

PARK COUNTY JUSTICE COURT OF RECORD CIVIL INSTRUCTIONS

The following information and forms are provided to file a civil action. You are the Plaintiff, and the other party is the Defendant.

Legal Advice

The judge or clerk of the justice court cannot give you legal advice. If you need legal advice, contact an attorney. We may only assist you by making the necessary forms and instructions available and advising you of the procedures available to pursue or defend a civil action. For further information, you should consult and be familiar with the **Justice and City Court Civil Rules**, which can be found in Title 25, chapter 23 of the Montana Code Annotated and the **Montana Uniform Rules for the Justice and City Courts**, which can be found in Title 25, chapter 24 of the Montana Code Annotated. The MT Code Annotated may be accessed online at: <https://leg.mt.gov/bills/mca/index.htm>

Jurisdiction Amount

The amount requested in the complaint cannot exceed \$15,000.00 excluding costs. Further limits on the jurisdiction of justice court can be found at 3-10-301 through 3-10-304 MCA.

Type of Actions

The justice court has jurisdiction over (1) actions on a contract for recovery of money, (2) actions for damages for taking, detaining, or injuring personal or real property, (3) actions to recover personal property, and (4) actions for damages for injury to the person. The justice court does not have jurisdiction when the action involves title to real property, false imprisonment, libel, slander, seduction, malicious prosecution, determination of paternity, or abduction.

Attorneys & Self Representation

An attorney is not required to pursue a claim or defend yourself in a civil action. However, **please note** that you can only file or defend a claim on your own behalf, not on behalf of another person, corporation, business trust, estate, trust, partnership, limited liability company, or any entity or association comprised of two or more persons having a joint or common interest.

You have the right to obtain an attorney at any time prior to or during the proceedings. If you need help or instruction beyond these forms, you will need to consult with an attorney.

Evictions

If you are the landlord seeking possession of your rental property your packet will contain the summons for 5 **business** days instead of 20 calendar days. Eviction hearings are held within 10 business day if an answer is filed. Damage hearings held within 45 days after eviction is resolved.

Forms

The forms required to file a civil action are: complaint, summons, and praecipe. A *complaint* is a brief and concise statement of the facts. It must include the dollar amount requested and any additional costs (such as interest, court costs). The defendant's name & address must be at the bottom. Your name, address, & signature must be at the bottom.

The plaintiff must prepare a *summons* to be served on the opposing party. It informs the defendant of the time limitations to file an answer or counterclaim and the penalties that may occur for failure to answer. The summons should only state the plaintiff & defendants names at the top. The clerk will sign & date it.

The *praecipe* instructs the sheriff or process server on where to serve the defendant. Each defendant named must be served. The server needs a physical address. Provide the server with any information that would help them to locate the defendant.

Service

The defendant must be served a copy of the complaint & summons. Service must be made within the state of Montana. If you are serving a corporation, partnership, or person who resides outside the state of Montana, consult Rule 4 of the Justice & City Court Civil Rules. You cannot serve the defendant yourself. You can serve the defendant by having a levying officer or the sheriff give the forms to the defendant. The plaintiff will be notified by the Sheriff or server that the defendant has been served. Proof of service must be signed by the person making the service & filed with the clerk of the justice court. **Plaintiff MUST be sure that the original summons is returned to the court.** No action will be taken unless a return of service is filed with the court.

The clerk maintains a list of qualified levying officers. You will be required to pay all fees of the levying officer or sheriff. The fees for service varies, you should contact the server to find out the fee. It is your responsibility to provide the appropriate papers and any fee to the process server after they have been returned to you by the Court.

Answer

If the defendant denies the debt or disagrees with the Complaint, each defendant must file a written answer with the court **within 20 calendar days after service.**

If the complaint is for an eviction, the answer must be filed within **5 business days.** A counterclaim may also be filed at this time.

Answer with **Counterclaim must be served** by the sheriff or a process server on each plaintiff. The plaintiff has **20 calendar days** to answer the counterclaim.

Default Judgment

You may request to enter a default judgment against the defendant if an answer is not filed within 20 calendar days of service. You cannot receive a default judgment for more than you asked for in your complaint. There is no judgment fee if you receive a default judgment. Ask the clerk for the proper form.

Pre-Trial Conference

If the defendant files a written answer denying the claim, the parties will be scheduled for a pre-trial conference. The court will notify both parties of the date and time. This allows both parties to meet in the courtroom to try & reach a settlement. If a settlement is not reached the case will proceed to a trial. If the plaintiff fails to appear for the pre-trial conference, the claim will be dismissed with prejudice.

Continuances

A continuance or resetting of a hearing or trial may be granted only upon a showing of good cause. You should contact the other party and advise them that you are requesting a continuance and why. A motion and order for continuance must be made in writing and mailed to the opposing party or counsel. No continuance will be granted if not timely made.

Trial

You must attend the trial. Failure to attend the trial will result in a dismissal of your complaint. Each party is responsible to prove to the court the facts of their side of the case. Be sure to bring along any witnesses, written documents, papers, or other evidence that will support your position. If you do not bring evidence to trial, it will not be considered by the court. The court does not accept written statements from witnesses – all witnesses must appear at trial to give testimony. If you intend to introduce papers or documents to the court at trial, you must bring a copy for the opposing party.

Judgment

The judge will consider all the evidence presented at the trial & may pronounce judgment orally at the end of the trial or issue a written judgment within 30 days. You will be required to pay a judgment fee of \$20 if the judgment is in your favor. Your evidence is held for thirty days after the Judgment is issued. After that time, you may pick up your evidence from the court. The court will not mail the evidence back to you. The judgment is valid for 10 years.

Appeal

Any party dissatisfied with the judgment rendered in a civil action in a city or justice's court may appeal therefrom to the district court of the county at any time within 30 days after the rendition of the judgment. The cost of filing an appeal is a filing fee of \$330 plus the cost of judgment. Please note the court accepts cash/check only.

Collection of the Judgment

After the party receives judgment, the amount is due and payable upon demand. You will have to collect the money yourself if you win in court. The court will not collect the judgment for you. If the parties wish to negotiate a payment plan, they may do so. The parties are advised that if payment is not made voluntarily, there will be costs associated with collection of the judgment. Collection of a judgment can be difficult and time consuming. A separate packet is available from the court regarding collections.

Satisfaction

Plaintiff **MUST** notify the court as soon as the Judgment is satisfied (paid in full). Plaintiff will be responsible if the judgment is satisfied and NOT cleared from the debtor's record in court.

CLERKS CANNOT HELP YOU FILL OUT THE FORMS

For Legal help:

Consult a private attorney

Web sites: This is not a complete list

Montanalawhelp.org

<https://www.mtlsa.org>

Askkarla.org

Court.mt.gov

Montana Code Annotated <https://leg.mt.gov/bills/mca/index.htm>

MCA – Civil Process

Title 25

MCA - Landlord Tenant

Title 70 (Property) Chapter 24

MCA – Security Deposits

Title 70 (Property) Chapter 25

MCA- Mobile Home Act

Title 70 (Property) Chapter 33 and Title 70 Chapter 24

MCA - Proper Notice

Title 70 (Property) Chapter 24

MCA – Small Claims

Title 70 (Property) Chapter 25