

Civil Law Suits – Possession of Premises

It is recommended that all individuals considering filing a civil law suit for the possession of premises carefully read the following content which will explain the court process in more detail.

Below is a general outline of information on the filing of civil law suits.

- Civil lawsuit filing fee is \$35.00.
- The maximum amount that can be claimed is \$7000.00 **per case**.
- If the Plaintiff is filing through a property management company, the case ***MUST*** be filed through an attorney.
- Items recoverable in a possession of premises civil lawsuit include: filing and service fees, accrued interest, damages to property, and reasonable attorney fees may be recoverable if requested.
- The “incident” must have taken place in Missoula County or the Plaintiff must live in Missoula County in order to file a civil lawsuit in Missoula County. This means that even if the Defendant does NOT live in Missoula County and the above requirements are met, the Defendant can be served in another county as long as the Defendant is serviced in the State of Montana.
- The Plaintiff is responsible for providing the appropriate documents to one of the following to physically serve those documents on the Defendant. The following may serve documents: Civil Process Division of the Missoula County Sheriff’s Department, a licensed process server, or a disinterested 3rd party (an individual over the age of 18 who would not be called as a witness to testify on your behalf). See attached list of process servers.
- Once served, the Defendant will have ten (10) business days (Monday-Friday) to respond in writing to the Court.
- If the Defendant contacts the Plaintiff and both parties are able to reach an agreement, or the Defendant pays the Plaintiff in full (or an agreed upon amount), the Plaintiff is responsible for filing a dismissal request with the Court to close the case.
- If the Defendant files an answer to the complaint, the Court will set a date and time for a mediation session and a non-jury (bench) trial within twenty (20) consecutive calendar days.
- If the Defendant does not file an answer and the ten days have lapsed, the Plaintiff is responsible for submitting a written motion requesting a Default Judgment, an Affidavit for a Writ of Assistance, and a Writ of Assistance. The Plaintiff must properly file the affidavit before the Judge will sign the Writ of Assistance. The Writ of Assistance must be served by a representative of the Civil Process Division of the Missoula County Sheriff’s Department to physically evict the Defendant.
- As the owner or property manager, the Plaintiff is responsible for the proper removal of the tenants’ belongings. For instruction on the proper removal of the tenants’ belongings, it is recommended that Plaintiffs consult the MONTpirg Landlord/Tenant guide book. A copy of this publication may be purchased at the Court for \$5.00.
- If Default Judgment (default being the Defendant did not file answer) or a final judgment (final as decided in court by the Judge) as granted, the Plaintiff may proceed to filing a Writ of Execution to garnish the Defendant’s wages or bank account. **Note:** Defendant’s employer’s name and address, and/or bank name, account number(s) and social security number is needed to accurately complete this form.
- The Writ of Execution must be served on the employer or bank by a representative of the Civil Process Division of the Missoula County Sheriff’s Department or a licensed process server.
- When the Plaintiff has received the full amount of the Judgment, the Plaintiff is responsible for filing a Satisfaction of Judgment with the Court to close the case.