

\$6.00 per CIVIL PACKET
(If purchased at office)
LEWIS AND CLARK COUNTY JUSTICE COURT

THIS PACKET EXPLAINS HOW TO FILL OUT THE PAPERS FOR A CIVIL LAWSUIT.

COURT STAFF CANNOT:

GIVE YOU LEGAL ADVICE; ONLY YOUR LAWYER CAN GIVE LEGAL ADVICE
TELL YOU WHETHER OR NOT YOU SHOULD BRING YOUR CASE TO COURT
GIVE AN OPINION ABOUT WHAT WILL HAPPEN IF YOU BRING YOUR CASE TO COURT
DISCUSS OR SPECULATE ABOUT WHAT DECISION THE JUDGE MIGHT MAKE
TELL YOU OR SUGGEST TO YOU WHAT WORDS TO USE IN COURT PAPERS
RECOMMEND A SPECIFIC ATTORNEY OR LAW FIRM TO REPRESENT YOU
LET YOU TALK TO THE JUDGE OUTSIDE OF COURT
CHANGE AN ORDER SIGNED BY THE JUDGE OR RESCHEDULE OR CONTINUE A COURT DATE
FILL IN ANY FORMS FOR YOU UNLESS YOU HAVE A DISABILITY PREVENTING YOU FROM DOING SO
CONDUCT ANY LEGAL RESEARCH ON YOUR BEHALF

THE JUSTICE COURT STAFF IS PROHIBITED BY LAW TO GIVE LEGAL ADVICE

IF YOU HAVE ANY QUESTIONS PERTAINING TO YOUR CASE YOU NEED TO TALK TO YOUR OWN LAWYER OR ONE OF THE NUMBERS BELOW MAY BE OF SOME ASSISTANCE.

Lawyer Referral
449-6577

LEGAL SERVICES
442-9830

www.MontanaLawHelp.org

www.MTLA.org
1-800-666-6899

Montana Landlords Association, INC
406-219-1121

ANY AND ALL COSTS INCURRED IN COMPLYING WITH A WRIT OF EVICTION (removing defendants from the premises) SHALL BE PAID BY THE PLAINTIFF, TO INCLUDE FEES, COSTS, TAXES AND ANY AND ALL PERMIT FEES.
(after receiving final judgment)

Who can serve a summons for you?

Sheriff's Office Civil Bureau	447-8219	Call for price
Lee & Associates	324-7000	Call for price
Williams Investigations	442-2621	Call for price
Robert A. Pankratz	449-4121/439-2458	Call for price
Solas LLC	439-0468	Call for price
Do Process, Inc.	204-7344/1-800-449-6077	Call for price
Prospect Account Services	531-3834	Call for price

or yellow pages in the local phone directory under process servers

JURISDICTION OF JUSTICE COURT

The amount demanded in the complaint cannot exceed \$15,000.00. If you are suing a corporation, you must serve the papers on the registered agent and use its correct legal name. This can be obtained by calling the office of the Montana Secretary of State, Capitol Building, Helena, Montana, 59620, 406-444-3665. If you are suing a married individual, you may wish to sue both the husband and wife in appropriate cases so that you can collect from jointly owned property. In such a case you will have to pay to have each individual served.

ATTORNEYS

A party does not have to be represented by an attorney in Justice Court, however it is your right to be represented by one and you may wish to talk with an attorney before filing a complaint or appearing in court to find out if there is a legal basis for your position. In complicated cases it is recommended that you talk to an attorney to have him explain your rights, etc.

HOW TO PROCEED

Before filing a complaint you may wish to send a letter by certified mail, return receipt requested, to the person you wish to sue. In the letter state the problem and demand payment within ten (10) days or some other reasonable specified time. If the person refuses the letter or if he does not pay within the time stated in the letter, then file your claim. You may wish to bring your proof of mailing of the letter with you to court if you go to trial. The letter is your proof that you have demanded payment from the defendant.

FORMS USED

THE CLERK CANNOT PREPARE THEM FOR YOU OR ADVISE YOU ABOUT HOW TO FILL THEM OUT AND WHAT TO WRITE DOWN. If you have any questions about your rights, obligations, etc., you should consult with an attorney.

1. Complaint. A written complaint must be prepared to be filed with the Court. The fee for filing is **\$50.00**, payable at the time of filing. **ONE ORIGINAL AND ONE COPY** for each defendant must be filed with the Court. **YOU ARE RESPONSIBLE FOR MAKING THE EXTRA COPIES; THE COURT WILL NOT DO IT FOR YOU!**

The complaint must ask for a certain sum of money due and owing and give a brief explanation why the defendant is obligated to pay this money. Furnish dates and places in the complaint, be specific.

2. **Summons.** The plaintiff (person filing the complaint) must prepare the same number of summonses as he made complaints for the Judge or his clerk to sign. The summons, with a copy of the complaint, must be served on each defendant. **Justice Court summons are only valid within the State of Montana.** You cannot file a complaint in Lewis and Clark County Justice Court against someone who lives out of state.

3. **Summons for Eviction.** The plaintiff (person filing the complaint) must prepare the same number of summonses as he made complaints for the Judge or his clerk to sign. The summons, with a copy of the complaint, must be served on each defendant.

This is a 5 day summons that can only be used in eviction cases. The plaintiff can ask for default, judgment and/or order of eviction 5 working days after the defendant (s) have been served. (cannot count weekends and or holidays)

The plaintiff must assume the responsibility of having the papers served by a proper person, such as by the Civil Bureau of the Sheriff's Office or a private process server. The Sheriff charges \$65.00 per defendant. There is the possibility that there will also be a charge for mileage. These fees, as well as the

filing fee, are "costs of action" and may be added to the amount claimed in the complaint.

It is required that both the complaint and the summons contain the plaintiff's address so that the defendant will know where to serve to the plaintiff any papers the defendant files with the Court in answer. It is also required that the defendant's address be given to aid the person serving the papers and that address must be a street address, **not a box number at the post office**. The plaintiff or the person serving the summons must return the original summons to the Court, showing the "return of service data".

DEFAULT JUDGMENT

If the defendant fails to file an answer to the summons and complaint within the time allowable by law, the plaintiff may come to the court and request that a "Default Judgment" be taken against the defendant. The plaintiff must see the Justice of the Peace to receive the "Default Judgment". There is no charge for this and after a "Default Judgment" is received, the plaintiff may proceed with collecting his judgment as allowable by law.

ANSWER

The defendant, as stated in the summons, has either twenty calendar days or ten working days after the defendant has been served in which to file an answer with the Court. A copy of this answer must be mailed to the Plaintiff or served upon him. The fee for filing the answer is \$30.00 per defendant payable **at the time of filing**.

If the defendant answers and denies the allegations complained in the complaint, then the plaintiff must inform the Court of his desire for a trial. The Court will then set a date and time for trial and mail out the notices. Make sure the Court has your correct address.

BEFORE TRIAL

1. **Settlement out of Court**. If you reach an agreement with the other party out of court, get it in writing. Give a copy of your settlement agreements, signed by both parties, to the Clerk of Justice Court so that the complaint can be dismissed. When the agreement has been settled in full and no monies are left owing then the plaintiff must file a "Praecipe to Dismiss" with the Court so that the file can be closed.

2. **Trial Preparation**. When you receive your answer from the defendant, **YOU** are required to notify the Court of your desire to have a trial date set. If you are not able to settle the case before trial, you should prepare to appear in Court on the scheduled date and present your case. If you need to postpone the trial, you must do so in writing to the Court, with enough advance notice so that a copy of the notice can be mailed to the defendant.

As you prepare for trial make sure you have all papers which relate to the case, such as receipts, bills, estimates, contracts, letters, canceled checks, leases, officer's reports, etc. Your case may require you to present photographs, articles of clothing, or diagrams. Contact the people you need to be your witnesses, explain your case, and make sure that they will be at the trial on time.

3. **Subpoena**. A subpoena is an order from the Court requiring a person to come to Court. If you think a necessary witness will not come to the trial at your request, ask the Court for subpoena forms for **YOU** to fill out

IF YOU DO NOT APPEAR AT TRIAL

1. **Plaintiff**. If a trial date has been set and is not changed you may lose your case if you do not come to that trial. The judge cannot enter a judgment for you if you are not present at trial to present your testimony and/or evidence. If you need to postpone the scheduled trial date you must do so in writing to the court, giving enough time to notify the defendant by mail.

2. Defendant. If a trial date has been set and not changed a judgment may be entered against you if you do not come to the trial. This means that if you are not there to defend your position the plaintiff can win the case in your absence. If you need to postpone the scheduled trial date you must do this in writing giving enough time to mail a copy to the plaintiff.

TRIAL

1. Procedure. Justice Court operates somewhat informally. You may want to sit in on another case in the Court where your case will be heard just to see how the trial is conducted.

At the time of trial the Judge will place you under oath and ask you to tell the facts of your case. Facts should be presented in the order in which they happened.

First the plaintiff tells his side of the case, presents evidence and calls witnesses. It is then the defendant's turn to tell his side of the case, present evidence and call witnesses. Each party may cross-examine the other party and his witnesses and ask questions about any evidence. After the testimony each side may make a closing statement to sum up his case.

2. Proving your case. As the plaintiff you must prove that the defendant caused some damage and owes you a specific amount of money as a result. Prove your facts with evidence. You can use your own testimony, the other party's testimony and the testimony of other witnesses as evidence. You may also use any document, bill, diagram, photograph, police report, estimate of damages, or other objects related to the case as evidence to prove your case. Notarized letters from persons not personally in court are not allowed.

JUDGMENT

A judgment is the written decision of the Court. The judge may make a decision immediately after the trial or may make the judgment at a later date. In either case a judgment will be mailed to you later so **be certain the Court has your correct mailing address**. If you win the case, you must pay a judgment fee of \$20.00 to Justice Court. The judgment against the other side entitles you to collect from that person the amount of the judgment plus court costs. **YOU MUST COLLECT PAYMENT ON YOUR OWN**. A judgment entitles the judgment creditor to obtain a writ of execution which will command the constable or sheriff or levying officer to levy upon property such as salary, bank account or personal property of the other party to satisfy the judgment. There is also a fee payable to the levying officer for service of the execution. These fees are paid at the time of filing the execution if the Sheriff is the one to do the service. If it is necessary to levy upon property other than a bank account or salary it would be well for the judgment creditor to secure the services of an attorney to assist in the preparation of the papers. If you want to execute upon real property you must file a transcript of the judgment in District Court. Again it would be wise to secure the assistance of an attorney. Costs can be added to the amount the debtor owes the judgment creditor.

WRIT OF EXECUTION

These are for judgments up to 10 years or a judgment renewal if over 10 years. They are used to garnish wages, bank accounts, etc.

Executions on Small Claims cannot be issued until after the 10 day appeal time.

Executions on Civil actions can be issued right after the judgment is entered – but only one per county. Also, you cannot issue another execution until the previous one issued has been returned to the court.

- 1) Plaintiff's name
- 2) Defendant / Respondent's name
- 3) Case Number
- 4) Day of judgment
- 5) Month of judgment
- 6) Year of judgment

- 7) Name of whom judgment is against
- 8) Original amount of judgment
- 9) % interest amount
- 10) Costs & disbursements amount
- 11) Less credits
- 12) Total sum due

WRIT OF ASSISTANCE

Should the party not leave the premises you will need to prepare the writ of assistance for the judge's signature. Sample forms are enclosed.

- 1) Plaintiff's Name
- 2) Defendant / Respondent's name
- 3) Case Number
- 4) Address want to recover possession of
- 5) City
- 6) Day of judgment
- 7) Month of judgment
- 8) Year of judgment
- 9) Address want to recover possession of
- 10) City

APPEAL

If you are not satisfied with the judgment of the Justice Court you may appeal the case to District Court. The appeal must be in writing, served upon the other party, and filed with the Justice Court within 30 days of the judgment. Within 10 days after the appeal is filed Justice Court will send the file and all evidence submitted to the District Court. You must pay \$20.00 to file the notice of appeal with the Justice Court and \$30.00 to the Clerk of District Court to appeal to District Court. You must also post a bond or notice of undertaking with the appeal. You may wish to hire an attorney to handle the appeal to District Court.

SATISFACTION OF JUDGMENT

Once a party has received a judgment and payment has been made in full it is his responsibility to file with the Justice Court a satisfaction of judgment so the records of the court can be cleared.

RULES OF PROCEDURE

Although civil cases in Justice Court are somewhat informal the rules of procedure and laws of evidence must be followed. Each party is responsible for following the established procedures and proving his case by presenting his evidence properly. **Failure to do so may result in losing a case that may have been won if properly presented and proven.**

INSTRUCTIONS FOR A PRAECIPE

- 1) Plaintiff(s): your name.
- 2) Defendant(s): the name of the person, persons, partnership or corporation you are suing.
- 3) DO NOT FILL IN.
- 4) Defendant(s) name (party to be served)
- 5) Please provide directions for the process server so he may serve the summons and complaint upon the defendant. The more information you provide the more quickly he will be able to serve the papers. A post office box is not enough; the person must be served in person.
- 6) Fill in the date.
- 7) Sign the praecipe.
- 8) Put your phone number or a phone number where you can be reached. The process server notifies you when he has served the summons and complaint.

INSTRUCTIONS FOR A COMPLAINT

- 1) Plaintiff(s): your name(s).
- 2) Defendant(s): the name of the person, persons, partnership or corporation you are suing.
- 3) DO NOT FILL IN.
- 4) Write the sum of the money to which you believe you are entitled in this blank.
(In figures, e.g. "\$500.00)
- 5) Briefly state FACTS which show WHY the defendant owes you the money. Please include dates and places if helpful.
- 6) If requesting eviction from premises – address must be inserted. And **may** use 10 days summons.
- 7) Same as line 4 above.
- 8) Sign the complaint.
- 9) Fill in your address.
- 10) Fill in the defendant's address

INSTRUCTIONS FOR A SUMMONS

Use only one; either summons or summons for eviction – 10 day summons

- 1) Plaintiff(s): your name(s).
- 2) Defendant(s): the name(s) of the person, persons, partnership or corporation you are suing.
- 3) Court will insert assigned number

Who can serve a summons for you?

Sheriff's Office Civil Bureau	447-8219	Call for price
Lee & Associates	324-7000	Call for price
Williams Investigations	442-2621	Call for price
Robert A. Pankratz	449-4121/439-2458	Call for price
Solas LLC	439-0468	Call for price
Do Process, Inc.	204-7344/1-800-449-6077	Call for price
Prospect Account Services	531-3834	Call for price

or yellow pages in the local phone directory under process servers

INSTRUCTIONS FOR REQUESTING A DEFAULT JUDGMENT

Fill out all lines that apply to your case.

EITHER:

20 days after the defendant has been served with the civil papers by the sheriff or process server. And they have not filed an answer with the court. You need to fill this paper out and file with the court. A default judgment will be prepared and filed, with copies mailed to all parties.

OR:

5 working days (cannot count weekends or holidays) SUMMONS FOR EVICTION after the defendant has been served with the civil papers by the sheriff or process server. And they have not filed an answer with the court. You need to fill this paper out and file with the court. A default judgment will be prepared and filed, with copies mailed to all parties.

**ALL SAMPLE FORMS ARE FOR YOUR INFORMATION
ONLY,
AND ARE NOT TO BE FILED WITH THE COURT**

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

_____(1)_____))
 _____))
 _____))
 Plaintiff,)

SAMPLE FORM ONLY

vs.

_____(2)_____))
 _____))
 _____))
 Defendant.)

PRAECIPE

Case No. CV- _____ (3) _____

IT IS UP TO YOU TO MAKE PAYMENT AND SERVICE ARRANGEMENTS

Sheriff's Office Civil Bureau	447-8219	Call for price
Lee & Associates	324-7000	Call for price
Williams Investigations	442-2621	Call for price
Robert A. Pankratz	449-4121/439-2458	Call for price
Solas LLC	439-0468	Call for price
Do Process, Inc.	204-7344/1-800-449-6077	Call for price
Prospect Account Services	531-3834	Call for price

Name of Process Server or Sheriff's Office County _____

You will please make service in the above-entitled cause as follows, to wit:
 (please write out directions and / or special instructions as to who shall be served, where or what other
 action you want the sheriff to take)

_____(4)_____))
 party to be served

_____(5)_____))
 address

Dated _____(6)_____, 20__.

_____(7)_____))
 Plaintiff

_____(8)_____))
 Address

_____))
 Phone Number

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

_____(1)_____

Plaintiff(s),

vs.

_____(2)_____

Defendant(s).

**SAMPLE FORM ONLY
(only will not be filed with the court)**

COMPLAINT

Case No. CV (3) _____

* * * * *

COMES NOW the Plaintiff(s) above-named and for cause of action against the defendant(s), complain(s) and allege(s):

That Defendant(s) is/are indebted to Plaintiff(s) in the sum of \$, (4) _____ which said sum is now due, owing, and unpaid despite demands for the payment thereof.

That Defendant(s) is/are indebted to Plaintiff(s) as follows:

_____(5) SAMPLE FORM _____

(Complete the following 2 lines only if you wish to have the Defendant(s) evicted from the premises). Also, Defendant must return possession of the premises at (6) to me, the Plaintiff.

Wherefore, Plaintiff (s) pray (s) Judgment against Defendant for the Sum of \$ (7), together with Plaintiff(s) costs and fees herein expended.

_____(10) _____

Defendant(s) address

_____(8) _____

Plaintiff(s) signature

_____(9) _____

Plaintiff(s) address

Plaintiff/Plaintiff Attorney

Street/Mailing Address

City St Zip

Phone Number

IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE

* * * * *

_____(1)_____

SAMPLE FORM ONLY

Plaintiff(s),

vs.

SUMMONS

Case No. CV- _____ (3) _____

_____(2)_____

Defendant(s).

* * * * *

THE STATE OF MONTANA TO THE ABOVE NAMED DEFENDANT(S),
GREETINGS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action which is filed in the office of the Justice of the Peace, at 228 Broadway, first floor, Helena, MT 59601, a copy of which is herewith served upon you .In the event that you deny any or all of the material facts stated in the complaint, you must file your written answer together with a **\$30.00 answer fee for each Defendant** with the above-entitled Court, and serve a copy of your answer upon the Plaintiff or attorney at the address shown on the Complaint.

The answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a counterclaim within twenty (20) days after service of the Complaint and Summons, the Plaintiff may request entry of default judgment against you for relief demanded in the Complaint.

GIVEN under my hand this _____ day of _____, 20__.

JUDGE / CLERK

Plaintiff/Plaintiff Attorney

Street/Mailing Address

City St Zip

Phone Number

original for service, copy each defendant, copy for your file

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

* * * * *

_____(1)_____

SAMPLE FORM ONLY

Plaintiff(s),

vs.

**SUMMONS FOR EVICTION
(5 day summons)**

Case No. CV- LT-_____ (3) _____

_____(2)_____

Defendant(s).

* * * * *

THE STATE OF MONTANA TO THE ABOVE NAMED DEFENDANT(S),

GREETINGS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action which is filed in the office of the Justice of the Peace, at 228 Broadway, first floor, Helena, MT 59601, a copy of which is herewith served upon you. In the event that you deny any or all of the material facts stated in the complaint, you must file your written answer together with a **\$ 30.00 answer fee for each Defendant** with the above-entitled Court, and serve a copy of your answer upon the Plaintiff or attorney at the address shown on the Complaint.

The answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a counterclaim within **five (5) days after service, counting work days only (cannot count weekends or holidays)** of the Complaint and Summons, the Plaintiff may request entry of default judgment against you for relief demanded in the Complaint, including eviction from the premises.

GIVEN under my hand this _____ day of _____, 20____.

JUDGE / CLERK

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

* * * * *

Plaintiff(s),

vs.

COMPLAINT

Case No. CV-_____

Defendant(s).

* * * * *

COMES NOW the Plaintiff(s) above-named and for cause of action against the Defendant(s), complain(s) and allege(s):

That Defendant(s) is / are indebted to Plaintiff(s) in the sum of \$ _____, which said sum is now due, owing, and unpaid despite demands for the payment thereof.

That Defendant(s) is/are indebted to Plaintiff(s) as follows:

(Complete the following 2 lines only if you wish to have the Defendant(s) evicted from the premises)

Also, Defendant must return possession of the premises at _____
_____ to me, the Plaintiff.

Wherefore, Plaintiff(s) pray(s) Judgment against Defendant for the Sum of \$ _____, together with Plaintiff(s) costs and fees herein expended.

Defendant(s) address

Plaintiff(s) signature

Plaintiff(s) address

Phone number

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

_____(1)_____
SAMPLE FORM ONLY

Case No. CV-LT- _____ (3) _____

Plaintiff(s),

**SAMPLE FORM ONLY
WRIT OF ASSISTANCE**

vs.

_____(2)_____

Defendant(s).

To: Sheriff of Lewis and Clark County, MT

Whereas the above mentioned matter was brought by the Plaintiff to recover possession of the premises described in the Complaint, as, (4), (5), Montana on the grounds that the Respondent has failed to abide by the rental agreement with the Plaintiff.

Whereas on the (6) day of (7), (8), Judgment was entered against Respondent awarding Plaintiff a writ of eviction to remove the Respondent's possession from the premises at (9), (10), Montana;

Therefore in the name of the People of the State of Montana, you are hereby commanded to go and enter upon the above-described premises and remove the Respondents as well as their invitees, servants, employees, agents, children or other representatives, and to put the Plaintiff in possession thereof.

**ANY AND ALL COSTS INCURRED IN COMPLYING WITH THIS WRIT
SHALL BE PAID BY THE PLAINTIFF, TO INCLUDE FEES, COSTS, TAXES AND ALL PERMIT
FEES.**

TO: Sheriff of Lewis and Clark County, MT

You are hereby **Ordered** to serve this Writ of Assistance upon the Respondent and within fourteen (14) days of today's date return service with your actions duly noted thereon.

Dated: _____

Justice of the Peace

Original and two (2) copies (1 for service and one for your file)

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

* * * * *

IN RE: THE MATTER OF WRITS OF ASSISTANCE:

* * * * *

It has been brought to the attention of this court that a great deal of time is being spent by the Office of the Lewis and Clark County Sheriff Civil Department with writs of assistance, especially when the party requesting the original writ asks that it not be enforced, then a short time later asks for another writ of assistance, on and on and on.

If the party requesting the writ of assistance wants to enforce the writ, fine. If the party asks that the writ of assistance be put on hold or not be enforced, that is also fine, but

IT IS THE ORDER OF THIS COURT if they then want another writ of assistance they will have to come to court and start the entire process over again, starting with another complaint, service of that complaint, answer, trial and or default judgment. The court will no longer issue writs of assistance when one has been issued but not enforced by the person or party requesting that writ.

Dated:

Justice of the Peace

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

_____))
 _____))
 _____))
 vs. Plaintiff(s),)
 _____))
 _____))
 _____))
 Defendant(s).)

PRAECIPE

CASE NO. CV- _____

IT IS UP TO YOU TO MAKE PAYMENT AND SERVICE ARRANGEMENTS

Sheriff's Office Civil Bureau	447-8219	Call for price
Lee & Associates	324-7000	Call for price
Williams Investigations	442-2621	Call for price
Robert A. Pankratz	449-4121/439-2458	Call for price
Solas LLC	439-0468	Call for price
Do Process, Inc.	204-7344/1-800-449-6077	Call for price
Prospect Account Services	531-3834	Call for price

Name of Process Server or Sheriff's Office _____ County

You will please make service in the above-entitled cause as follows, to wit:

_____ party to be served

documents to serve: _____

_____ address

_____ city state zip

Dated _____, 20__.

Plaintiff's Signature

Address

_____ City State Zip

Phone Number

Plaintiff/Plaintiff Attorney

Street/Mailing Address

City St Zip

Phone Number

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**
* * * * *

Plaintiff(s),
vs.

Defendant(s).

SUMMONS

Case No. CV- _____

* * * * *

**THE STATE OF MONTANA TO THE ABOVE NAMED DEFENDANT (S),
GREETINGS:**

YOU ARE HEREBY SUMMONED to answer the Complaint in this action which is filed in the office of the Justice of the Peace, at 228 Broadway, first floor, Helena, MT 59601, a copy of which is herewith served upon you. In the event that you deny any or all of the material facts stated in the complaint, you must file your written answer together with a **\$30.00 answer fee for each Defendant** with the above-entitled Court, and serve a copy of your answer upon the Plaintiff or attorney at the address shown on the Complaint.

The answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a counterclaim within twenty (20) days after service of the Complaint and Summons, the Plaintiff may request entry of default judgment against you for relief demanded in the Complaint.

GIVEN under my hand this _____ day of _____, 20__.

JUDGE / CLERK

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

* * * * *

Plaintiff(s),

vs.

**SUMMONS FOR EVICTION
(5 day summons)**

Case No. CV-LT-20_____

Defendant(s).

* * * * *

**THE STATE OF MONTANA TO THE ABOVE NAMED DEFENDANT(S),
GREETINGS:**

YOU ARE HEREBY SUMMONED to answer the Complaint in this action which is filed in the office of the Justice of the Peace, at 228 Broadway, first floor, Helena, MT 59601, a copy of which is herewith served upon you. In the event that you deny any or all of the material facts stated in the complaint, you must file your written answer together with a **\$30.00 answer fee for each Defendant** with the above-entitled Court, and serve a copy of your answer upon the Plaintiff or attorney at the address shown on the Complaint.

The answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a counterclaim within **five (5) days after service, counting work days only (cannot count weekends or holidays)** of the Complaint and Summons, the Plaintiff may request entry of default judgment against you for relief demanded in the Complaint, including eviction from the premises.

GIVEN under my hand this _____ day of _____, 20__.

JUDGE / CLERK

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

**REQUEST FOR ENTRY OF
DEFAULT, DEFAULT JUDGMENT,
AND AFFIDAVIT ON NON-MILITARY
SERVICE**

Plaintiff(s),

vs.

Case No. CV-20_____

Defendant(s).

Plaintiff, by and through its counsel respectfully requests the court enter default and default judgment in the above entitled Case, wherein, Defendant(s) _____ Has failed to appear or otherwise defend the action in the time allotted by Rule 7B, MJCRCP. Records show cause was filed on _____ and defendant was served on or about _____. I certify, under penalty of perjury, that according to the DMDC Military Verification web site, Defendant is not an active member of the military. That as of the date of the complaint, my attorney's fees incurred in the matter are \$_____.

Dated this _____ day of _____, 20_____.

Plaintiff's Signature

ORDER GRANTING DEFAULT AND DEFAULT JUDGMENT

On Request of the Plaintiff and good cause appearing, **DEFAULT IS HEREBY ENTERED. IT IS HEREBY ORDERED** that judgment be awarded to Plaintiff, against the Defendant(s) in the amount of:

Amount asked for in the complaint: \$

Interest to date of judgment: \$

Court Costs: \$

Attorney's Fees: \$

(-) less payments received

TOTAL JUDGMENT \$

Plus interest at 10.5 per annum from date of judgment and costs incurred to enforce the judgment.

(Complete the following line only if you wish to have the Defendant(s) evicted from the premises)

Also, Defendant must return possession of the premises at _____

_____ to me, the Plaintiff.

Surrender possession by _____ 20_____.

DATED this _____ day of _____, 20_____.

JUDGE / CLERK

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

_____ Plaintiff(s),

vs.

SATISFACTION OF JUDGMENT

CV- _____

_____ Defendant(s).

In the above-entitled action the plaintiff and defendant having settled said action and the _____ (debtor) having paid to the _____ (creditor) the full amount due and owing, the _____ (creditor) herewith acknowledges full and complete satisfaction of the judgment heretofore entered in the above-entitled action.

DATED this _____ day of _____, 20_____.

(creditor)

(address)

(city, st, zip)

(phone #)

#WITNESSED BY:

name

address

city, st, zip

phone

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

Petitioner(s),

vs

Case No. CV- _____

Respondent(s).

MOTION FOR DISMISSAL

COMES NOW the Plaintiff(s) in the above-entitled case and moves the court to dismiss the above entitled action, as it has been **fully settled and/or paid in full.**

Dated the _____ day of _____, 20__.

Petitioner(s)

ORDER OF DISMISSAL

A Motion having been made by the Plaintiff(s) and good cause appearing.

IT IS HEREBY ORDERED that the Complaint filed herein is hereby **DISMISSED WITH PREJUDICE.**

Dated the _____ day of _____, 20__.

Justice of the Peace/Clerk

you need to file this with the court if action is paid in full and/or settled between parties, before the judgment is entered

you will need
original for the court, copy for yourself, copy for each defendant

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

* * * * *

_____(1)_____,
Petitioner(s),

**SAMPLE FORM ONLY
WRIT OF EXECUTION**

vs

Case No. CV-_____(3)_____

_____(2)_____
Respondent(s).

THE STATE OF MONTANA
TO THE SHERIFF, CONSTABLE OR LEVYING OFFICER OF
LEWIS & CLARK COUNTY:

WHEREAS, on the _(4)_ day of _____(5)_____, 20_(6)_,
recovered a judgment in the said Justice Court against _____(7)_____
as follows:

Original or Balance Due on Judgment in the amount of	\$ (8)
Together with accrued interest at 10.5 per annum on Judgment (Interest from / / to / /)	\$ (9)
Costs and Disbursements Accrued	\$ (10)
Less Credits	- \$ (11)
* Total Sum Due and Owing at date of this Execution	\$ (12)

Together with all costs of execution.

NOW, you the said **Sheriff, Constable or Levying Officer** are hereby required to make said sum due on the said judgment or damages, with interest aforesaid and costs and accruing costs, to satisfy the said judgment, out of the **Personal Property** of said debtor(s) **NOT EXEMPT FROM EXECUTION** on the day whereon said Judgment was docketed in the said county, or at any time hereafter, and make return of the writ within one-hundred twenty (120) days after your receipt hereof with what you have done, endorsed thereon.

Given under my hand, this _____ day of _____, 20__.

JUDGE / CLERK

TO FIGURE 10.5 % INTEREST

- 1) Count the days since the judgment – not counting the day of
- 2) Take the amount of judgment times 10.5 = \$ _____
- 3) Divide amount on line 2 by 365 days \$ _____ (daily interest)
- 4) Multiply amount on line 3 by number of days on line 1

EXAMPLE

Judgment is \$3000 dated December 1st – today is January 15th – days since judgment is 45 days

$$\$3000 \times .105 = \$315$$

$$\$315 / 365 = \$.86$$

$$$.86 \times 45 = \$38.70$$

**IN THE JUSTICE COURT OF RECORD,
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
BEFORE _____ JUSTICE OF THE PEACE**

* * * * *

)	
Plaintiff(s),)	Case No. _____
)	
v.)	WRIT OF EXECUTION
)	
)	
Defendant(s).)	

THE STATE OF MONTANA TO THE SHERIFF, CONSTABLE OR LEVYING OFFICER:

WHEREAS, on the _____ day of _____, 20____, the _____ recovered a judgment in this court against _____ as follows:

Original or Balance Due on Judgment in the amount of:	\$ _____
Together with accrued interest at <u>10.5%</u> per annum on the Judgment from ____ / ____ / ____ to ____ / ____ / ____ :	\$ _____
Costs and Disbursements Accrued:	\$ _____
Less Credits:	\$ _____
Total Sue Due and Owing at the Date of this Execution: Together with all costs of execution.	\$ _____

Now, you the said **Sheriff, Constable** or **Levying Officer** are hereby required to make said sum due on this judgment with interest as provided and costs and accruing costs to satisfy this judgment out of the personal property of the debtor(s) **NOT EXEMPT FROM EXECUTION** on the day this judgment was docketed in this county, or at any time thereafter, and make return on this writ within 120 days after your receipt with what you have done endorsed thereon.

Dated this _____ day of _____, 20_____.

JUDGE / CLERK