

**KEY DIFFERENCES BETWEEN SMALL CLAIMS  
AND CIVIL**

SMALL CLAIMS COURT	CIVIL COURT
\$20.00 filing fee	\$35.00 filing fee
Wait time, 10 days after mailing certified demand letter before filing	Can file anytime
Must initiate with certified demand letter	Suggest demand letter
\$15.00 Appearance fee paid by defendant at trial and/or Counterclaim \$15.00 fee (must be served)	Counterclaim - no charge (must be mailed)
No Judgment fee	\$20.00 Answer fee (recoverable)
Preprinted forms	\$10.00 Judgment fee from winning party (recoverable)
Must file in person	Preprinted forms
Money/value limit \$3,000 (Counterclaim limit \$2,500)	May file in person or via mail with proper fees
Service of Order	Money/value limit \$7,000
Court costs recoverable	Service of Summons
Cannot do real estate eviction cases	Court costs recoverable
No attorney unless all parties are represented by an attorney (MCA 25-35-505(2))	Can do eviction cases
Defendant must live in county or must be able to be served in the county	Attorney (may be required) see Rule 2,4 and 7, MJCCRC
Mediation and trial date given with filing	Defendant can live anywhere in Montana (with appropriate venue)
REQUIRED MEDIATION	20 day response period; 10 day response period for Possession of Premises cases
Default Judgment may be granted at time of trial	Default Judgment may be granted without pre-trial if no answer submitted within 20 days; 10 days on Possession of Premises cases
Judgment - same effect in either court	Judgment - same effect in either court
Execution Procedures (same)	Execution Procedures (same)
Appeal - Matters of law only; \$10.00 fee to District Court; 10 days from date judgment signed	Appeal or Transfer - new trial; \$30 fee to District Court; \$10 fee to Justice Court; 30 days from date judgment signed

# NOTICE AND ORDER

To: USERS OF SMALL CLAIMS COURT

You are noticed that Justice Court will only accept filings of complaints and counterclaims in Small Claims Court for the recovery of money and/or specific personal property. In accordance with rulings of the District Court, the Fourth Judicial District before the Honorable Douglas G. Harkin this means that tort and negligence actions which includes recovery of money for damages to persons and /or property are excluded from Small Claims. *Examples of cases which may not be filed in Small Claims are car accidents; assaults, injury or death to pets/livestock; damages to home or property.*

Also excluded from filing in Small Claims is possession of premises under Montana Landlord Tenant Law 70-24-429, M.C.A. This involves possession to real property and not personal property as required in the Small Claims law.

Cases which may be filed arise out of contracts. *Examples include sale of goods, including cars or other personal property; bills or accounts for medical services; utilities; day care; car repairs; or other businesses; promissory notes; loans of money; home repairs, such as roofing, remodeling; and earnest money.* Contracts may be oral or written. Be aware that Montana law requires some contracts to be in writing and that there is a limit on the time period to sue someone for failure to perform a contract.

If you cannot file your case in Small Claims Court, then you may file in Civil Court. The clerk will assist you.

**As in all cases, it is recommended that you speak to an attorney. Neither the clerk nor the Judge can give you legal advice.**

It is important that effective immediately all cases filed in Justice Court must comply with this notice.