

How to Get a Judgment in the Justice Court of Record

LEGAL ADVICE. The clerks of the justice court can not give you legal advice. If you need legal advice contact an attorney.

FEES. Upon filing your complaint you must pay the clerk of the justice court a fee for filing and surcharges. The plaintiff's fees in justice court total \$35.00.

If indigent you can petition the court to proceed in forma pauperis and have the fees waived. The judge will determine if you are indigent.

JURISDICTION AMOUNT. The maximum you can collect through a judgment in justice court is \$7,000.00. The value of the property you seek to recover can not exceed \$7,000.00. If you are seeking damages or personal property greater than the limitation you will have to file your action in the district court.

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 value of the claim or property can not exceed \$7,000.00. 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.

REPRESENTATION. You may file the complaint individually or through an attorney. If you are filing for a corporation, partnership, or other entity, the complaint must be filed through an attorney. Read the handout entitled "Representation in Justice Court".

MINORS. If the plaintiff, or the defendant, is under the age of 18 a guardian ad litem will need to be appointed before you can proceed with your complaint. See the clerk.

EVICCTIONS. If you are a landlord seeking possession of your rental property ask the clerk of court for the landlord/tenant packet.

SERVICE. The defendant must be served a copy of the complaint and summons. Service must be made within the state of Montana. Service outside the state of Montana may not be valid. If you are serving a corporation, partnership or person who resides outside the state of Montana, consult Rule 4 of the Justice and City Court Civil Rules.

You can not serve the defendant yourself. You can serve the defendant by having a levying officer or the sheriff give the forms to the defendant. You can serve the defendant by having a person over the age of 18 give the

forms to the defendant. Proof of service must be signed by the person making the service and filed with the clerk of the justice court. The original summons must be returned to the clerk of the justice court.

The clerk of the justice court maintains a list of qualified levying officers. You will be required to pay all fees of the levying officer or the sheriff. The fees for service varies, you should contact the levying officer or the sheriff for the fees they charge.

DEFAULT JUDGMENT. Upon defendant's failure to answer the complaint within the time provided in the summons, a default judgment may be entered against the defendant. Entry of a default judgment is not automatic. You must file a motion to enter a default. The court will enter a default judgment. You can not receive a default judgment for more than you asked for in your complaint.

TRIAL. Your complaint will not be heard until after the defendant has been served and filed an answer. You must attend the trial. Failure to attend the trial will result in dismissal of your complaint. Be sure to bring along any witnesses, books, papers, or other evidence which will help prove to the court that you are entitled to a money judgment, judgment for damages or possession to the property.

TRIAL JUDGMENT. The judge will consider all the evidence presented at the trial and enter a judgment within 30 days. You will be required to pay a judgment fee of \$10.00 to the clerk of court if the judgment is entered in your favor. If you do not pay the judgment fee an execution on the judgment or a transcript of judgment will not be issued by the clerk of court.

COLLECTING THE JUDGMENT. Read the handout entitled "How to Collect a Judgment" provided in this packet.

APPEAL. The Montana Uniform Municipal Court Rules of Appeal, Title 25, Chapter 30, apply to appeals.

A judgment may be appealed by any party to the district court within 30 days after entry of judgment. A notice of appeal must be filed with the justice court and a copy sent to the opposing party. The appeal is confined to questions of law. There is no new trial in the district court.

You must pay a fee of \$10 upon filing the notice of appeal. The judgment is stayed when the appeal fee is paid and the appeal bond is posted. Failure to file the appeal bond equal to the judgment and costs, or deposit money equal to the judgment and costs, within 10 days of filing the notice of appeal shall result in the dismissal of the appeal. The appeal bond, or money deposit, of a prevailing party is \$100 and costs.