
- ❖ For any defendant, service by the Sheriff's department is an additional \$10.00.
- ❖ The filing fee for each additional plaintiff is \$50.00.
- ❖ All fees must be paid by cash, cashiers check, or money order and made payable to:
 - Ann-Marie Adams, Clerk

STATEMENT OF CLAIM (Complaint)

District Civil (Except Small Claims and Detinue Actions)

Case Number

IN THE DISTRICT COURT OF _____, ALABAMA
(Name of County)

v.

Plaintiff

Defendant

Home or Business Address: _____

Home or Business Address: _____

Home or Business Telephone Number: _____

Home or Business Telephone Number: _____

Name of Attorney: _____

Additional Defendant: _____

Business Address: _____

Business Telephone Number: _____

Date of Filing _____

COMPLAINT

1. The plaintiff claims the defendant owes the plaintiff the sum of \$ _____ because:
(make a short and plain statement of the claim showing that the plaintiff is entitled to relief.)

The plaintiff also claims from the defendant court costs in the sum of \$ _____, plus \$ _____ for interest and \$ _____ for attorney's fees.

By: _____

Clerk

Plaintiff or Plaintiff's Attorney (Signature)

Clerk's Address:

Attorney Code: _____

Plaintiff's or Plaintiff's Attorney's Phone Number

Telephone Number : _____

SUMMONS

To any sheriff or any person authorized by either Rules 4. 1(b)(2) of the Alabama Rules of Civil Procedure to perfect service:
You are hereby commanded to serve this summons and complaint upon the above-named defendant.

NOTICE TO DEFENDANT

THE COMPLAINT SET OUT ABOVE IS IMPORTANT, AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU ARE REQUIRED TO MAIL OR HAND DELIVER A COPY OF A WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT, TO THE PLAINTIFF (OR THE ATTORNEY FOR THE PLAINTIFF), AT THE ADDRESS NOTED ABOVE.

THIS ANSWER MUST BE MAILED OR HAND DELIVERED TO THE CLERK OF COURT AT THE ADDRESS BELOW WITHIN FOURTEEN (14) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. (YOU MUST FILE THE ORIGINAL ANSWER WITH CLERK OF THIS COURT).

Dated _____

Clerk of Court

Address of Clerk of Court

**STATEMENT OF CLAIM (Complaint)
District Civil (Except Small Claims and Definive Actions)**

RETURN ON SERVICE

Return receipt of certified mail received in this office on _____ (date).

I certify that I personally delivered a copy of this Statement of Claim (Complaint) at _____ on _____ and on _____ at _____, I served it on the above-named defendant by delivering a copy of the complaint.

Date _____, _____

Sheriff/Deputy Sheriff/Process Server

COMPLAINT FORM

(GENERAL)

GENERAL PURPOSE

- ❖ The Statement of Claim – Complaint (General) is the State of Alabama Unified Judicial System Form SM-1 (Complaint).
- ❖ The purpose of this form is to file a claim wherein the plaintiff is seeking money damages up to \$3,000. This form is not to be used for claims above \$3,000. Additionally, do not use this form for claims seeking recovery of property.

STATUTE OF LIMITATIONS

- ❖ The complaint must be filed within the applicable statute of limitations for the type of claim being filed.

GENERAL NOTES

- ❖ This form must be completely filled out and the client's handwriting must be legible.

FILING INSTRUCTIONS

- ❖ It is important that all blanks in this form are complete before an individual files the form.
- ❖ This form is filed with Alabama Unified Judicial System Form SM-7 (Civil Summons).

FEES & COSTS

- ❖ The filing fee for a claim \$1,500.00 or less and against one defendant is \$51.00.
- ❖ The filing fee for a claim against one defendant between \$1,500.01 and \$3,000.00 is \$125.00.
- ❖ For each additional defendant a \$10.00 service fee is required (but no additional filing fee).
- ❖ For any defendant, service by the Sheriff's department is an additional \$10.00.
- ❖ The filing fee for each additional plaintiff is \$50.00.
- ❖ All fees must be paid by cash, cashiers check, or money order and made payable to:
 - Ann-Marie Adams, Clerk

STATEMENT OF CLAIM
(Complaint)
General

Case Number _____

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

Plaintiff v. _____
Defendant

Plaintiff's
Home Address

Defendant's
Home Address

Plaintiff's Attorney's
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:

Plaintiff or Plaintiff's Attorney (Signature)
Attorney Code _____

Plaintiff's or Plaintiffs Attorney's Phone Number

Clerk's Phone No. _____

(See instructions on the Back)

Date of Filing _____

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 _____ 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 _____ By _____
Clerk

COMPLAINT FORM (SPECIFIC PROPERTY)

GENERAL PURPOSE

- ❖ The Statement of Claim – Complaint (Specific Property) is the State of Alabama Unified Judicial System Form SM-2 (Complaint).
- ❖ The purpose of this form is to file a claim for the recovery of specific property or money damages in lieu of the property.
- ❖ The value of the property claim in question cannot exceed \$10,000.00.

STATUTE OF LIMITATIONS

- ❖ The complaint must be filed within the applicable statute of limitations for the type of claim being filed.

GENERAL NOTES

- ❖ This form must be completely filled out and the client’s handwriting must be legible.

FILING INSTRUCTIONS

- ❖ It is important that all blanks in this form are complete before an individual files the form.

FEES & COSTS

Claim Amount (One Defendant)	Fee Amount
<u>Small Claims</u> - \$1.00 - \$1,500.00	\$51.00
<u>Small Claims</u> - \$1,500.01 - \$3,000.00	\$125.00
<u>Large Claims</u> - \$3,000.01 - \$10,000.00	\$216.00

- ❖ For each additional defendant a \$10.00 service fee is required (but no additional filing fee).
- ❖ For any defendant, service by the Sheriff’s department is an additional \$10.00.
- ❖ The filing fee for each additional plaintiff is \$50.00.

- ❖ All fees must be paid by cash, cashiers check, or money order and made payable to:
 - Ann-Marie Adams, Clerk

**STATEMENT OF CLAIM
(Complaint)
For Specific Property**

Case Number _____

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

Plaintiff v. _____
Defendant

Plaintiff's
Home Address

Defendant's
Home Address

Plaintiff's Attorney's
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:

Plaintiff or Plaintiff's Attorney (Signature)
Attorney Code _____

Clerk's Phone No. _____

Plaintiff's or Plaintiffs Attorney's Phone Number

(See instructions on the Back)

Date of Filing _____

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 _____ 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 _____ By _____
Clerk

DEFENDANT'S ANSWER

GENERAL PURPOSE

- ❖ The Defendant's Answer is the State of Alabama Unified Judicial System Form SM-3.
 - ❖ The purpose of this form is for the defendant to answer a claim that they have received.
-

STATUTE OF LIMITATIONS

- ❖ Generally, the defendant must file an answer in response to the complaint within fourteen days of receipt of the answer (seven days for a failure to pay rent/unlawful detainer/eviction action).
 - ❖ The answer must be mailed or hand-delivered to the Clerk's office within the fourteen-day period.
-

GENERAL NOTES

- ❖ This form may be submitted in legible handwriting (including style of case, case number, and signature/date).
-

FILING INSTRUCTIONS

- ❖ It is important that all blanks in this form are complete before an individual files the form.
 - ❖ This form must be mailed to the plaintiff or his/her attorney.
-

FEES & COSTS

- ❖ There is no charge for filing an answer.

DEFENDANT'S ANSWER

Case Number _____

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

v. _____
Plaintiff Defendant

Plaintiff's
Home Address

Defendant's
Home Address

Plaintiff's Attorney's
Address

Additional
Defendant(s)
and Addresses

PART 1. DEFENDANTS ANSWER TO THE COMPLAINT

Instructions:

1. Please print.
2. This answer must be signed by the person or persons who have been sued or their attorney. An answer which is not signed or which is not signed by the proper person cannot be considered.
3. Mail the original to the Small Claims Court Clerk at the address below.
4. Mail a copy to the plaintiff or his/her attorney, if he/she is represented by an attorney, at the address above. Keep a copy for your files.

Notice: If you have been sued in county in which you do not live and if the suit against you is not for services or work and labor performed in the county where suit has been filed, you may request that it be transferred to your home county. If this applies, complete "A" below.

SELECT ONLY ONE OF THE FOLLOWING:

- A. I do not live in this county and the suit against me is not for work or labor performed in the county where suit has been filed; thus, I want this case transferred to my home county of _____.
- B. I admit everything in the Statement of Claim and do not want a trial. (This means that you consent to a judgment for the amount claimed plus court costs).
- C. I admit that I owe some money, but not the total amount claimed by the plaintiff(s). (If this block is checked, the case will be set for trial. Please note that any money paid by you on this claim after the suit was filed may not be reflected on the Statement of Claim which you receive. You should contact the person who has sued you or his/her attorney to determine the present balance which is claimed).
- D. I deny that I am responsible at all. (If this block is checked, this case will be set for trial).

IF YOU CHECKED "C" OR "D", BRIEFLY EXPLAIN THE REASONS FOR YOUR ANSWER.

Name, Address & Phone Number of Employer:

PART II. This answer must be signed by the person or persons who have been sued or their attorney. An answer which is not signed at all or which is not signed by the proper person cannot be considered. Keep a copy of this Answer and any other documents you receive concerning your case for your files.

CLERK'S ADDRESS:

Defendant or Defendant's Attorney (Signature)

Attorney Code _____

Defendant or Defendant's Attorney's Phone Number

Clerk's Phone No. _____

(See instructions on the Back)

Date of Filing _____

INSTRUCTIONS TO EACH DEFENDANT**ANSWER ONLY**

1. You **MUST** fill out (print or type) this form **AND** deliver or mail a copy of it to the clerk at the address on the front, **SO IT WILL ARRIVE AT THE CLERK'S OFFICE WITHIN 14 DAYS AFTER THE STATEMENT OF CLAIM WAS DELIVERED TO YOU**. You must complete this form even if you admit you are responsible for part – not all – of what the plaintiff(s) claims.
2. **IF YOU CHOOSE TO MAIL THIS FORM TO THE CLERK, YOU SHOULD CHECK WITH THE CLERK'S OFFICE AFTER SEVERAL DAYS TO MAKE SURE IT WAS RECEIVED ON TIME**. Be sure to refer to your case number. This Answer must be received by the clerk within 14 days from the date it was delivered to you.
3. **BE SURE TO KEEP A COPY OF YOUR ANSWER FOR YOURSELF**. After it is received by the clerk, you will be sent a notice of the time and place of your trial if you have denied what the plaintiff claims.

DEFENDANT'S COUNTERCLAIM

GENERAL PURPOSE

- ❖ The Defendant's Counterclaim is the State of Alabama Unified Judicial System Form SM-6.
- ❖ The purpose of this form is for the defendant to file a claim against the plaintiff.

STATUTE OF LIMITATIONS

- ❖ Generally, the defendant must file a counterclaim in response to the complaint within fourteen days of receipt of the answer. A counterclaim is usually filed with the answer and will have the same statute unless it is amended later (i.e. seven days for a failure to pay rent/unlawful detainer action).
- ❖ The answer must be mailed or hand-delivered to the Clerk's office within the fourteen-day period.

GENERAL NOTES

- ❖ This form may be submitted in legible handwriting.

FILING INSTRUCTIONS

- ❖ It is important that all blanks in this form are complete before an individual files the form.
- ❖ This form must be mailed to the plaintiff or his/her attorney.

FEES & COSTS

- ❖ There is no charge for a counterclaim if the amount sought is in the same cost bracket as the amount sought in the original complaint.

Claim Amount	Fee Amount
<u>Small Claims</u> - \$1.00 - \$1,500.00	\$51.00
<u>Small Claims</u> - \$1,500.01 - \$3,000.00	\$125.00
<u>Large Claims</u> - \$3,000.01 - \$10,000.00	\$216.00

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

Plaintiff v. _____
Defendant

Plaintiff's
Home Address

Defendant's
Home Address

Plaintiff's Attorney's
Address

Additional
Defendant(s)
and Addresses

PART 1. STATEMENT OF COUNTERCLAIM AGAINST THE PLAINTIFF(S)

I claim the plaintiff(s) owe(s) the defendant(s) the sum of \$ _____ because:

Defendants(s) also claims court costs in the amount of \$ _____ and interest in the amount of \$ _____ from the plaintiff(s).

PART II. BE SURE TO SIGN THIS FORM BEFORE MAILING.

1. Keep a copy for your files.
2. Mail a copy of your Answer and Counterclaim to the plaintiff at the address above.
3. Mail the original Answer and Counterclaim to the Small Claims Court Clerk at the address below.

CLERK'S ADDRESS:

Defendant or Defendant's Attorney (Signature)
Attorney Code _____

Defendant or Defendant's Attorney's Address:

Defendant or Defendant's Attorney's Phone Number

Clerk's Phone No. _____

(See instructions on the Back)

Date of Filing _____

INSTRUCTIONS TO DEFENDANT - COUNTERCLAIM

1. If you have any claim against the plaintiff(s) set it out on the front of this form. BEFORE you deliver or mail a copy of your answer form to the clerk, you must mail an additional copy of your Answer and Counterclaim forms to the plaintiff, at the address found on the front of the Statement of Claim (Complaint) served on you.
2. IT IS YOUR RESPONSIBILITY TO COMPLETE THIS COUNTERCLAIM FORM AND MAKE SURE A COPY OF THE COUNTERCLAIM AND ANSWER ARE FILED WITH THE CLERK AND PROPERLY MAILED OR DELIVERED TO THE PLAINTIFF. The Answer and Counterclaim must be filed with the clerk and with the plaintiff within 14 days from the date the original Statement of Claim was served on you.
3. BE AS BRIEF AS POSSIBLE, but include every important name, date, and place.