

# Civil Defendant Information in Gallatin County Justice Court of Record

Some or all of the following forms may be required as part of the Complaint process. The linked forms are PDF forms that can be filled out and printed.

- [Answer](#)
- [Answer and Counterclaim](#)
- [Civil Motion](#)
- [Motion and Order for Default](#)
- [Judgment after Default](#)
- [Notice of Appeal](#)

## Step 7 (See [Civil Complaint Process Flowchart](#))

### Answer

- Complete all entries on the Answer. Review [MCA Title 25, Chapter 23, Part 1, Rule 7B](#) of what needs to be in the Answer.
- Date and sign the Answer; also sign the Certificate of Mailing at the bottom of the form.
- Make copies
  - Original Answer filed with the court
  - Copy mailed to defendant(s)
  - Copy for your file

[Answer Sample Form](#)

## Steps 7 & 8

### Filing

- File the Answer or the Answer and Counterclaim with the Clerk of Justice Court.
- Give the Clerk the following:
  - Appearance fee of \$30.00
  - Original Answer or Original Answer and Counterclaim
- Send a copy of the Answer or Answer and Counterclaim to the Plaintiff.
- If an Answer has not been filed by the Defendant within 20 days of service of the Complaint and Summons, the Plaintiff may ask the Clerk to enter Default against the Defendant.
- If an Answer to the Counterclaim has not been filed by the Plaintiff within 20 days of the Complaint and Summons, the Defendant may ask the Clerk to enter Default against the Plaintiff.
- A Default Judgment cannot be for more than what was asked for in the Complaint or Counterclaim.
- If the amount asked for is for a sum that cannot be made certain, the Court may conduct a hearing to determine the amount of damages or determine the truth of the Complaint or Counterclaim allegations.

## Step 8a

### Answer and Counterclaim

- A Defendant may file a Counterclaim against the Plaintiff if the Counterclaim arises out of the same transaction as alleged in the Complaint. Failure to file a Counterclaim arising out of the same transaction may be deemed a waiver.
- If Defendant's Counterclaim arises out of a different transaction, a separate action in the Civil Division or the Small Claims Division of the Justice Court will need to be filed.
- The Counterclaim cannot exceed \$15,000.00
- Date and sign the Counterclaim; also sign the Certificate of Mailing at the bottom of the form.
- Make copies:
  - Original Answer and Counterclaim filed with the court
  - Copy mailed to defendant(s)
  - Copy for your file

## Step 8b

### Entry of Default Counterclaim

- If an Answer to the Counterclaim has not been filed by the Plaintiff, within 20 days of service of the Counterclaim, the Defendant may request that a Default be entered against the Plaintiff by the Clerk.
- The Clerk will not enter the Default automatically. The Defendant must file a [Civil Motion](#) to Enter a Default.
- If not already filed, an Affidavit of Service and a Summons will need to be filed as Default will not be entered without them.

## Step 9

### [Mediation](#)

- If an Answer has been filed by the Defendant within the 20 days after service has been made, then the case will automatically be scheduled for Mediation. The Clerk will set a Mediation date and send notice to both the Plaintiff(s) and Defendant(s).

## Step 10

### Trial

- If the case did not settle at Mediation, it will be up to the Plaintiff to ask the Court to set the case for a Trial.
- At Trial you will need to introduce any written agreements or documents that pertain to your case. You will need to mark each document to be introduced with an Exhibit letter or number on the bottom of the first page of each Exhibit. (Plaintiffs use numbers for their Exhibits and Defendants use letters.) The first document would be marked as "Exhibit A," the second as "Exhibit B," etc. You will need to have the original for the Court, a copy for yourself and a copy for the Defendant.

## Steps 11 & 12

### Entry of Judgment

- At the conclusion of the Trial, the Judge may enter Judgment at once or within 30 days. The Judgment will be reduced to writing.
- A Judgment by Default is entered by the Judge or Clerk. Defendant prepares the Judgment by Default and present it to the Clerk. A Judgment by Default cannot exceed the amount asked for in the Complaint or Counterclaim.
- The prevailing party must pay a \$20 Judgment Fee to the Clerk. If a Judgment by Default is entered, no Judgment Fee is required.
- Upon Entry of Judgment the prevailing party may request the Clerk to issue a [Writ of Execution](#). File three copies of the [Writ of Execution](#), a [Praecipe to Clerk of Court for Executions](#) and a [Praecipe Instructions for Service for Executions](#).
- If you are not the prevailing party, go to Step 17.

## Step 17

### Appeals

- Prepare a Notice of Appeal and certificate of mailing. File the original with the Clerk within 30 days of the rendition of the Judgment. Send a copy to each party in the action.
- File with the Clerk, within 10 days of filing the Notice of Appeal, the undertaking required under Rules 5 and 6, MCRA.

\*[See Montana Code Annotated \(MCA\) Title 25, Chapter 23-Montana Justice and City Court Rules of Civil Procedure \(MJCCRCP\)](#)