

# Who may file a claim or have a claim filed against them?

The party who files a claim is referred to as the "Plaintiff." The party who is sued is referred to as the "Defendant." A claim must designate the proper Plaintiff(s) and Defendant(s). The determination of the proper party will depend on whether the party is a person or a business and how that business is set up. Failure to name the proper parties may result in a defective judgment.

## **A. Individuals**

If the party is a person, you should designate that party by his or her legal name. For example "John Doe."

## **B. Minors**

If the party is a minor (under the age of 18), the proper party depends upon whether the minor is the Plaintiff or the Defendant. A minor may not be a Plaintiff directly but must sue through the minor's parent or legal guardian. For example "John Doe, a minor, by Joe Doe, next best friend." A minor may be sued directly or through the minor's parent or legal guardian.

## **C. Businesses**

If the party is a business, you must name the proper legal entity. The proper legal entity is determined by how the business is set up. You can contact the Montana Secretary of State at (404) 656-2817 to get information on a corporation.

## **D. Sole Proprietorships**

A sole proprietorship is a business owned by one person which is not in the form of a corporation. The person may or may not use a trade name in the operation of the business. In either case, the proper party is the individual owner. For example "John Doe, individually and d/b/a John's Garage."

## **E. Partnerships**

A partnership is a business owned by two or more persons, which is not in the form of a corporation. The proper parties are the actual partners. For example "John Doe and Jane Doe, individually and d/b/a John's and Jane's Garage."

## **F. Corporations**

A corporation is a legal entity separate and distinct from its owners. The proper party is the legal name of the corporation. For example "John's Garage, Inc." You can get information on corporations from the Montana Secretary of State by calling (404) 656-2817. You should determine the correct legal name of the corporation, the county in which its registered office is located, and the name and address of the Registered Agent.

*The source of this information may be internal or external to the Beaverhead County Justice Court. The Beaverhead County Justice Court makes all reasonable efforts to verify this information. However, the information provided in this document is for your information only. The Beaverhead County Justice Court makes no explicit or implied claims to the validity of this information.*