

## *Small Claims*

**It is recommended that all individuals considering filing a small claims law suit 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 small claims law suits.

- It is mandatory that the Plaintiff send a letter of demand by certified mail to the Defendant and allow at least 10-12 business days for the Defendant to respond.
- If the Defendant fails to respond or the Plaintiff is not satisfied with the Defendant's reply, the Plaintiff must show the court clerk the certified mail receipt (and a copy of the letter if possible) prior to filing a Small Claim law suit.
- Small Claim lawsuit filing fee is \$20.00.
- The maximum amount that can be claimed on a Small Claim law suit is \$3000.00 **per case**.
- A Plaintiff may not file more than 10 small claim law suits in a calendar year (January 1 – December 31), except for small claims involving shoplifting charges.
- Small Claims law suites do **NOT** cover **damages, repairs, or replacements** to property; i.e., car, house, etc..., and death to livestock or pets. It also does not cover **ANY** Landlord-Tenant disputes.
- Filing and service fees, as well as accrued interest may be recoverable if requested.
- The Defendant must be able to be served in Missoula County.
- 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 3<sup>rd</sup> 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.
- All documents out for service must be returned to the Court not less than five days prior to the scheduled mediation session, or the Court will vacate the mediation session and non-jury trial date and time.
- If the Defendant is not served and the documents are not returned as indicated above, the Plaintiff is responsible for advising the Court of either dismissing the case or re-setting the mediation and non-jury trial dates.
- If the case is settled prior to mediation, the Plaintiff is responsible for submitting a written motion to the Court requesting to dismiss the case.
- Attorneys are not necessary for Small Claims proceedings. A party may not be represented by an attorney unless it is agreed by all parties to be represented by attorneys.
- ***As in all cases, it is recommended that you peak to an attorney. Neither the court clerk, nor the judge may give you legal advice.***
- If a final judgment is granted in Court by the Judge, 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.
- If judgment is granted in favor of the Plaintiff, and the Plaintiff has received full amount of the Judgment, the Plaintiff is responsible for filing a Satisfaction of Judgment with the Court to close the case.