JUSTICE COURT
205 Bedford Street
Hamilton, MT 59840

Filing a Small Claims Complaint: Guidelines and Forms

These are basic guidelines relating to a small claims action. Neither the Judge nor the Clerk can provide legal advice or interpretation of law as it relates to a small claims suit. Please review the attached "Citizens Guide" before filing the Complaint. If you have questions or are unsure about certain procedures, seek legal advice from an attorney or refer to the Montana Statutes at *http://data.opi.state.mt.us/bills/mca_toc/index.htm and, specifically, Section 25-35-501*-25-35-807.

Pre-filing requirement:	**Prior to filing the Complaint, a certified letter must be sent to the Defendant, demanding payment or return of property. A copy of the letter must be attached to the Complaint.**
Jurisdictional Limits:	Recovery of personal property or money
Amount of Claim:	May not exceed $7000
Representation:	A party may not be represented by an attorney in Small Claims unless both parties agree to have counsel
Service on Defendant:	Defendant must be served in Ravalli County
Signing the Complaint:	Plaintiff must personally appear and sign the Complaint before a Clerk
Filing Fee:	$20.00

FORMS AND COPIES

PRAECIPE: This form provides instructions to the Sheriff's Office or process server where to serve the Defendant. Complete the heading and provide a physical address [not a post office box] in Ravalli County where the Defendant can be served.

COMPLAINT: Complete the heading. Indicate the amount of money being requested and a brief description of what it represents, or describe the personal property you want returned.

COPIES: **Please paperclip or staple each of the 4 packets and label them**

Service packet:	Praecipe, original Complaint, copy of the demand letter
Defendant's packet:	copy of the Complaint, demand letter and Citizens Guide
Plaintiff's packet:	copy of the Complaint, demand letter and Citizens Guide
Court's packet:	copy of the Complaint and demand letter

SERVICE OF COMPLAINT ON DEFENDANT

The Plaintiff - not the Court - is responsible for arranging service on the Defendant pursuant to the Montana Statutes. Service may be made by the Sheriff's Office or process server. Some process servers have posted their numbers on the bulletin board.

The Defendant must be served at least 5 days prior to trial. If service has not been made within that time, return all the documents to Justice Court so the hearing can be re-scheduled.

After the Complaint/Order has been served, the original will be returned to you together with an Affidavit of Service and a statement of the service charges.

PLEASE RETURN THE ORIGINAL COMPLAINT/ORDER AND AFFIDAVIT OF SERVICE TO THE COURT AT LEAST 5 DAYS PRIOR TO THE HEARING!

In the Justice Court of Ravalli County, State of Montana,
Hamilton, Montana

SMALL CLAIMS DIVISION

_____	)	
Plaintiff	)	Judge _____
	)	
	)	Case No. _____
vs	)	
	)	COMPLAINT / ORDER OF THE COURT
_____	)	
Defendant	)	

Plaintiff's address: _____

Home phone_____ Business or cell _____

Defendant's address: _____

Home phone_____ Business or cell _____

COMPLAINT

The Plaintiff, being first duly sworn, upon oath, and complains and alleges that the Defendant is indebted to the Plaintiff in the sum of $_____ for _____
_____
_____
and/or the return of the following personal property _____
_____
_____
which is due and owing despite demands for the same, together with Plaintiff(s) costs of suit in this action.

NOTICE TO PLAINTIFF: Defendant must be served at least 5 days prior to the scheduled date. If not, you must recover your paperwork from the Sheriff's Office or process server and return it to the Clerk of Court so the date can be reset.

Signed and sworn to before the Clerk of Justice Court, Small Claims Division on _____

_____ _____
Plaintiff Clerk

Order of the Court / Notice to Defendant

The State of Montana to Defendant: You are hereby Ordered to appear and answer this Complaint at the Ravalli County Justice Court/Small Claims Division, Ravalli County Courthouse, 205 Bedford St., Hamilton, MT on the dates and times indicated below. Failure to do so may result in your default being entered and a Judgment being issued against you for the relief requested by the Plaintiff together with all costs of suit, including costs of service of this Complaint/Order. At the trial, you must bring with you all books, papers, and witnesses needed to establish your defense to the claim.

PRETRIAL_____ **at** _____ **TRIAL**_____ **at** _____

☐ Hearing reset for the following date(s)

PRETRIAL_____ **at** _____ **TRIAL**_____ **at** _____

Within 10 days of service of this Complaint/Order, you may remove the case from Small Claims to Justice Court. Failure to remove shall constitute a waiver of your right to a jury trial and waiver to be represented by an attorney. Please consult the "Citizens Guide" for information and guidance relating to this matter.

Dated _____ By _____ Clerk

Small Claims Court

CITIZENS GUIDE

Information
Provided by the
Office of Attorney General
Department of Justice
State of Montana

SMALL CLAIMS COURT

PLAINTIFF

Before filing a Complaint, you must first send a certified letter to the Defendant demanding payment by a specific time. A copy of the letter must be attached to the Complaint. At trial, you will need to provide proof of mailing the letter.

The sum of money or value of property being sought must not exceed $7000.

The action must be filed in the County where Defendant lives or in a County where the Defendant can be served.

Consider using a mediator or third party to assist in settling the dispute.

Complete all information on the Complaint / Order, including names of the parties, addresses and phone numbers. If you are suing a corporation, make sure the correct legal name is listed. You must pay a $20 filing fee; however, if you cannot afford the fee, you may complete an affidavit requesting the Court to waive the fee.

In filing the Complaint, provide the appropriate number of copies.

Request the Court to issue subpoenas for witnesses you will need at trial.

If Defendant is not served at least 5 days before the trial, a new hearing date must be set.

Bring all evidence, documents, witnesses to the trial.

If case settles prior to trial, file a signed statement with the Court and request that the case be continued without date or dismissed.

Appeals of a Court's decision must be filed within 10 days from the date of the Judgment. Appeals in Small Claims cases relate to questions of law only; there is no new trial in District Court.

DEFENDANT

A trial date is listed on the Complaint/Order. If you are unable to appear on that date or if you cannot be prepared by that date, ask the Court to reschedule the trial.

You may settle with the Plaintiff out of Court; if a settlement is reached, a written agreement, signed by both of the parties, must be filed with the Court.

Consider using a mediator or third person to assist in settling the dispute.

If you prefer to a trial by jury or want an attorney to represent you, you must file a motion within 10 days from the date you were served with the Complaint/Order and request that the case be removed to Justice Court.

You may file a Counterclaim with the Court, providing the amount does not exceed $6500. The basis for the Counterclaim must relate to the same issue stated in the Plaintiff's Complaint.

The Counterclaim must be served on the Plaintiff at least 72 hours prior to trial by the Sheriff's Office or process server.

You must pay a fee of $15 to file a Counter-claim. If you cannot afford the fee, request an affidavit to waive costs.

Before the trial, request the Court to issue any subpoenas necessary for witnesses which you wish to have testify on your behalf.

Bring all evidence, documents, and witnesses to the trial.

Appeals of a Court's decision must be filed within 10 days from the date of the Judgment. Appeals in Small Claims cases relate to questions of law only; there is no new trial in District Court.

MAXIMUM CLAIM

The amount at issue in a small claims case cannot exceed $7000

The amount of claim must be a fixed amount that is easily determined, such as a balance on a bill. Small claims court cases do not address "damages" claimed for some sort of wrong. Claims may be filed in the County where the Defendant lives or in the County where the Defendant can be served.

FEES

A fee is required to file a Complaint or Counterclaim. Once a Complaint is filed, the Court will issue an Order to appear, and a process server or Sheriff's Office will deliver the Complaint/Order to the Defendant. There is a fee for service of the Complaint/Order on the Defendant. It is possible to recover some of these fees as part of the resolution of a case.

TIME LINES

A hearing must be scheduled within 40 days of the date the Complaint is filed

A Defendant must be given at least five days notice before the hearing

The parties may ask the Court for more time. Typically, such a request must be made before the date of the hearing

COUNTERCLAIMS

If a Defendant believes the Plaintiff owes him/her money, a Counterclaim may be filed:

The Counterclaim must involve the same dispute as the original Complaint

The counterclaim must be served on the Plaintiff by the Sheriff's Office or a process server at least 72 hours before the scheduled date of the hearing

The amount of the Counterclaim cannot exceed $6500

SETTLEMENT OPTIONS

Sometimes it is possible to settle disputes before the hearing and avoid small claims Court altogether. If a settlement is reached after the Complaint is filed, a written agreement should be signed by the parties and a copy filed with the Court.

SUBPOENAS

A party may ask the Court to issue subpoenas for witnesses. A witness can voluntarily accept service of a Subpoena; otherwise, a party must make arrangements through the Sheriff's Office or process server to have the Subpoena served.

ATTORNEYS

Attorneys are not permitted in Small Claims Court unless both parties are represented by counsel.

TRIAL

The parties will be sworn and will, therefore, testify under oath. Facts will be presented, with each party telling their side of the story. Plaintiff will first present his/her case, and the Defendant will follow. Both sides may present evidence and call witnesses. Each side may also question the other person, as well as his or her witnesses, and may ask questions about any evidence presented to the Court.

JUDGMENT AND RESOLUTION

The Judgment is a written decision of the Judge. The prevailing party is entitled to collect the disputed amount, as well as costs of suit. Collection of payment of a Judgment is the responsibility of the Judgment Creditor. If the Judgment Debtor fails to pay, there are options for collections (i.e., through a Writ of Execution).

APPEAL

If either side is dissatisfied with the Court's Judgment, the case may be appealed to District Court. The appeal must be in writing and must be made within 10 days from the date the Judgment is signed. An appeal addresses questions of law only; in other words, an assertion that the law was incorrectly applied to the case. The District Court Judge will not re-try the case or accept new evidence or testimony. The District Court Judge will review the transcript and evidence, and make a decision accordingly.

LIMITATIONS

A party may not file more than 10 claims in a calendar year, except claims involving shoplifting.

GLOSSARY

Plaintiff: the person alleging that he/she is owed money or property.

Defendant: the person or party who allegedly owes money or property.

Counterclaim: if a Defendant disagrees with the original claim and instead believes he/she is owed money or property from the Plaintiff, a counterclaim can be filed.

Subpoena: legal document issued by the Court compelling a witness to appear at trial.

Neither the Judge nor the Clerks can provide any legal advice. If you have questions, refer to the Montana Statutes and, in particular, Sections 25-35-501 to 25-35-807, or you may seek advice from an attorney

Ravalli County Justice Court
205 Bedford Street
Hamilton, Montana 59840

IN THE RAVALLI COUNTY JUSTICE COURT, HAMILTON, MONTANA

_____	)	SMALL CLAIMS DIVISION
Plaintiff	)	
	)	
	)	Before Judge _____
vs	)	Case Number _____
	)	
_____	)	PRAECIPE
Defendant	)	[Instructions for Service of Documents]

TO: Sheriff/Constable/Process Server

Serve the attached Complaint/Order of Court upon Defendant(s) at the following location:

Home _____ Hours _____

Work _____ Hours _____

Other _____ Hours _____

Please make your return and a statement for your services to [your name and address]:

_____

Dated _____

_____
Plaintiff's Signature