

Civil Complaints vs. Small Claims

Civil Court	Small Claims Court
\$50 Filing Fee	\$30 Filing Fee
Can be filed anytime	Must initiate with certified demand letter
Suggest demand letter	Wait time – 10 days after mailing certified demand letter before filing
Answer Fee – \$30 per each defendant (copy must be mailed to Plaintiff by Defendant)	\$20 Appearance fee paid by Defendant on the day of trial or before
Counterclaim – no charge (copy mailed to Plaintiff by Defendant)	Counterclaim – \$20 fee (must be served by Sheriff or Process Server to Plaintiff)
\$20 Judgment Fee from prevailing party (recoverable)	No Judgment Fee
Preprinted forms	Preprinted forms
May file in person or via mail with proper fees (e-mail or fax is not a proper filing)	Must file in PERSON – <i>Plaintiff must be Sworn to Complaint</i>
Money/Value limit – \$15,000.00 plus incurred fees	Money/Value limit – \$7,000.00 plus incurred fees
Service of Summons	Service of Order
May file eviction/Action for Possession cases	CANNOT file real estate eviction cases (Action for Possession)
Attorney may be required – see Rule 2, 4, and 7 MJCCRCP*	No Attorney unless ALL parties are represented by an attorney
Defendant may live anywhere in Montana	Defendant MUST live in county or <i>must be able to be served in the county</i>
20-day response period 5 days on Action for Possession Cases. Mediation set if Answer filed within 14 days	Required hearing set within 40 days of the issuance of court order setting trail
Default Judgment may be granted without Pre-Trial if no answer submitted within 20 days; 5 days on Action for Possessions	Default Judgment may be granted at time of trail
Judgment – Same effect in either court	Judgment – Same effect in either court
Execution Procedures – same	Execution Procedures – same
Appeal or Transfer - \$20 transfer fee payable to Justice court; must appeal within 30 days from signed judgment date.	Appeal - matters of law only must be appealed within 10 days of signed judgment date
<u>*MJCCRCP-Montana Justice and City Court Rules of Civil Procedure</u>	