Residential Landlord-Tenant
Guidelines to Filing of Unlawful Detainer Actions
IN THE DISTRICT COURT OF RUSSELL COUNTY, AL

UNLAWFUL DETAINER ACTIONS
Remedy for eviction in a landlord tenant relationship
Property must be located in Russell County, Alabama

INITIATED BY FILING A COMPLAINT
Form No. C-59
Must include a copy of the lease agreement and pay history
May sue for possession of property and for money damages in the same action
Filing Fee: $ 280.00
Additional Plaintiff 50.00
Additional Defendant 15.00
SEPARATE BUSINESS CHECK REQUIRED FOR EACH FILING
No fee for counterclaim

WHO MAY FILE ACTIONS
Self-representing individual or an attorney licensed in the State of Alabama
Corporations are required to retain legal representation
Recommended that individuals seek advice from an attorney

JURISDICTION
District Court – action of unlawful detainer/eviction in lease/rental agreement

NOTICE TO TENANT
Purpose of notice - to terminate tenancy rights
Must provide for right to cure
Only one notice required unless lease requires more
Seven (7) calendar days (day of notice not included) for failure to pay rent
Fourteen (14) calendar days notice for all other
Alabama law requires that case be ordered dismissed upon landlord's failure to meet notice requirements. Notice requirement cannot be cured after complaint is filed.

SERVICE
Personal service must be attempted for possession complaint.
May use process server: must file Notice of Intent to Use Process Server at time of filing
If unable to make personal service, may be served by posting a copy on the premises
Sheriff/process server must also mail a copy of complaint to defendant by first class mail. (Title 6-6-332, Code of Alabama)
Complaint for money to be served in accordance with Rule 4, ARCP

ANSWER
Seven (7) calendar days to file an answer to complaint for possession of property
Fourteen (14) calendar days to file answer to money claim (if filed in the District Court)

NO ANSWER FILED
Default may be taken
Form No. C-25B
Filing fee of $50.00 per application

DISMISSAL
Motion to dismiss should be filed by plaintiff/attorney if case settles prior to court date

COURT APPEARANCE
Court notices to all parties required to be mailed 14 calendar days prior to trial date
Parties are responsible for maintaining correct mailing address with Clerk's office
If plaintiff does not appear, case will be dismissed for want of prosecution

JUDGMENT
Order entered by judge and forwarded to all parties by clerk
Default judgments and judgments not entered in open court - served on defendant(s)

APPEALS
Order to vacate: Appeal time - Seven (7) calendar days from final/post judgment order
Monetary Judgment: Appeal time - Fourteen (14) calendar days
Form No. C-35
Post-trial motion extends the time for filing a Notice of Appeal

APPEAL BOND
Amount set by District Court Judge
Based on past due rent and accruing rent
May be set by Circuit Judge when necessary
Cash bond MUST be posted with Clerk of Court to stay writ of possession
Affidavit of Substantial Hardship does not waive posting of bond to stay execution

ENFORCEMENT OF COURT ORDER
Cannot be requested until after expiration of the time for filing of appeal/post-judgment motion

Writ of Possession
Landlord/Attorney must file a written request for the Writ of Possession
No filing fee required

Garnishment
Remedy for collection of money judgment
Form No. C-21
Filing fee: $35.00
Must provide name and address of employer
If applicable, completed green certified mail card & receipt

Alabama law prohibits this 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 Unlawful Detainer/Eviction 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, you must seek legal advice from an attorney.

Forms available at: http://eforms.alacourt.gov

You may qualify for free legal help.
Call Legal Services Alabama
1-866-456-4995

SUMMARY TIMELINE FOR RESIDENTIAL EVICTIONS

EFFECTIVE AUGUST 1, 2011

Proceedings	Residential Eviction/Unlawful Detainer
Notice of Termination of Of Lease	Not less than 7 calendar days for nonpayment of rent
	Not less than 7 calendar days for other curable defaults if combined with nonpayment of rent default
	Not less than 7 calendar days for non-curable defaults
	Not less than 14 calendar days for other curable defaults
File Complaint	not before the day after termination notice period is over
Answer filed	within 7 calendar days after service
If no answer filed and plaintiff files an application for possession judgment, entry of Judgment	not before the 8th calendar day after service of process "personal or by posting"
If no answer filed and plaintiff files application for money judgment, entry of judgment	not before the 15th calendar day after "personal service"
Default Requirements	lease (if any); termination notice & rent ascertainment
If answer filed Trial setting	the date of trial must be at least 14 days after the Order setting the case for trial with notice to the parties no later than 3 days after the order
Appeal	within 7 calendar days after entry
Post trial motion	within 7 calendar days after entry

State of Alabama Unified Judicial System Form C-59 Rev. 03/14 (Front)	**STATEMENT OF CLAIM** **Eviction/Unlawful Detainer** **Sections 35-9A-101, et seq., and 6-6-310, et seq., *Ala. Code 1975***	Case Number

IN THE _____ COURT OF _____ COUNTY, ALABAMA

_____ **v.** _____

PLAINTIFF(S) **DEFENDANT(S)**

ADDRESS: _____ **ADDRESS:** _____

_____ _____

PLAINTIFF'S ATTORNEY (if applicable): _____

ADDRESS: _____

COMPLAINT

1. Plaintiff(s) demands the right to possession from the defendant(s) of the following described residential, commercial or other real property located at: _____

2. Defendant(s) no longer has the right to possession because: _____

3. Defendant(s) right of possession has been lawfully terminated by written notice.

4. Plaintiff(s) also claims the sum of $ _____ plus court costs from the Defendant(s) consisting of: unpaid rent and late charges, plus attorney's fees (if applicable) and other charges.

5. Plaintiff(s) also claims future rent and late charges, plus attorney's fees (if applicable) and other charges accruing through the date Plaintiff(s) obtains possession of the above described property.

_____ _____

Clerk Plaintiff or Attorney Signature

Address: _____ Phone Number: (___) _____

_____ Attorney Code: _____

NOTICE TO DEFENDANT(S) - READ CAREFULLY

This eviction or unlawful detainer complaint must be answered by you within seven (7) days after these papers were either served or posted at the leased premises as provided by law. Your answer must be received by the Court Clerk at the above address within the above seven (7) days. A copy of the answer must be sent to the Plaintiff(s) or Plaintiff(s)' Attorney at the above address. If you file an answer, a notice of trial will be mailed to you; otherwise, a judgment may be entered against you.

IN THE DISTRICT COURT OF RUSSELL COUNTY, ALABAMA

_____,)
Plaintiff

VS.) **Case No.** _____

_____,)
Defendant

NOTICE OF INTENT TO SERVE BY PROCESS SERVER

Comes now the plaintiff, in the above styled cause, and requests service on the defendant(s) by process server of the following document(s):

_____

Done this _____ day of _____, 20_____.

_____ _____
Plaintiff (typed/printed) Plaintiff (signature)

PROCESS SERVER:

Name: _____

Address: _____

Phone #s: _____

Email: _____

_____ Mail service copy to plaintiff.

_____ Mail service copy to process server.

_____ Service copy to be picked up. (Clerk will email/call when ready)

STATE OF ALABAMA
Unified Judicial System

Revised 3/23/05

_____County

Check one (*Not for Workers' Comp., PFA, or Small Claims cases*): ☐ District Court ☐ Circuit Court

►Case No.

Style of case:

v.

CIVIL MOTION COVER SHEET

Name of Filing Party:

Name, Address, and Telephone No. of Attorney or Party, If Not Represented:

Attorney Alabama State Bar No.:

To be filled out by Clerk of Court:
- ☐ Filing Fee Charged and Collected (Amt $_____)
- ☐ Filing Fee Not Required
- ☐ Affidavit of Hardship on File or State Agency

Type of Motion (Check One)

Motions Requiring Fee

- ☐ Default Judgment ($50.00)
- ☐ Joinder in Other Party's Dispositive Motion (i.e. Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) ($50.00)
- ☐ Judgment on the Pleadings ($50.00)
- ☐ Motion to Dismiss, or in the Alternative Summary Judgment ($50.00)
- ☐ Renewed Dispositive Motion (Summary Judgment, Judgment on the Pleadings, or other Dispositive Motion not pursuant to Rule 12(b)) ($50.00)
- ☐ Summary Judgment Pursuant to Rule 56 ($50.00)
- ☐ Other _____, pursuant to Rule_____($50.00)

* Motion fees are enumerated in §12-19-71(a). Fees pursuant to Local Act are not included. Please contact the Clerk of the Court regarding applicable local fees.

☐ Local Court Cost $_____

Hearing Date:

Motions Not Requiring Fee

- ☐ Add Party
- ☐ Amend
- ☐ Change of Venue/Transfer
- ☐ Compel
- ☐ Consolidation
- ☐ Continue
- ☐ Deposition
- ☐ Designate a Mediator
- ☐ Judgment as a Matter of Law (during trial)
- ☐ Disburse Funds
- ☐ Extension of Time
- ☐ In Limine
- ☐ Joinder
- ☐ More Definite Statement
- ☐ Motion to Dismiss pursuant to Rule 12(b)
- ☐ New Trial
- ☐ Objection of Exemptions Claimed
- ☐ Pendente Lite
- ☐ Plaintiff's Motion to Dismiss
- ☐ Preliminary Injunction
- ☐ Protective Order
- ☐ Quash
- ☐ Release from Stay of Execution
- ☐ Revive Judgment
- ☐ Sanctions
- ☐ Sever
- ☐ Special Practice in Alabama
- ☐ Stay
- ☐ Strike
- ☐ Supplement to Pending Motion
- ☐ Vacate or Modify
- ☐ Withdraw
- ☐ Other_____, pursuant to Rule_____(Subject to filing fee)

Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. ☐

Date:

*Signature of **Attorney** or **Party**:*

* This Cover Sheet must be completed, signed **by the filing attorney or party,** and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

** Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.

State of Alabama Unified Judicial System Form C-25B Rev. 6/07	**APPLICATION AND AFFIDAVIT FOR ENTRY OF DEFAULT JUDGMENT** **(FOR UNLAWFUL DETAINER)**	Case Number

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

_____v._____
Plaintiff Defendant

I, affiant, request that the clerk of court, or judge, pursuant to Rule 55(b), Alabama Rules of Civil Procedure (ARCP), enter default 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 unlawful detainer complaint was served, or posted and mailed, on (date) _____.
3. That more than _____ days have elapsed since the unlawful detainer complaint was served, or posted and mailed as required by law.
4. That the defendant has failed to answer or otherwise defend against the plaintiff's Unlawful Detainer 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 for possession of the property, and money sued for, because of the** defendant's failing to answer or otherwise defend against the Plaintiff's unlawful detainer 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 the military service.
8. Judgment Conditions: □ with □ without waiver of exemptions.
9. That the property made the basis of this unlawful detainer is described as follows:

   _____

   _____

   _____

   _____.

10. Plaintiff has not accepted any rents or other payments since the termination of the rental agreement.
11. The termination notice with necessary proof of service and any written rental agreement are attached.
12. The monthly rental for this leasehold is the following sum: $_____. Rent is due on the 1st of the month. The amount of rental that has accrued since filing to date is: _____.

Sworn To and Subscribed Before Me This

Date:_____

_____ _____
Officer's Signature Title

Name of Attorney:_____

Signature of Attorney:_____

Business Address of Attorney:_____

_____

_____
City State Zip Code

Plaintiff specifically requests that the Court defer rendition of a money judgment until that issue is ripe for jurisdictional and evidentiary adjudication.

Original – Court File Copy - Plaintiff Copy - Defendant

State of Alabama Unified Judicial System Form C-17 Rev. 10/86	**NOTICE OR STIPULATION FOR DISMISSAL**	Case Number

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

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

STIPULATION

It is hereby stipulated that the above styled action may be dismissed ☐ with ☐ without prejudice and costs taxed to ☐ plaintiff ☐ defendant.

_____ _____ _____ _____
Signature of Plaintiff/ Attorney Date Signature of Defendant/ Attorney Date

_____ _____
Type Name of Plaintiff/Attorney Type name of Defendant/Attorney

NOTICE

Please take notice that the above styled action is hereby dismissed.

_____ _____ _____ _____
Signature of Plaintiff/ Attorney Date Signature of Defendant/ Attorney Date

_____
Type Name of Plaintiff/Attorney

ORDER OF DISMISSAL

It is hereby ordered that the above styled case be dismissed ☐ with ☐ without prejudice and costs taxed to ☐ plaintiff ☐ defendant.

_____ _____
Date Judge

State of Alabama Unified Judicial System Form C-59A Rev. 6/07	**WRIT OF RESTITUTION OR POSSESSION** **(Forcible Entry and Unlawful Detainer Actions)**	**Case Number**

IN THE _____ **COURT OF** _____**, ALABAMA**

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

To any law enforcement officer of the above-named county in the State of Alabama:

You are hereby commanded to restore the plaintiff (lessor) to possession of the land and tenements which the plaintiff recovered of the defendant (lessee) in an action of forcible entry and detainer before me on _____ (date) at _____ _____ (description of land and tenements).

You are further directed to recover the sum of $ _____ from the goods, chattels, lands, and tenements of the defendant for costs on which the plaintiff has expended.

_____. _____
Date Judge/Clerk