



**JUSTICE COURT
205 Bedford Street
Hamilton, MT 59840**

Filing a Civil Suit: Guidelines and Forms

These are basic guidelines relating to a civil suit, and it will be to your advantage to review them prior to filing a Complaint. While they provide basic information, they are not intended to be all-inclusive of the rules and requirements relating to Justice Court lawsuits. As a party to a civil action, it is your responsibility to proceed under the laws of the Montana Codes Annotated (MCA). They are available at the library or can be accessed on line. Justice Court can give you information on how to file a lawsuit, but the law prohibits us from providing you with legal advice or interpreting the law as it relates to a civil suit. If you have questions, please contact an attorney.

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|---------------------|--|
| Claim limit: | \$12,000 |
| Court filing fee: | \$50.00 |
| Service fee: | Varies but is generally between \$55 and \$75 for each person served |
| Judgment fee | \$20.00 (All Judgments issued with the exception of Defaults) |

HELPFUL WEBSITES

| | |
|--------------------|--|
| Montana Codes: | http://data.opi.mt.gov/bills/mca_toc/index.htm |
| Civil Court forms: | http://courts.mt.gov/library/topic/civil_forms.mcp |
| Reference sites: | www.courts.mt.gov www.montanalawhelp.org www.lawlibrary.mt.gov |

WHO MAY FILE A CIVIL SUIT?

An attorney must file the Complaint if the Plaintiff is a corporation, limited liability company, or partnership [pursuant to Montana law at Section 25-23-Rules 2 and 4A(3) MCA] or an agent filing on behalf of another person [pursuant to Montana law at Section 25-23-Rule 2 and Rule 4A(2) MCA].

A person may file the Complaint on behalf of himself or herself or a person who is operating under a trade name [pursuant to Section 25-23-Rule 2 and Rule 4A(1) MCA]. A minor must file a Complaint through a parent or guardian [pursuant to Montana law at Section 27-1-511, MCA].

VENUE (proper place for trial)

Proper venues are listed in Section 25-23-Rule 3; they include the County where the Defendant resides or the County where the contract or obligation was to be performed. Justice Court does not have jurisdiction outside the State of Montana; therefore, if a Defendant resides in another State, the Complaint must be filed in District Court.

POSSESSION OF RENTAL PROPERTY

If you are seeking possession of rental property, you must serve a Notice to Vacate on the renter before initiating a civil suit. A copy of the Notice must be attached to the Complaint. If you have questions about your rights and responsibilities as a Landlord, please contact an attorney or refer to the Landlord-Tenant Act in the Montana Statutes. The website is listed below.

Landlord-Tenant Act..... http://data.opi.mt.gov/bills/mca_toc/index.htm
(Section 70, Chapter 24)

Landlord-Tenant issues.....<http://www.doj.mt.gov/consumer/tenantslandlords.asp>
<http://www.montanafairhousing.org>

FORMS

Please Provide All Necessary Copies Prior to Filing

There are three forms that need to be completed. Please print! The party filing the lawsuit is the Petitioner, and the person being sued is the Defendant. You must complete all the forms, provide all the necessary copies, and pay the filing fee before your suit will be filed.

Complaint: **Required copies: original, copy for each Defendant, copy for your records.**

Complete the heading (names of Petitioner and Defendant) at the top of the page. Provide a brief, concise statement of the facts making up your complaint against the Defendant. Then indicate what you want as a Judgment against the Defendant. I Date and complete the bottom portion of the form.

Possession of Rental Property: If you are seeking possession of rental property, be sure to state that request in the Complaint. You must also attach a copy of the Notice to Vacate to the Complaint.

Summons: **Required copies: original, copy for the Court, copy for each Defendant, and a copy for your records.**

There are two Summons attached in this packet: a 20 day Summons and a 10 day Summons. Complete the 10 day Summons when possession of rental property is requested. Complete the heading of the appropriate Summons, as well as the address information at the bottom of the page.

Praecipe: **Required copies: original and one copy for your records.**

This form provides information as to where the Respondent can be served with the Summons and Complaint. Please complete the heading, and provide a physical address where the Defendant can be personally served.

SERVICE OF DOCUMENTS

The Plaintiff - not the Court - is responsible for arranging service of the documents. The Statutes address service of documents in Section 25-23-Rule 4.D. Service can be made through the Sheriff's Office (375-4060). Their office is located on the main floor of the Courthouse in the far north wing. In addition, three private process servers have listed their services with the Court:

Equity Process Management 721-0372

Buzzell & Associates 363-7277

After service has been made, please return the original Summons, the Certificate of Service, and the statement for service costs to the Court.

DEFENDANT'S RESPONSE TO THE COMPLAINT

Answer: After a Defendant has been served with the Summons, he/she has 20 calendar days (excluding the date of service) to file an answer. If a Defendant has been served with a 10 day Summons for possession of property, then the response must be filed within 10 business days.

Counterclaim: At the time an Answer is filed, the Defendant may file a Counterclaim against the Plaintiff. The Plaintiff has 20 calendar days after service of the Counterclaim to file a response with the Court. If Plaintiff fails to do so, the Defendant may file a written request to enter a default judgment against the Plaintiff for the relief sought in the Counterclaim.

DEFENDANT'S FAILURE TO RESPOND TO THE COMPLAINT

If the Defendant fails to file an answer within the time specified in the Summons, the Plaintiff may file a written request for default judgment, specifying all amounts due.

PRETRIAL / TRIAL

If an Answer is filed, a pretrial hearing will be set and notices mailed to the parties. The pretrial is an informal hearing held in the Courtroom between the parties. This hearing is scheduled for the benefit of the parties and allows for a full and fair discussion of the issues of the lawsuit filed. Settlement is highly possible at a pretrial and can save the parties the cost and time of going to a formal trial. If the Plaintiff fails to appear at the pretrial or trial, the Complaint will be dismissed. If the Defendant fails to appear at the pretrial or trial, a default judgment may be issued.

If a settlement is reached at the pretrial, the Judge will docket the terms of the settlement, dismissal, or judgment. If no settlement is reached, the Court will set the case for trial.

JUDGMENT / APPEAL

If a judgment is issued and either party is dissatisfied with the results, an appeal can be filed to District Court. In that event, it is the appealing party's responsibility to follow the procedures and requirements set forth in the Montana Statutes under Section 25, Chapter 33.

COLLECTION OF JUDGMENT

These are basic guidelines relating to collection of a Justice Court judgment. Neither the Judge nor the Clerk can provide you with advice or interpretation of law as it relates to judgment collections. If you have questions or are unsure about the procedures, refer to the Montana Statutes or contact an attorney.

Certification of Judgment: A Judgment can be certified to District Court and effectively creates a lien of any real property owned by the Judgment Debtor. A written request for a certification must include a \$3 check payable to Ravalli County Justice Court and a \$45 check payable to Ravalli County District Court. Please include a self-addressed, stamped envelope with your request. (A certification can also be filed in other Counties where the Judgment Debtor may own real property.)

Writ of Execution: After being awarded a Judgment, you may file a written request for a Writ of Execution. A Writ can be used to garnish wages or execute against a checking or savings account. A Writ can only be served by the Sheriff's Office or a licensed levying officer. You will need to provide specific information to the Sheriff's Office or levying officer as to where you want the Writ served -- name and address of an employer or bank. Very specific laws govern the service of a Writ of Execution and, ultimately, you are responsible for insuring that all requirements are met.

Satisfaction of Judgment: A Satisfaction of Judgment must be filed with the Court as soon as the Judgment has been paid.

MISCELLANEOUS

Documents Filed with the Court: A copy of any document filed with the Court must include a statement that you have mailed a copy of it to the opposing party.

Motions: When a Motion is filed with the Court, it must include a basis for the request. A copy must be mailed to the other party (or the party's attorney), and that party then has ten days to file a response to the Motion.

Satisfaction of Judgment: When a Judgment has been paid in full, the judgment creditor must file a "Satisfaction of Judgment" with the Court, and a copy must be mailed to the judgment debtor.

Dismissal of Complaint: If the Plaintiff no longer wishes to pursue his/her Complaint against the Defendant, a Notice of Dismissal should be filed with the Court, with a copy mailed to the Defendant.

Change of Address: If your mailing address changes at any time during the proceedings, please notify the Court immediately.

Ravalli County Justice Court
205 Bedford Street
Hamilton, Montana 59840

IN THE JUSTICE COURT OF RAVALLI COUNTY, STATE OF MONTANA

| | |
|----------------|----------------|
| _____) | |
| _____) | |
| Plaintiff(s)) | Judge: _____ |
| _____) | Case No: _____ |
| vs) | |
| _____) | COMPLAINT |
| _____) | |
| Defendant(s)) | |

COMES NOW, the Plaintiff(s) and claims relief against Defendant(s) as follows [please provide a brief, concise statement of the facts making up your Complaint]:

WHEREFORE, Plaintiff(s) request that judgment be issued by the Court against the Defendant(s) as follows, together with filing fees and costs of suit

Dated _____

Plaintiff's Signature

Defendant's Name

Plaintiff's Mailing Address

Defendant's Mailing Address

City/State/Zip Code

City/State/Zip Code

Phone

Phone

Required copies: original, copy for each defendant, copy for your records

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Hamilton, Montana 59840

IN THE JUSTICE COURT OF RAVALLI COUNTY, STATE OF MONTANA

| | |
|----------------|-------------------------|
| _____) | |
| _____) | |
| Plaintiff(s)) | Judge: _____ |
| vs) | Case No: _____ |
| _____) | |
| Defendant(s)) | TWENTY (20) DAY SUMMONS |

THE STATE OF MONTANA, TO THE ABOVE NAMED DEFENDANT(S), GREETINGS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, which is filed in the above entitled Court. A copy of same is served upon you. In the event that you deny any or all of the material facts stated in the Complaint, you must file your written Answer with the above-entitled Court, together with a **\$30 answer fee for each Defendant**. A copy of your Answer must be served upon the Plaintiff or the attorney at the address shown on the Complaint.

The Answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a Counterclaim within **twenty (20) days** after service of the Complaint and Summons, the Plaintiff may request entry of default judgment against you for the relief demanded in the Complaint.

Dated _____

Name of Plaintiff or Plaintiff's Attorney

Justice of the Peace

Street Address or Post Office Box

City/State/Zip Code

Clerk of Court

Phone Number

Required copies: original, copy for each defendant, copy for your records

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205 Bedford Street
Hamilton, Montana 59840

IN THE JUSTICE COURT OF RAVALLI COUNTY, STATE OF MONTANA

| | |
|----------------|--|
| _____) | |
| _____) | |
| Plaintiff(s)) | Judge: _____ |
| vs) | Case No: _____ |
| _____) | |
| _____) | <u>10 Day Summons for</u> |
| Defendant(s)) | <u>Possession of Rental Property only</u> |

THE STATE OF MONTANA, TO THE ABOVE NAMED DEFENDANT(S), GREETINGS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, which is filed in the above entitled Court. A copy of same is served upon you. In the event that you deny any or all of the material facts stated in the Complaint, you must file your written Answer with the above-entitled Court, together with a **\$30 answer fee for each Defendant**. A copy of your Answer must be served upon the Plaintiff or the attorney at the address shown on the Complaint.

The Answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a Counterclaim within **ten (10) days** (exclusive of Saturdays, Sundays, and legal holidays) after service of the Complaint and Summons, the Plaintiff may request entry of default judgment against you for the relief demanded in the Complaint.

Dated _____

Name of Plaintiff or Plaintiff's Attorney

Justice of the Peace

Street Address or Post Office Box

City/State/Zip Code

Clerk of Court

Phone Number

Required copies: original, copy for each defendant, copy for your records

Ravalli County Justice Court
205 Bedford Street
Hamilton, Montana 59840

IN THE JUSTICE COURT OF RAVALLI COUNTY, STATE OF MONTANA

| | | |
|--------------|---|---|
| _____ |) | |
| _____ |) | |
| Plaintiff(s) |) | Judge: _____ |
| vs |) | Case No: _____ |
| _____ |) | |
| Defendant(s) |) | PRAECIPE [Instructions for Service of Documents] |

TO: Ravalli County Sheriff, Ravalli County Process Server

Please serve the attached Complaint and Summons on Defendant(s) as follows. [You must provide a physical address where the Defendant or Defendants can be served. A post office box is not acceptable.]

Home _____
Work _____
Other _____

Please return the original Summons, certificate of service, and a statement of costs to the Plaintiff at the address listed below:

Dated _____

Plaintiff's name

Street Address or Post Office Box

City/State/Zip Code

Phone Number

Required copies: original and copy for your records