



ALABAMA SMALL CLAIMS COURT RUSSELL COUNTY

Please read all information carefully before filing case.

**Electronic filing of court documents accessible at:
<https://alafile.alacourt.gov>**

FILING REQUIREMENTS FOR PAPER FILED COMPLAINTS

**Must be typed or printed in BLACK INK only.
Social security numbers MUST BE REDACTED prior to filing.**

Complaints MUST include:

Applicable filing fees.

Signature (black ink) of filing party and legible printed name, telephone number and email address.

Original and one copy of complaint for *each defendant*.

If supporting documents filed with court, copies for *each defendant*.

If applicable, completed green certified mail card & receipt.

If applicable, "Notice of Intent to Serve by Process Server."

***Copies of complaint and receipt will be returned to plaintiff
ONLY if self-addressed, stamped envelope is provided.***

The attached packet includes information and forms used by Small Claim litigants who are not represented by an attorney. It is important to understand, before filing your claim, that if judgment is awarded in your case, it may be difficult or impossible to collect. All court costs are due at time of filing and non-refundable.

ALABAMA LAW PROHIBITS CLERK'S OFFICE FROM GIVING LEGAL ADVICE.

This information is provided for the purpose of explaining the guidelines and procedures of the Russell County Circuit Clerk in the filing of small claims actions in the District Court and should in no way be construed as legal advice. Should you have any further questions or need additional information before, during or after disposition of your case, you must seek legal advice from an attorney practicing in the State of Alabama. You may qualify for free legal help. Call Legal Services of Alabama at 1-866-456-4995.

RUSSELL COUNTY COURT COSTS - CIVIL FILING FEES

Effective 10-7-2015

<u>CIRCUIT CIVIL</u>	\$
\$50,000.00 or less	279.00
Over \$50,000.00 (Including Non- Designated Amount)	379.00
Workman's Compensation	227.00
Jury Demand	100.00
Each Additional Plaintiff (\$1,000.00 cap)	100.00
<u>DISTRICT CIVIL</u> (Including Unlawful Detainers)	280.00
Each Additional Plaintiff (\$500.00 cap)	50.00
<u>SMALL CLAIMS</u>	
\$1,500.00 & under	85.00
\$1,500.01 to \$3,000.00	159.00
\$3,000.01 to \$6,000.00	248.00
Each Additional Plaintiff (\$500.00 cap)	50.00
<u>DOMESTIC RELATIONS</u>	
New Cases	227.00
Modifications/Counterclaim on Modifications/Rule Nisi	330.00
Termination of Child Support Withholding Order	35.00
<u>CHILD SUPPORT</u>	127.00
<u>JUVENILE</u> (Non-criminal actions)	125.00
<u>SERVICE FEES</u>	
Each Additional Defendant (Personal Service/Sheriff or Process Server)	15.00
Service by Certified Mail - Restricted Delivery (additional .21 per oz. over 1)	11.42
Non-restricted (additional .21 per oz. over 1)	6.47
Service by Muscogee County Sheriff	50.00
(Business check or money order made payable to Muscogee Co. Sheriff)	
<u>SUBPOENA FEES</u>	
Personal Service	17.00
Certified Mail - Current Rate	6.47
<u>MOTIONS</u>	297.00
Counterclaim/Cross Claim/Third-party Complaint/Third-party Motion/ Intervener/Third-party Plaintiff/Declaratory Judgment (CV only)	
<u>DISPOSITIVE MOTIONS</u>	50.00
Default Judgment/Judgment on Pleadings/Summary Judgment (CV/DR/DV/SM-Over \$3,000)	
<u>POST JUDGMENT PROCEEDINGS</u>	
Attachment/Execution/Garnishment/Withholding Order	35.00
Service by Certified Mail - Restricted Delivery Required (Current Rate)	11.63
Certified Mail on Garnishee/Employer (Current Rate)	6.96
Writ of Possession on Unlawful Detainer	NO CHG

PERSONAL CHECKS NOT ACCEPTED.

We accept cash or business checks, cashier's checks or money orders made payable to:

Kathy Coulter

Russell County Circuit Clerk

501 14th Street, Phenix City, AL 36867

334-298-0516

ALABAMA'S SMALL CLAIMS COURT

The Small Claims Court is a special civil division of the District Court where individuals, as well as businesses, can settle disputes and disagreements. The maximum amount you may sue or be sued for is \$6,000.00. Procedures are simple, informal, and inexpensive. There are no juries and you may appear before the judge with or without an attorney.

Should you file a Small Claims Case?

Before you file a claim, you should contact the person(s) or business you plan to sue and attempt to settle your dispute out of court. This effort may save you both time and money.

You should, also, find out if the person(s) or business you plan to sue has any money or assets to pay your claims, if you should win. Otherwise, you may have a difficult time collecting on a court judgment. Remember, it is up to you, not the court, to take further legal action against the person(s) or business if they do not pay the judgment.

Who can use Small Claims Court?

An individual who has reached the age of 19, a partnership, or a corporation may file a claim, with or without an attorney. If a partnership files without an attorney, the person representing the partnership must be a partner or employee of the partnership. If a corporation files without an attorney, the person representing the corporation must be an officer or full-time employee of the corporation.

How do you file a Small Claims Case?

The case should be filed with the Small Claims Division of the District Court in the county where the person or business you wish to sue lives or has an office. The Court Clerk has this form. **The Court Clerk cannot give you legal advice.** You may have another individual help you complete the forms if you are physically unable to fill them out yourself. Court personnel are not permitted to do this for you.

Once you complete the complaint, you become the "plaintiff" in the case and the person you are suing is the "defendant". It is the responsibility of the plaintiff to provide a good and proper address for each defendant. The complaint cannot be served if this information has not been provided to the Court.

Filing fees are non-refundable. You must pay a filing fee at the time the claim is filed. If you cannot afford to prepay this fee, you may complete an Affidavit of Substantial Hardship form. This affidavit must be filed at the time you file your case. If granted by the Judge, court costs will be assessed at the conclusion of the case. You may be required to pay the total costs at that time.

The clerk will assign you a case number and you should use this number whenever you contact the court concerning your case.

What happens after the claim is filed?

Once the forms are completed and presented to the Clerk for filing, this office will process the complaint for service on the defendant(s) by the sheriff's department. If you prefer service by certified mail, or some other service type, this should be noted on the complaint. Any applicable service fees must be paid in advance by the plaintiff.

Service dates are not given via telephone. You will be notified of the service date by mail with a computer printout or via email. If the defendant cannot be located at the address that you give within 120 days, the case will be dismissed for lack of service.

If the defendant(s) files an answer of denial, a copy will be mailed to you and the case will be set for trial within four weeks from the receipt of the answer. If the defendant(s) agrees to the complaint, the Judge may enter a consent judgment in favor of the plaintiff against the defendant(s).

In some cases the case may be set for trial for the plaintiff to prove the amount of the damages or amount of claim.

If the defendant(s) fails to file an answer within 14 days, the plaintiff may request a judgment by default.

All parties to a small claims case are encouraged to attempt a settlement agreement prior to trial. All settlement agreements should be in writing and should state who is to pay the court costs. If the defendant(s) does not agree to pay the court costs as part of the settlement, costs are automatically assessed to the plaintiff.

If a settlement agreement is reached before the trial, the plaintiff must immediately notify the clerk, in writing, so that the trial can be cancelled. Faxes and phone calls are not accepted.

What should you do to prepare for the trial?

If an agreement cannot be reached, you assemble all papers, receipts, bills, sales tickets, estimates, photographs, etc., that include information concerning your case.

You should write down the details and facts of the case to assist you in telling your side of the story at the trial.

You may bring any witnesses you feel can help explain your case. If there is any reason to believe a witness will not voluntarily appear, you may ask the clerk to issue a **witness subpoena** requiring that person to appear. You will be required to furnish a service address and to pay a witness subpoena fee at the time of the request. Requests must be in writing.

What happens at the trial?

BE ON TIME. Russell County cases are always set on Eastern Standard Time. If you are late, the judge may dismiss your case. If an emergency arises that may prevent you from appearing at the trial, you **MUST** inform the clerk, in writing, as soon as possible and request a continuance (delay) of the trial. The Judge will not continue any case without the consent of all parties if not filed by the Monday prior to your court date.

A trial in Small Claims Court is an informal hearing before the judge. There is no jury. When the case is called, the plaintiff will present his/her evidence and his/her witnesses. The defendant(s) will then present his/her evidence, and call his/her witnesses.

After hearing both sides of the case and looking at the evidence, the judge will make a decision and render a **judgment** based on the law and the facts presented. In some cases, the decision is made while you are before the Court. However, the Judge may take your case under advisement and enter an Order at a later date. You will be mailed a copy of the Judge's order. It is important that all parties maintain a current mailing address and phone number on file with the Circuit Clerk's office.

What can you do if you disagree with the Court's judgment?

If you disagree with the decision, you may appeal the case by filing a NOTICE OF APPEAL form with the clerk of the Small Claims Court within 14 days after the date of the judgment. This form may be obtained from the Circuit Clerk's office. Appeal costs must be paid at time your appeal is filed.

You may need the assistance of an attorney if you choose to appeal. The simplified procedures of Small Claims court do not apply in Circuit Court.

If you, the plaintiff, win, how do you collect the judgment?

The plaintiff cannot initiate any legal proceeding until the 14 day appeal time has expired. If the defendant(s) does not pay the judgment or make satisfactory arrangements, it is up to the plaintiff to file one of the following actions in an attempt to collect the amount of the judgment:

- **Garnishment of Wages**--Must include the name and address of the employer. Some employers require that the last 4 digits of the defendant's social security number be stated on the garnishment form. State and Federal law prohibits the garnishment of some income, such as social security. The Clerk's office cannot advise you as to your ability to collect.

- **Garnishment of Bank Account**--Must include the correct name and address of bank.

- **Execution for Levy on Property**--Obtain a court order authorizing the sheriff to pick up any property belonging to the defendant(s) and sell it to satisfy the judgment. The property levied cannot be under a recorded mortgage (plaintiff can check with the probate court record room for recordings).

All post judgment actions require an additional filing fee. The clerk can give you the necessary forms: but the method of collection may become involved. It is strongly suggested that you consult an attorney for explanation of collection procedures and to assist you in filing the appropriate forms. **The court clerk cannot give you legal advice.**

It is, also, important to mention that it is much easier to get a judgment than it is to collect on it. **A judgment is not a guarantee of collection.** If the defendant(s) does not work or own property, or if he/she is self employed, it is very difficult to collect.

If you do not understand any court proceeding, you should contact an attorney for assistance. You have certain legal rights and an attorney can explain these rights to you. **The court clerk cannot give legal advice.**

DEFINITIONS

Plaintiff: The person who files a claim against another person.

Defendant: The person against whom a claim is filed.

Statement of Claim (Complaint): The legal paper filed by the plaintiff briefly describing the claim against the defendant.

Defendant's Answer: The legal paper filed by the defendant admitting or denying all or part of the claim against him/her.

Defendant's Counterclaim: The legal paper filed by the defendant telling the Court and Plaintiff about a claim(s) he has against the plaintiff.

Judgment: A final determination by a Judge of the rights and claims of the parties in an action.

RUSSELL COUNTY SMALL CLAIMS GUIDE

CASE FILED

SERVICE OF DEFENDANT
BY SHERIFF, PROCESS SERVER OR CERTIFIED MAIL

14 DAYS TO ANSWER

IF NO ANSWER: DEFAULT JUDGMENT MAY BE ORDERED

AGREE: CONSENT JUDGMENT MAY BE ORDERED

DENIAL: NOTICE OF TRIAL DATE WILL BE MAILED

JUDGMENT OR FINAL ORDER: PARTIES HAVE 14 DAYS TO APPEAL

JUDGMENT BECOMES FINAL 14 DAYS AFTER DATE OF JUDGMENT

The Plaintiff must notify the Court, *in writing, prior to court*, if the case is settled.

POST-JUDGMENT OPTIONS

(JUDGMENT MUST BE FINAL – APPEAL TIME EXPIRED, upon filing)

1. Garnishment of Wages
Name and address of employer required
Many employers require the last 4 digits of the defendant's social security number-NEVER INCLUDE complete SS#.
2. Garnishment of Bank Account
Name and address of bank required
(Account number needed if possible)
3. Execution
Description of property needed

SERVICE OF DEFENDANT

The plaintiff will be notified promptly by the Court when there has been a return of service or non-service in each case. It is the responsibility of the Plaintiff to notify the Court, *in writing*, of a good and sufficient address. Upon failure to perfect service on the defendant within 120 days from the date of filing, the case will automatically be placed on the administrative docket for dismissal.

IMPORTANT: GENERAL INFORMATION

As plaintiff, you will be notified, *in writing*, of the service or non-service of the defendant(s), notice of court hearings and notice of court orders. There is a charge for all additional copies. All small claims case information is public record and may be accessed from the public access computer in the lobby of the Circuit Clerk's Office. You may, also, submit a "Request for Information or Copies Form, *in writing*, to: Russell County Circuit Court, Small Claims Division, 501 14th Street, Phenix City, AL 36867, with applicable fees.

STATEMENT OF CLAIM
(Complaint)
General

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

IN THE _____ COURT OF _____, ALABAMA
 (Circuit or District) (Name of County)

_____ v. _____
Plaintiff (Name of Plaintiff) **Defendant** (Name of Defendant)

I, affiant, request that the clerk of court, or judge, pursuant to Rule 55(b), Alabama Rules of Civil Procedure (ARCP), enter a default judgment against the above - named defendant,* in the above case for the defendant's failing to plead, answer, or otherwise defend.

The affiant, _____, being duly sworn, states as follows:

1. That the affiant has personal knowledge of the facts set forth in the affidavit.
2. That the defendant was served with a summons and a copy of the Statement of Claim/Complaint on (date) _____.
3. That more than _____ days have elapsed since the defendant was served with a summons and a copy of the Statement of Claim/Complaint.
4. That the defendant has failed to answer or otherwise defend against the plaintiff's Statement of Claim/Complaint.
5. That this affidavit is executed by the affiant in accordance with Rule 55(b), ARCP, for the purpose of enabling the plaintiff to obtain a **default judgment** against the defendant, for the defendant's failing to answer or otherwise defend against the plaintiff's Statement of Claim/Complaint.
6. That the defendant is not an infant or an incompetent person, and there has been no violation of the provisions of Ala. Code 1975, Chapter 19, Title 5.
7. That the defendant is is not in military service.
8. Judgment Conditions: with without waiver of exemptions.
9. That the amount of money claimed by the defendant to the plaintiff is
 - THE SUM OF \$ _____, which is to be determined as follows:
 - Principal Balance \$ _____
 - Interest \$ _____
 - Attorney Fee \$ _____ (if requesting attorney's fees, it must be determined by the judge, not the clerk).
 (If provided by contract, note or law)

SPECIFY PROPERTY (Describe, on a separate sheet of paper, property of which the plaintiff demanded right to possession from the defendant in the Statement of Claim/Complaint.)

10. The affiant requests entry of judgment: By the Court Name of Affiant: _____
 By the Clerk Signature of Affiant: _____

Sworn To and Subscribed Before Me This Affiant's Home or Business Address (if not represented by an attorney): _____

 Date: _____ _____

 City State Zip Code

Officer's Signature Title Name of Attorney: _____

 Signature of Attorney: _____
 Business Address of Attorney: _____

 City State Zip Code

Default judgment is hereby rendered against the defendant in the amount of \$ _____

 Date Judge/Clerk

Default judgment is hereby rendered against the defendant and the plaintiff is awarded right to possession of the property sworn to in the affidavit above.

 Date Judge/Clerk

CERTIFICATE OF SERVICE ON OTHER PARTIES

I hereby certify that a copy of this Application, Affidavit, and Entry of Default Judgment has been sent, by first class mail, postage prepaid, to all parties who are not in default in this case. Signed _____

Rule 55, ARCP
 * Separate form shall be completed for each defendant in cases involving multiple defendants.
 Pursuant to Ala. Code 1975, §12-19-71(a) (10), a filing fee is required when seeking a default judgment pursuant to Rule 55(b), ARCP.

IN THE SMALL CLAIMS COURT OF RUSSELL COUNTY, ALABAMA

_____, *
Plaintiff(s),

VS. * **Case No.** _____

_____, *
Defendant(s).

MOTION

Comes now _____, and moves this
Honorable Court to:

- | | | | |
|-------|------------------------|-------|----------------|
| _____ | Continue case | _____ | Dismiss case |
| _____ | Amend complaint | _____ | Amend judgment |
| _____ | Enter consent judgment | _____ | Reinstate case |
| _____ | Set aside judgment | | |

for the following reason(s):

_____.

This _____ day of _____, 20_____.

Signature

Name (PRINT)

Mailing Address

E-Mail address

Telephone/Cell Phone

KATHY COULTER
Clerk of Circuit Court
Russell County, Alabama



501 14TH Street
Phenix City, AL 36867
334-298-0516

September, 2011

REQUEST FOR COURT DOCUMENT
SEARCHES AND/OR COPY FEES

Copies of Court Orders are forwarded to all parties or their attorneys, if represented by counsel, at the time they are filed in the clerk's office. To receive additional copies of circuit or district court pleadings or files, complete the request form on the reverse side of this document and return it to the Office of the Russell County Circuit Clerk with applicable fees.

TYPE OF SEARCH	AMOUNT
Pending cases	No Fee
Archived records (Non-pending Cases)	25.00
Copies - up to 20 pages – each additional copy .50 cents	5.00
Certification of document	5.00
Certification of No Conviction after Background Check	25.00

Personal checks not accepted.
Requests by mail must include money order. Mail to:
Russell County Circuit Clerk
Mailing address: 501 14th Street
Physical address: 1206 7th Avenue
Phenix City, AL 36867

Due to state budget cuts to the Alabama Judicial System, this office is presently staffed at 54% of the necessary personnel needed to perform the statutory requirements of the Circuit Clerk's Office. Please allow four weeks from date of request.

All requests must be submitted on this form. Fees apply to all requesting parties to include law enforcement and government agencies.

(Request form on back)

REQUEST FOR COURT DOCUMENT SEARCH AND/OR COPIES

RUSSELL COUNTY, AL

DATE: _____

SUBMIT SEPARATE FORM FOR EACH REQUEST WITH PAYMENT.

Specify exactly what you need: Information Copies

Identifying Information i.e., Name(s), Alias, DOB, Last 4 digits of SS#: _____

Case Type and/or Charge: _____

Approximate year(s) and Case Number(s), if known: _____

Certification required? Yes No

Request delivery of documents by? USPS EMAIL
 PICK-UP

USPS: Postage paid envelope must be provided for return.
EMAIL: Certified copies cannot be emailed.
PICK-UP: Upon completion, requestor will be notified for pick-up.

Contact information of individual requesting record search and/or copies:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone Number(s): _____

Email Address: _____

The Circuit Clerk and employees of the Circuit Clerk are not responsible for errors in the information supplied and are not liable for any use or disclosure of said information. This office maintains Russell County Circuit and District Court records only and cannot supply Federal or Municipal records or records from other counties or states.