

# CONTRACTUAL DISPUTES

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## BRIEF DESCRIPTION

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- ❖ A valid contract is a legally enforceable agreement between two or more parties for the exchange of goods or services. The elements of a valid contract are (1) offer, (2) acceptance, (3) exchange, and (4) consideration. To determine whether a contract is valid an individual must first determine whether the contract deals with goods:
  - **Goods** – contracts governing the sale of goods fall under the Uniform Commercial Code (UCC).
  - **Other** – contracts dealing with the sale of other objects or services (not goods) fall under the common law.
- ❖ Contracts are addressed in the Alabama State Code §7 – Commercial Code.
- ❖ See also *Freeman vs. First State Bank of Albertville*, 401 So.2d 11 (Ala. 1981) (stating that “[t]he elements of a contract are: (1) agreement; (2) consideration; (3) two or more contracting parties; (4) legal object; and (5) capacity.”).

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## ADDITIONAL INFORMATION

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- ❖ Statute of Frauds
  - The Alabama Statute of Frauds is addressed in the Alabama State Code §7-2-201.
  - In Alabama, contracts for the sale of goods, \$500.00 or more in value, are not valid unless transcribed in a writing that evidences the existence of a valid contract between the parties. Additionally, contracts for the sale of land, answering the debt of a third party, and which cannot be completed within one year must also be in writing:
    - Exceptions include:
      1. If payment for the contract is already complete or the party the claim is filed against admits that a valid contract exists.
      2. The goods were “specially manufactured” to serve a specific purpose of the buyer.
  - The Parol Evidence Rule may impact what additional information may be allowed to supplement a seemingly complete contract.

- ❖ Promissory Estoppel
  - In certain instances, recovery is possible for a party's failure to fulfill a promise. When that promise is relied upon to the detriment of one party, that person may have a claim for promissory estoppel.
- ❖ Legally Enforceable
  - To be enforceable, all contracts must be for a legally permissible purpose.
- ❖ Capacity
  - The permissibility of a case for capacity to contract against a minor or mentally handicapped individual is briefly addressed in the Alabama Rules of Civil Procedure §17(c).
  - The capacity to sue and to be sued is a matter of substantive law in the State of Alabama. Typically, the contracting party must be (1) of legal age to enter into the contract and (2) have sufficient mental capacity to understand the meaning of the contract.

RULES & REGULATIONS

- ❖ The statute of limitations is six years from the formation of the contract and ten years if the contract is under seal (unless the term is changed in contract). *See* §§6-2-33 to 6-2-34.

FILING INSTRUCTIONS

- ❖ The type of form an individual needs to file a contractual claim depends on the amount 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: 4 |
| Between \$1.00 and \$3,000.00   | Complaint Form (General) – Form SM-1                               | Can be found on page: 7 |

- ❖ The type of form an individual needs to respond to a contractual 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: 10 |
| Defendant's Counterclaim – Form SM-6 | Can be found on page: 13 |

# COMPLAINT FORM (EXCEPT SMALL CLAIMS & DETINUE ACTIONS)

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## GENERAL PURPOSE

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- ❖ 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.

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## STATUTE OF LIMITATIONS

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

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## GENERAL NOTES

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

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## FILING INSTRUCTIONS

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- ❖ 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).

# 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)

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### GENERAL PURPOSE

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- ❖ 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.
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### STATUTE OF LIMITATIONS

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

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

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- ❖ 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).

**STATEMENT OF CLAIM**  
**(Complaint)**  
**General**

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

**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

# DEFENDANT'S ANSWER

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## GENERAL PURPOSE

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- ❖ 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.
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## STATUTE OF LIMITATIONS

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- ❖ 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.
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## GENERAL NOTES

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

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- ❖ 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.
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## FEES & COSTS

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- ❖ 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

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## GENERAL PURPOSE

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- ❖ 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.
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## STATUTE OF LIMITATIONS

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- ❖ 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.
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## GENERAL NOTES

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- ❖ This form may be submitted in legible handwriting.
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## FILING INSTRUCTIONS

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- ❖ 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.
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## FEES & COSTS

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- ❖ 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.

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.