

Civil Lawsuit Procedure in Gallatin County Justice Court of Record

Action for Possession Packet

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. Civil litigants are expected to know and be familiar with the Montana Code Annotated (MCA) Title 25, Chapter 23 Montana Justice and City Court Rules of Civil Procedure (MJCCRCP) when proceeding with a Civil Case in Justice Court.

Further step-by-step information and forms are available on the Gallatin County website:

<https://gallatincomt.virtualtownhall.net/justice-court>

The procedures stated below DO NOT apply to Small Claims Actions

Below is a general outline of information for the filing of civil lawsuits in Gallatin County Justice Court of Record:

- A mandatory civil lawsuit filing fee of **\$50.00** is due to the Court and required at the time of filing.
- The maximum amount that can be claimed is \$15,000.00 per case. Lawsuits for over \$15,000 need to be filed in District Court.
- Pleadings allowed: In Justice Court there may be a Complaint, Answer, Counterclaim, and Answer to Counterclaim. No other pleadings are allowed, except that the court may order a reply to an answer. **A “Motion” is not a “Pleading.”**
- **A Complaint** is the governing document for the Plaintiff’s civil lawsuit and it is important to be specific about the amount, ongoing costs, eviction, rent, damages, etc. in the Complaint.
- If the Plaintiff is filing as a business (i.e., LLC, Inc., LLP, trust, partnership, or a property management company) the case **MUST** be filed through an attorney. If the Defendant is a business, they must file their Answer through an attorney. See Rules 2, 4 and 7 of MJCCRCP and also 25-31-601 of MCA.
- Items recoverable in a civil lawsuit include: damages, repairs, and replacements to property, car accidents, death to livestock or pets, breach of contracts, the return of a security deposit, etc.
- Filing, service, and interest fees may be recoverable **if** requested in the original Complaint.
- The “incident” must have taken place in Gallatin County or the Plaintiff must live in Gallatin County in order to file a civil lawsuit in Gallatin County. This requirement means that even if the defendant does NOT live in Gallatin County and the above requirements are met, the Defendant can be served in another county as long as the Defendant is served in the State of Montana.
- The Plaintiff is responsible for providing the appropriate # of copies when filing with the court. The **Complaint** and **Summons** forms will need at least 2 extra copies (add 1 more for each additional defendant).
- The **Praecipe-Instruction for Service** form is required with the original filing (only the original needs to be filed, no copies are necessary). It is the Plaintiff’s responsibility to choose who they want to serve the Complaint on the Defendant(s). The following list of entities may serve civil documents:
 - Gallatin County Sheriff’s Department Civil Process Division
 - A licensed process server
 - A disinterested 3rd party (an individual over 18 years who would not be called as a witness in the case)
 - See the attached list of process servers.
- Proof of service and the original Summons must be returned to the Court by the process server before the case may proceed. After the Defendant has been properly served, that party has five (5) working days (excluding holidays) from the day they are served to file a **Civil Answer** with the Court.
- If the Defendant files an Answer to the Complaint with the Court, a filing fee of **\$30.00** (per defendant listed) is required at the time the Answer is filed or the answer process will not be completed (perfected) and default could

occur. The defendant must also mail a copy of the Answer to the Plaintiff or Plaintiff's attorney at the time the Answer is filed.

- If the Defendant files an Answer and Counterclaim, a copy of the Answer and Counterclaim must be mailed to the Plaintiff or Plaintiff's Attorney upon filing. The Plaintiff then has five (5) working days (excluding holidays) from the date they are actually served to file an **Answer to Counterclaim** denying any or all of the material facts stated in the Counterclaim. Any matter not denied shall be deemed admitted.
- If the Defendant does not file an Answer, and the five (5) days have lapsed, the Plaintiff is responsible for submitting a written Motion requesting a Judgment by Default (see 25-23 Rule 21 MCA). In an Action-for-Possession, the Plaintiff is also responsible for filing for a Writ of Assistance and an Order for Eviction.

Default Judgments- In order for the Court to process Default Judgments, the following must be filed:

1) Motion for Default Judgment

2) Judgment after Default

The original is for the Court, one copy for each Defendant(s), and one copy for the Plaintiff. A self-addressed stamped envelope must be provided for the Defendants and Plaintiff.

Default Judgments expire after 10 years.

- If **Judgment by Default** (Default being the Defendant did not file an Answer) or a Final Judgment (final as defined in Court by the Judge) is granted, the Plaintiff may proceed with filing a **Writ of Execution** to garnish the Defendant's wages, bank account or any personal property not exempt by statute.
- The **Writ of Execution** must be served on the employer or bank by a representative of the Civil Process Division of the Gallatin County Sheriff's Department or a licensed process server. Executions expire after 120 days. After an execution expires, another execution can be requested until judgment is satisfied or expires after 10 years.
- 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.

Additionally, §7-4-2210 (1) MCA restricts the practice of law by certain officers. Sheriffs, CLERKS, and their deputies are PROHIBITED from practicing or acting as attorneys or counselors at law. Court **clerks** may assist with forms and filing of papers. They may also explain the procedure, but they **are not allowed to give legal advice** to anyone.

Gallatin County Justice Court strictly follows the MONTANA JUSTICE AND CITY COURT RULES OF CIVIL PROCEDURE in that a party filing or answering a complaint must abide by the rules of law.

Failure of any party to appear at any scheduled court appearance may result in Judgment by Default or a dismissal of the case.

IN THE JUSTICE COURT OF RECORD, DEPARTMENTS ONE AND TWO, OF THE STATE OF MONTANA IN AND

FOR THE COUNTY OF GALLATIN, BEFORE RICK WEST / BRYAN ADAMS, JUSTICES OF THE PEACE

615 So. 16TH AVENUE, ROOM 168, BOZEMAN, MT 59715 406-582-2191

* * * * *

_____)
 _____)
 _____)
 Plaintiff(s))
 -vs-)
 _____)
 _____)
 Defendant(s))

Case No. CV - _____ - _____

ACTION FOR POSSESSION
CIVIL COMPLAINT

COMES NOW THE Plaintiff and alleges as a Complaint against the Defendant the following:

WHEREFORE, Plaintiff prays for a Judgment against the Defendant in the amount of \$_____.

(The court has a \$15,000.00 Jurisdictional Limit)

DATED this _____ Day of _____, 20_____.

X _____
Plaintiff's Signature

Defendant's Name

Plaintiff's Address

Defendant's Address

Plaintiff's City/State/Zip

Defendant's City/State/Zip

Plaintiff's Phone Number/Cell Phone

Defendant's Phone Number/ Cell Phone

Plaintiff's E-Mail Address

Defendant's E-Mail Address

IN THE JUSTICE COURT OF RECORD, DEPARTMENTS ONE AND TWO, OF THE STATE OF MONTANA IN AND FOR THE COUNTY OF GALLATIN, BEFORE RICK WEST / BRYAN ADAMS, JUSTICES OF THE PEACE

615 So. 16TH AVENUE, ROOM 168, BOZEMAN, MT 59715

406-582-2191

* * * * *

_____)
)
_____)
Plaintiff(s))
)
-vs-)
)
_____)
)
_____)
Defendant(s))

Case No. CV - _____ - _____

SUMMONS

**ACTION FOR POSSESSION
UNLAWFUL DETAINER**

THE PLAINTIFF,

Name: _____

Address: _____

Phone: _____

TO THE ABOVE-NAMED DEFENDANT(S), SENDS GREETINGS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, which is filed in the above-entitled Court, a copy of which is served upon you, and to file your **WRITTEN ANSWER** with the above-entitled Court and serve a copy thereof upon the Plaintiff, or Plaintiff's attorney, within **FIVE (5) DAYS** after the service of this Summons, exclusive of the day of service. For your failure to appear or answer, and upon Motion by the Plaintiff, Judgment shall be taken against you by default, for the relief demanded in the Complaint.

YOUR ANSWER MUST BE ACCOMPANIED BY THE MANDATORY \$30.00 FILING FEE FOR EACH DEFENDANT.

WITNESS my hand this _____ day of _____, 20_____.

JUSTICE OF THE PEACE / COURT CLERK

IN THE JUSTICE COURT OF RECORD, DEPARTMENTS ONE AND TWO, OF THE STATE OF MONTANA IN AND

FOR THE COUNTY OF GALLATIN, BEFORE RICK WEST / BRYAN ADAMS, JUSTICES OF THE PEACE

615 So. 16TH AVENUE, ROOM 168, BOZEMAN, MT 59715

406-582-2191

* * * * *

_____)
 _____)
 _____)
 Plaintiff(s))
 -vs-)
 _____)
 _____)
 Defendant(s))

Case No. CV - _____ - _____

PRAECIPE

Instructions for Service

TO: _____
 Sheriff's Department or Process Server

FROM: **Plaintiff's Name:** _____
 Address: _____

 Phone: _____

INSTRUCTIONS FOR SERVICE:

Dated this _____ day of _____, 20____.

 Signature

Note: Your papers cannot be served if the Praecipe is not signed.

IN THE JUSTICE COURT OF RECORD, DEPARTMENTS ONE AND TWO, OF THE STATE OF MONTANA IN AND

FOR THE COUNTY OF GALLATIN, BEFORE RICK WEST / BRYAN ADAMS, JUSTICES OF THE PEACE

615 So. 16TH AVENUE, ROOM 168, BOZEMAN, MT 59715

406-582-2191

* * * * *

_____)
 _____)
 _____)
 Plaintiff(s))
 _____)
 vs)
 _____)
 _____)
 Defendant(s))
 -----)

Case No. CV - _____ - _____

PRAECIPE

Instructions to Clerk

TO: Clerk of Gallatin County Justice Court of Record

FROM: Plaintiff's Name: _____

Address: _____

Phone: _____

PLEASE FILE THE COMPLAINT AND ISSUE THE SUMMONS. A copy of the summons and complaint in the above-entitled action shall be:

Dated this _____ day of _____, 20__.

 Signature

Note: Your papers cannot be issued or served if the Praecipe is not signed

CIVIL ACTION SAMPLE FORMS

This information packet contains the forms and samples of the forms you must complete to file a Civil Action in Gallatin County Justice Court of Record.

If you have any questions about completing the forms, please contact one of the following:

Gallatin County Self-Help Law Center

Gallatin County Law and Justice Center

615 S. 16th Street

Bozeman, MT 59715

Phone: 406-582-2158

Email: gallatincountyselfhelp@mt.gov

or

Gallatin County Justice Court of Record

Gallatin County Law and Justice Center

615 South 16th Avenue Room #168

Bozeman, MT 59715

Phone: 406-582-2191 Option #1

Email: justice@gallatin.mt.gov

Website: <https://gallatincomt.virtualltownhall.net/justice-court>

NOTE: The Court CANNOT provide any legal advice

IN THE JUSTICE COURT OF RECORD, DEPARTMENTS ONE AND TWO, OF THE STATE OF MONTANA IN AND FOR THE COUNTY OF GALLATIN, BEFORE RICK WEST / BRYAN ADAMS, JUSTICES OF THE PEACE

615 So. 16TH AVENUE, ROOM 168, BOZEMAN, MT 59715

406-582-2191

* * * * *

Name(s) of Plaintiff(s))
)
)
)
 Plaintiff(s))
)
 -vs-)
)
 Name(s) of Defendant(s))
)
)
)
 Defendant(s))
)

Case No. CV - _____ - _____

ACTION FOR POSSESSION

CIVIL COMPLAINT

COMES NOW THE Plaintiff and alleges as a Complaint against the Defendant the following:

(A clear and concise statement of your complaint against the defendant.) (Principle and interest, if awardable, must be broken down at the time of filing). If more space is needed, attach each additional sheet in triplicate. The court cannot award judgment for more than you ask for in the complaint. If there are any ongoing costs, i.e. additional rent or damages that may accrue after filing of the complaint, you must be very specific and ask for those costs.

WHEREFORE, Plaintiff prays for a Judgment against the Defendant in the amount of \$_____.

(The court has a \$15,000.00 limit)

DATED this _____ Day of _____, 20_____.

X _____
Plaintiff's Signature

Defendant's Name

Plaintiff's Address

Defendant's Address

Plaintiff's City/State/Zip

Defendant's City/State/Zip

Plaintiff's Phone Number

Defendant's Phone Number

IN THE JUSTICE COURT OF RECORD, DEPARTMENTS ONE AND TWO, OF THE STATE OF MONTANA IN AND

FOR THE COUNTY OF GALLATIN, BEFORE RICK WEST / BRYAN ADAMS, JUSTICES OF THE PEACE

615 SO. 16TH AVENUE, ROOM 168, BOZEMAN, MT 59715

406-582-2191

* * * * *

Name(s) of Plaintiff(s))
 _____)
 _____)
 Plaintiff(s))
 -vs-)
Name(s) of Defendant(s))
 _____)
 _____)
 Defendant(s))

Case No. CV - _____ - _____

PRAECIPE

Instructions for Service

TO: Sheriff's Department or Process Server of your choice
Sheriff's Department or Process Server

FROM: **Plaintiff's Name:** YOUR Name

Address: Mailing Address

Phone: Best phone number to reach you

INSTRUCTIONS FOR SERVICE:

(Indicate where you would like the server to serve the documents on the defendant.

Include specific address of residence and/or address of employment.)

Dated this _____ day of _____, 20____.

Your Signature

Signature

Note: Your papers cannot be served if the Praecipe is not signed.

IN THE JUSTICE COURT OF RECORD, DEPARTMENTS ONE AND TWO, OF THE STATE OF MONTANA IN AND

FOR THE COUNTY OF GALLATIN, BEFORE RICK WEST / BRYAN ADAMS, JUSTICES OF THE PEACE

615 So. 16TH AVENUE, ROOM 168, BOZEMAN, MT 59715

406-582-2191

* * * * *

Name(s) of Plaintiff(s))
)
 _____)
)
 Plaintiff(s))
)
 vs)
)
 _____)
Name(s) of Defendant(s))
)
 _____)
)
 Defendant(s))
 -----)

Case No. CV - _____ - _____

PRAECIPE
Instructions to Clerk

TO: Clerk of Gallatin County Justice Court of Record

FROM: Plaintiff's Name: YOUR Name

Address: Mailing Address

Phone: Best phone number to reach you

PLEASE FILE THE COMPLAINT AND ISSUE THE SUMMONS. A copy of the summons and complaint in the above-entitled action shall be:

Indicate what you would like the Clerk to do with the copies of the summon(s) and copy of the Complaint, i.e. give to specific process server, call you when it is ready to be picked up, mail back (must include a self addressed stamped envelope).

Dated this _____ day of Date Filed, 20__.

YOUR Signature

 Signature

Note: Your papers cannot be issued or served if the Praecipe is not signed

THE FOLLOWING IS A LIST OF SUGGESTED PROCESS SERVERS:

SERVICE OF CIVIL PAPERS AND EXECUTIONS

Gallatin County Sheriff's Office

Service of Complaint : \$70 up front required per person or business – if recalled – no refund

Executions: \$175 per person +\$75 each additional + additional charges may apply

Subpoenas: \$70 per person

Aqister Liens: \$175 for Sheriff's Sale + Advertising fee

Posting Notice: \$70 per person/location

Writ of Assistance: \$70 per person + additional charges after first 15 minutes standby

Deliver to Sheriff's Office – 406-582-2125

A signed Praeceptum w/physical address (no P.O. Boxes) must be attached to all papers

No fee for Orders of Protection

Anderson Civil Process Service

Dale Anderson

PO Box 731

Belgrade MT 59714

406-600-0935

andersoncivilprocess@yahoo.com

Equity Management Inc

Gloria

PO Box 4906

Missoula MT 59806

406-721-3337

serve@equityprocess.com

Bozeman 406-580-6420

Williams Investigation

Tyler Paulsen

4185 N Montana, Suite 4

Helena, MT 59601

406-442-2621

SERVICE OF CIVIL PAPERS

A-1 Valley Bail Bonds

Scott Restvedt & Rod Young

PO Box 434

Belgrade, MT 59714

406-586-8235

A-1 Valley Process Service

Tyler Restvedt

406-539-6084

Central Montana Bail Bonds

Chris Wright

PO Box 24

Lewistown MT 59457

406-350-BOND (2663)

Bozeman Contacts:

Hailey & Nelletta Hedrick

406-582-1133

www.centralmontanabailbonds.com