

# Asking the Court to Evict Your Tenant

Note: Use these instructions and forms to sue your tenant for not moving out of your rental property. The complaint that you file in Court is sometimes called a Complaint for Possession. You may only use these forms after you have followed the procedures required by Montana Law for terminating your tenant's rental agreement. For more information on the required termination procedures, read a different forms packet called "Giving Your Tenant Notice to Vacate."

These instructions and forms may not be right for your case. They cannot take the place of advice from a lawyer. Talk to a lawyer if you have any questions.

Print the forms in this packet single-sided, with writing on only one side of the page. Do not change these forms. If you change the forms, you might lose language you need.

## What Forms Will I Need To Ask The Court To Evict My Tenant?

You will need to fill in and file the following forms to sue your tenant:

- Complaint for Possession
- Summons
- Request to Serve Documents

Also, you will need to print out the following forms and present them to the Judge upon filing. Do not fill in these forms.

- Order Setting Hearing
- Judgment

The **Complaint for Possession** asks the Court to make your tenant move out of your property. In the Complaint, you can also ask the Court to make your tenant pay any back rent your tenant owes you. In the Complaint you must tell the Court how you properly terminated your tenant's rental agreement, and that the tenant has not moved out. After you file the Complaint with the Court, you must have your tenant served with a copy of the Complaint.

The **Summons** is the notice from the court to your tenant. The Summons tells the tenant that you are suing the tenant. The Summons also tells the tenant how long the tenant has to file an Answer to your Complaint with the court. The judge or clerk of court will sign the Summons. You are responsible for getting the tenant served with the Summons, along with the Complaint.

The **Request to Serve Documents** tells the sheriff's office to personally deliver to your tenant copies of the court papers you filed. In the Request to Serve Documents, you must give the name of the tenant, how to contact the tenant, and what documents to serve on the tenant. You need to fill in a separate Request to Serve Documents for each tenant you are suing.

The **Order Setting Hearing** is for the judge to fill in, except for the caption that you will fill in. After the judge fills it in, the court will send a copy of it to you and to the tenant (if the tenant files an Answer) to tell you when and where your hearing will take place.

The **Judgment** is for the judge to fill in, except for the caption that you will fill in. It tells you the judge's decision. After the judge decides your case, the judge may fill in the Judgment that is part of this packet or the judge may choose not to use this form and to write out his or her own Judgment.

The **Affidavit of Inability to Pay** is a form you can use to ask the court for permission to not pay the fees the court charges to file your Complaint. This form is not included in this packet. If you cannot afford to pay the filing fees for the Complaint, ask the clerk of court for an Affidavit of Inability to Pay. Courts may use different names for this form. The Affidavit will require you to provide information about your income and expenses. After you fill in the Affidavit and sign it, the clerk of court will give it to the judge to review. If the judge decides that you cannot afford the filing fee, the judge will allow you to file your Complaint without paying the filing fee. If the judge decides that you can afford the filing fee, the judge will not allow you to file your Complaint until you pay the filing fee.

**Important:** File your Affidavit of Inability to Pay early! You must file your Affidavit before you can file your Complaint without paying the filing fee. You need to allow the judge enough time to review your Affidavit. If the judge has not approved your Affidavit, the clerk of court may not accept your Complaint for filing without payment of the fee.

## What Words Do I Need to Know?



A **Plaintiff** is someone who files a lawsuit in court. If you are using these forms to ask the court to make your tenant move out, you are the Plaintiff.

A **Defendant** is someone who is being sued. If you are using these forms to ask the court to make your tenant move out, your tenant is the Defendant.

**Note:** You must name as a Defendant each adult tenant that you are trying to evict. For example, if a husband and wife are tenants on the property you must name both the husband and the wife as Defendants in your Complaint if you want to evict them both. If you file your Complaint against only the wife, the husband will not be evicted and cannot be made to move out, even if you win in court.

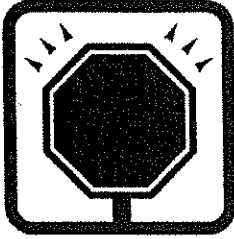
## Who Can Use These Forms?

You can use these forms if:

- You rent out a home, mobile home, mobile home lot, or apartment in Montana; and
- You have given your tenant **written notice** that the rental agreement was terminated (read the "Giving Your Tenant Notice to Vacate" Packet at [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org) or [www.lawlibrary.mt.gov](http://www.lawlibrary.mt.gov) for more information);

**AND**

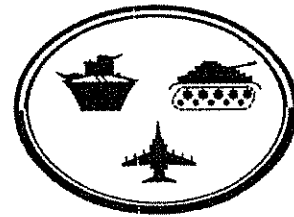
- Your tenant did not move out on the date that the tenant was required to move out.



**WARNING:** You cannot use these forms if you rent out properties under the name of a corporation or other business entity. Rule 2(a) of the Montana Justice and City Court Civil Rules allows a "person" to file suit without an attorney, but requires an agent or a business entity (such as a corporation or LLC) to file suit through an attorney

### **What if My Tenant is an Active Servicemember?**

The Servicemembers Civil Relief Act (SCRA) gives protections to people called to active duty in the military. These protections can also cover the servicemember's dependents. If one of the tenants you are trying to evict is a servicemember or a dependent of a servicemember that may be on active duty, talk to a lawyer before trying to evict your tenants.



### **Where Should I File These Forms?**

You need to file these forms in a court in the county, city or municipality where your rental property is located. You can file these forms in a city court, municipal court, justice court, or district court. City or municipal courts are not available in all areas. If you file in a district court, it may take longer to get the lawsuit resolved than if you file in a city, municipal, or justice court. If you are not sure where to file, you can read more about the laws and rules for different types of courts in Titles 3 and 25 of the Montana Code Annotated (MCA). You can also ask the clerk of each court if the court has local court rules in addition to the laws and rules in the MCA.

### **What Can the Tenant Do After I File My Complaint?**

The tenant has 10 business days from the day the tenant is served with the Complaint to file an Answer to your Complaint. In counting the 10 days, do not count Saturdays, Sundays, or court holidays. In the Answer, the tenant will respond in writing to what you say in your Complaint. The tenant may also give

affirmative defenses. In an affirmative defense, the tenant can tell the court why he or she believes the court should not order the eviction. For example, if you have not followed the notice requirements in terminating your tenant's rental agreement, the tenant can ask the court to dismiss your case because you did not follow the law.

In the Answer, the tenant may also decide to make a claim against you for any wrongdoing you may have done as a landlord. This is called a counterclaim. For example, if you have not made necessary repairs to the rental or if you have not provided heat to the rental, the tenant may file a counterclaim against you.



It is a good idea to think about any counterclaims or affirmative defenses your tenant may have against you before you file your Complaint in court.

### **What If the Tenant Does Not Respond to My Complaint?**

If the tenant does not file an Answer to the Complaint for possession within 10 business days after the tenant was served with the Complaint, you may ask the court for a "default judgment." In a default judgment, the court may rule that you win your case because the tenant has not responded to your Complaint.

### **Can I Have a Jury Trial?**

You have a right to a jury trial, but you do not have to have one.



If you tell the court that you want a jury trial, you may be required to pay for the costs of the jury trial. Costs of a jury trial include a stipend and travel expenses paid to each juror. Jury trials can be expensive. The State will not pay for the cost of the jury for you. It may also take longer to get your hearing if you request a jury trial. If you do not have a jury trial, a judge will decide the case. If you want a jury trial, print "I REQUEST A JURY TRIAL" under the word "Complaint" on the first page of your Complaint. If you write this, you are telling the court that

you can and will pay the jury costs for the hearing. The court may ask you about this, especially if you have filed an Affidavit of Inability to Pay.



## How Do I Use These Forms?

### 1 Fill out the Forms

- Fill in all of the blanks in the Complaint and the Request for Service.
- Attach to the Complaint any papers you need to support your Complaint (like a copy of the written rental agreement).
- Sign and date the Complaint and the Request for Service.
- Fill in only the caption on the Summons, Order Setting Hearing, and Judgment. The caption looks like this:

<b>In the</b> (check one box and fill in the blanks for the court where you are filing):	
<input type="checkbox"/> Justice Court of _____ County, (county of court where you are filing)	
<input type="checkbox"/> City Court of _____, (city of court where you are filing)	
<input type="checkbox"/> Municipal Court of _____, (city of court where you are filing)	
<input type="checkbox"/> ____ Judicial District Court of _____ County, (number of district) (county of court where you are filing)	
<b>State of Montana</b>	
_____ (your name) Plaintiff,	Cause No.: _____
v.	Dept. No.: _____ (filled out by court)
_____ (name(s) of tenant(s)) Defendant(s).	Name of Form

### 2 Make Copies

**Note:** If you are suing more than one defendant, you need to make more copies than what is listed below. Add one copy for each additional defendant.

- Summons: 2 copies
- Complaint (including any attachments): 2 copies

- Request to Serve Documents: 1 copy
- Order Setting Hearing: 3 copies
- Judgment: 1 copy



### 3 File the Forms at the Courthouse

- Go to the court where you have decided to file your Complaint.
- If you cannot afford the fee for filing your Complaint, ask the clerk of the court for an Affidavit of Inability to Pay. This form may be called something different in your court.
- File the original Complaint with the clerk.
- Give the Summons forms to the clerk.
- Give the clerk your copies of the Complaint and ask the clerk to stamp the copies as "Filed." One copy is for you to keep and one copy is for you to have served on each tenant. Be sure to take your copy of the Complaint with you to your hearing.
- Give the clerk all copies of the Order Setting Hearing.
- Give the clerk a self-addressed stamped envelope. The clerk will use this envelope to send you a copy of the Order Setting Hearing after the judge fills it out.
- Give the Judgment to the clerk. Ask the clerk to lodge the Judgment in the file. Lodging means that the clerk will not officially file the document in your court file, but will just keep the Judgment inside the court file so the judge can look at it in the future. If the clerk will not lodge the Judgment, you will need to keep the Judgment in a safe place until your hearing. You will need to take the Judgment with you to the hearing, so you can ask to give it to the judge then.

### 4 Serve your Tenant(s)

- It is your responsibility to have your tenant(s) served with a copy of the Summons and Complaint. You cannot hand the papers to the

- Have a copy of your Summons and your Complaint (including any attachments) served on your tenant(s). You can ask your local sheriff's office to do the service.



- Sheriffs' deputies in Montana will serve your tenant for free if:
  - The tenant is in Montana;
  - AND**
  - You have an Order of Inability to Pay Costs from the judge.

If one of these two things is not true for you, you will need to pay the sheriff to serve your forms.

- Mail or hand-deliver your original Request to Serve Documents, a copy of your Summons, and Complaint (including any attachments) to the sheriff's office in the county where your rental property is located. You must have a separate Request to Serve Documents and set of papers to be served for each tenant you sue. If you have an Order of Inability to Pay Costs, provide a copy of that to the sheriff's office with your other papers.
- Give the sheriff's office a self-addressed, stamped envelope so they can mail you the Proof of Service after they deliver your forms to your tenant(s).



## 5 File the Proof of Service

- After the sheriff's office returns the Proof of Service to you, make a copy of the Proof and file the original Proof of Service with the clerk of the court where you filed your Complaint. Have the clerk stamp your copy of the Proof of Service as "Filed." Keep this copy for your records and bring it with you to your hearing.

## 6 Wait for the Tenant(s) to Answer

- The tenant has 10 business days (not counting weekends or holidays) after the tenant is served to file an Answer to your Complaint with the court. After the 10 business days have passed, if the tenant has not filed an Answer, you may ask the court for a default judgment.


**Note:** The tenant(s) may file a counterclaim against you when filing an Answer. If the tenant(s) file(s) a counterclaim, you will need to file a written Answer to the counterclaim with the court. This packet does not cover how to answer a counterclaim. You may need to talk to a lawyer if the tenant(s) file(s) a counterclaim against you. For more information on counterclaims, look on page 4 of this packet.

- The law requires the court to set a date for the hearing within 20 days after an Answer to your Complaint has been filed. When the court sets the hearing, the court will fill out and sign your Order Setting Hearing. The clerk of court will mail a copy of the Order to you and to any tenant(s) that filed an Answer to the lawsuit.
- If you want any witnesses to testify at your hearing, you may need to subpoena them before the hearing. A subpoena orders a person to come to court even if the person does not want to. Once you know the hearing date, you can ask the clerk of court for subpoena forms.

## 7 Go to Your Hearing

- Bring your stamped copies of your Complaint and any other documents you filed with the court with you to your hearing. You will

also need to bring the Judgment if the clerk would not let you lodge it when you filed your Complaint.

- Arrive at the courthouse at least 15 minutes before your hearing will start. Dress like you were going to an important job interview. 
- Check with the clerk of court's office to find the right courtroom for your hearing. In some courts, you will have to check in with the clerk of court before going to your courtroom. After you have talked to the clerk of court, go to your courtroom and wait for the judge to say your name and case number. Remember to call the judge "Your Honor."
- If the clerk would not let you lodge the Judgment when you filed your Complaint, you may need to give it to the judge. At the beginning of the hearing, when the judge asks if you are ready, tell the judge "Your Honor, I have a proposed judgment form for your consideration." Then ask if the judge wants you to hand the Judgment form to him or her. The judge may or may not take the Judgment form from you. It is okay if the judge does not want the Judgment form.
- Be prepared to tell the judge what steps you have taken to give your tenant(s) notice of eviction and for what reasons you did so. Tell the judge if you have any witnesses who will testify. The judge will expect you to bring your evidence and witnesses to the hearing. Evidence can be witness testimony, documents, photographs, or anything else that helps to prove your side of the story.
- If the tenant(s) owe(s) you back rent, you will need to explain and prove that the tenant(s) owe(s) you back rent. Bring any documents you need to help you prove that you are owed the back rent, including your rental agreement or lease.

## Where Can I Get More Information?

The laws of Montana are called the Montana Code Annotated or "MCA." The laws about actions for possession begin in the MCA at Title 70, Chapter 24, Part 4. An easier way to write one of those laws is § 70-24-401, MCA. If your tenant owns a mobile home and is only renting the lot from you, the laws that apply begin in the MCA at Title 70, Chapter 33. An easier way to write one of those laws is § 70-33-101, MCA. The symbol § means section. You can find the MCA at your local library or on the Montana State Law Library website at [www.lawlibrary.mt.gov](http://www.lawlibrary.mt.gov). Click on the "Laws" option near the top of the page on that website and then click on "MCA."



## Where Can I Get Legal Help?

These organizations may be able to help you:

- **Montana Legal Services Association (MLSA)** gives free legal help to low and moderate-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.
- **The State Bar Lawyer Referral and Information Service (LRIS)** refers people to Montana lawyers who might be able to help. Call LRIS at 1-406-449-6577.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at [www.lawlibrary.mt.gov](http://www.lawlibrary.mt.gov). Or you can contact a Reference Librarian at (800) 710-9827 or by email at [mtlawlibrary@mt.gov](mailto:mtlawlibrary@mt.gov).

## EVICTION PROCEEDINGS

Residential or Commercial eviction proceedings are handled in the Civil Division of the Justice Court. The Justice Court has concurrent jurisdiction with the District Court in Landlord/Tenant matters and unlawful detainer matters. However, landlord/tenant matters and unlawful detainer matters in Justice Court are not limited by the \$12,000 jurisdictional limit as in other civil actions.

In termination of a residential rental agreement, the Montana Residential Landlord Tenant Act must be followed. Failure to follow the Montana Residential Landlord Tenant Act may result in the failure of the eviction proceeding. [MontanaLawHelp.org](http://MontanaLawHelp.org) provides legal information and resources on Landlord/Tenant issues.

If the rental agreement/lease is terminated, the landlord may file an action for possession (eviction) and for rent due and a separate action for actual damages for any breach of the rental agreement/lease.

The Clerks of the Justice Court cannot provide legal advice. The parties, or their attorney, must prepare and file all forms necessary to commence or defend the action for possession.

Forms for filing a residential landlord/tenant action for possession upon termination of the rental agreement/lease are provided by the Justice Court for individuals acting without an attorney. The forms are not intended to cover all landlord/tenant actions. Therefore, advice should be sought from competent legal counsel licensed in Montana.

If the action is not for possession, but for unpaid rent or damages for breach of a rental agreement/lease, use the forms provided for Civil Action in the Justice Court. However, be certain to state in the complaint that the claim for unpaid rent or damages is for a breach of a rental agreement/lease.

### PROCEDURE FOR FILING

A Complaint for Possession is filed by a plaintiff/landlord, or an attorney acting on their behalf, against a defendant/tenant in violation of the rental agreement/lease. If the landlord is a corporation, a partnership, or other legal entity, the action must be commenced by an attorney.

### SUMMONS BY CLERK

A filing fee of \$50.00 is due at the time the Complaint for Possession is filed. A Clerk of the Justice Court will issue a Summons upon the filing of the Complaint and payment of the fee.

The defendant/tenant must be served with a copy of the Summons and Complaint for Possession by the Sheriff's Office or a levying Officer. The Summons commands the defendant/tenant to answer the Complaint for Possession within 10 days of service, exclusive of the date of service.

## DEFAULT JUDGMENT

If the defendant/tenant fails to answer, and was personally served with the Summons and Complaint for Possession, the plaintiff/landlord may obtain a Default Judgment for Possession. The entry of a Default is not automatic. The plaintiff/landlord must request the entry of the Default and the Default Judgment. The Court may conduct a hearing it considers necessary for entry of a Default Judgment. Forms for requesting the entry of Default and Default Judgment are provided by the Court

## FILING OF AN ANSWER AND COUNTERCLAIM

A Filing fee of \$30.00 is due from each defendant/tenant at the time an Answer to the Complaint for Possession is filed.

If the defendant/tenant files an Answer, the Court will set a hearing within 20 days of the filing of the Answer. The Court will rule on the action for possession within 5 days of the hearing.

If the defendant/tenant files a Counterclaim with the Answer, the plaintiff/landlord must file an Answer to the Counterclaim within 10 of the service of the Counterclaim. The Answer to the Counterclaim may request the Court to require the defendant/tenant to pay into Court all or part of the rent accrued and thereafter accruing.

If the plaintiff/landlord fails to answer the Counterclaim, the defendant/tenant may request an entry of Default and Default Judgment on the Counterclaim.

## EVICTION

Once a Judgment for Possession has been entered, a Writ of Possession may be issued. The plaintiff/landlord must contact the Sheriff's Office or levying officer for enforcement of the Writ of Possession

## APPEAL

A Judgment for Possession may be appealed to the District Court upon the filing of a Notice of Appeal. An Appeal Bond or deposit on money in a sum equal to the amount of Judgment must be posted. If the Bond is not filed within 10 days after the filing of the Notice of Appeal, the Appeal shall be dismissed.

The filing of a Notice of Appeal does not stay the enforcement of the Writ of Possession. The defendant/tenant must file the Appeal Bond and request the Justice Court to stay the Judgment for Possession and the Writ of Possession.

If the action is appealed to the District Court, the hearing must be held within 20 days after the case is transmitted to the District Court.

\_\_\_\_\_  
(your name)

\_\_\_\_\_  
(your mailing address)

\_\_\_\_\_  
(city) (state) (zip)

\_\_\_\_\_  
(your phone number)

**Plaintiff Pro Se**

**In the** (check one box and fill in the blank for the court where you are filing):

**Justice Court of** \_\_\_\_\_ **County,**  
(county of court where you are filing)

**City Court of** \_\_\_\_\_,  
(city of court where you are filing)

**Municipal Court of** \_\_\_\_\_,  
(city of court where you are filing)

\_\_\_\_\_ **Judicial District Court of** \_\_\_\_\_ **County,**  
(number of district) (county of court where you are filing)

**State of Montana**

<p>_____ (your name)</p> <p style="text-align: right;">Plaintiff,</p> <p>v.</p> <p>_____ (name(s) of tenant(s))</p> <p style="text-align: right;">Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled out by court)</p> <p style="text-align: center;"><b>Complaint for Possession</b></p>
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I am the Plaintiff in this case. I am complaining that my tenant(s), the Defendant(s), did not move out of my rental property after I gave my tenant(s)

proper notice. I am asking for relief. I state the following facts to support my claim:

**1 Information about Me**

My name is: \_\_\_\_\_.  
(your name)

\_\_\_\_\_  
(full address of the property you have rented to tenant(s))

**2 Information about the Defendant(s)**

The Defendant(s) rented the property from me. The Defendant(s)'s name(s) is(are):

\_\_\_\_\_  
(name(s) of tenant(s))

The Defendant(s) still live(s) at the address of my rental property given above.

**3 Our Rental Agreement**

The Defendant(s) and I entered into a rental agreement that was (*check one box*):

In writing. A copy of the written rental agreement is attached to this Complaint (*attach written rental agreement to Complaint*).

OR

In writing. I do not have a copy of the rental agreement.

OR

Not in writing.

In the rental agreement, the Defendant(s) agreed to pay me \$ \_\_\_\_\_  
(amount of rent)

each \_\_\_\_\_ for the rental property.  
(write "month" or "week")

**4 Written Notice to Vacate**

I gave the Defendant(s) written notice to move out. A copy of the written notice that I gave the Defendant(s) is attached to this Complaint (*attach a copy of the written notice you gave your tenant(s)*).

I delivered the written notice to the Defendant(s) by (*check one box*):

Hand-delivering it to the Defendant(s).

OR

Mailing it to the Defendant(s).

Defendant(s) have not moved out.

**5 Unpaid Rent Owed**

The Defendant(s) (*check one box*):

Does(Do) not owe me unpaid rent.

OR

Owe(s) me \$\_\_\_\_\_ in unpaid rent for the time the tenant(s) was(were) living in my rental property.

**Request for Relief**

I respectfully ask the Court to order:

1. That the Defendant(s) move(s) out of my rental property;
2. That the Defendant(s) pay(s) all unpaid rent owed to me; and
3. For any other relief that is proper, including awarding court costs to me, if I paid any court costs.

Date: \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
(sign your name)

Printed Name: \_\_\_\_\_  
(print your name)



\_\_\_\_\_  
(your name)

\_\_\_\_\_  
(your mailing address)

\_\_\_\_\_  
(city) (state) (zip)

\_\_\_\_\_  
(your phone number)

**Plaintiff Pro Se**

**In the** (check one box and fill in the blank for the court where you are filing):

**Justice Court of** \_\_\_\_\_ **County,**  
(county of court where you are filing)

**City Court of** \_\_\_\_\_,  
(city of court where you are filing)

**Municipal Court of** \_\_\_\_\_,  
(city of court where you are filing)

\_\_\_\_\_ **Judicial District Court of** \_\_\_\_\_ **County,**  
(number of district) (county of court where you are filing)

**State of Montana**

<p>_____ (your name)</p> <p style="text-align: right;">Plaintiff,</p> <p>v.</p> <p>_____ (name(s) of tenant(s))</p> <p style="text-align: right;">Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled out by court)</p> <p style="text-align: center;"><b>Summons</b></p>
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The State of Montana summons you to answer the Complaint in this action. The Complaint is filed in the office of the court named above. A copy of the Complaint is attached to this Summons and is now served on you. If you

deny any or all of the facts in the Complaint, you must file your written Answer with the court named above. You must also pay any fee the court requires for filing an Answer, unless you get the court's permission to file the Answer without paying the fee. You must also send a copy of your Answer to the Plaintiff or the attorney at the address on the Complaint.

The Answer must have a denial of any or all of the facts in the Complaint that you believe are not true. The Answer must also have a plain, direct statement of any facts that make up a defense. Any facts in the Complaint that you do not deny in the Answer will be considered admitted. If you do not file an Answer or Counterclaim within 10 business days after service of the Complaint and Summons, the Plaintiff may ask the court to enter a judgment against you by default.

*(Rest of form to be filled out by court.)*

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

\_\_\_\_\_  
(your name)

\_\_\_\_\_  
(your mailing address)

\_\_\_\_\_  
(city) (state) (zip)

\_\_\_\_\_  
(your phone number)

**Plaintiff Pro Se**

**Note:** You will need a separate Request to Serve Documents and copies of the papers that need to be served for each Defendant (tenant).

**In the** (check **one** box and fill in the blank for the court where you are filing)

**Justice Court of** \_\_\_\_\_ **County,**  
(county of court where you are filing)

**City Court of** \_\_\_\_\_,  
(city of court where you are filing)

**Municipal Court of** \_\_\_\_\_,  
(city of court where you are filing)

\_\_\_\_ **Judicial District Court of** \_\_\_\_\_ **County,**  
(number of district) (county of court where you are filing)

**State of Montana**

\_\_\_\_\_  
(your name)  
Plaintiff,  
  
v.  
  
\_\_\_\_\_  
(name(s) of tenant(s))  
Defendant(s).

Cause No.: \_\_\_\_\_  
Dept. No.: \_\_\_\_\_  
(filled out by court)

**Request to Serve Documents**

To the Sheriff of \_\_\_\_\_ County:  
(write the Defendant's county)

Please serve \_\_\_\_\_ with the following documents:  
(write the Defendant's name)

1. Summons
2. Complaint for Possession

With these documents I am also sending you (check **one** box and include either the order, or your check or money order):

Plaintiff's Order of Inability to Pay Filing Fees which waives the fee for service (attach Order of Inability to Pay).

OR

\$ \_\_\_\_\_ to cover the fee for service by check or money order.  
(amount of service fee)

1. Here is a description of Defendant, the person to be served (describe how the tenant looks):

2. Defendant can be found (check and fill in the blanks for **any** box that you can give information for):

At Defendant's home: \_\_\_\_\_  
(address where tenant lives)

Times Defendant is at this address: \_\_\_\_\_  
(times when tenant is usually at home)

At Defendant's workplace: \_\_\_\_\_  
(address or place where tenant works)

Times Defendant is at this address: \_\_\_\_\_  
(times when tenant is usually at work)

At some other place: \_\_\_\_\_  
(address of another place where tenant can be found)

Times Defendant is at this address: \_\_\_\_\_  
(times when tenant can be found there)

Please serve this Summons and Complaint as soon as possible. Please return Proof of Service to me at the address given at the top of this paper.

Thank you.

Date: \_\_\_\_\_  
(mm/dd/yyyy)

Signature: \_\_\_\_\_  
(sign your name)

Printed Name: \_\_\_\_\_  
(print your name)

**Proof of Service**  
(for Sheriff's use only)

I hereby certify that:

I personally served the Summons and the Complaint for Possession on the Defendant by delivering a copy of said Summons and Complaint to Defendant \_\_\_\_\_ personally on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M. at this address \_\_\_\_\_ in the County of \_\_\_\_\_, State of \_\_\_\_\_.

**OR**

After due effort, I was unable to locate or serve the Defendant \_\_\_\_\_ in the County of \_\_\_\_\_, State of \_\_\_\_\_.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Sheriff

By: \_\_\_\_\_  
Deputy Sheriff

In the (check one box and fill in the blank for the court where you are filing):

Justice Court of \_\_\_\_\_ County,  
(county of court where you are filing)

City Court of \_\_\_\_\_,  
(city of court where you are filing)

Municipal Court of \_\_\_\_\_,  
(city of court where you are filing)

\_\_\_\_\_ Judicial District Court of \_\_\_\_\_ County,  
(number of district) (county of court where you are filing)

**State of Montana**

<p>_____ (your name)</p> <p style="text-align: right;">Plaintiff,</p> <p>v.</p> <p>_____ (name(s) of tenant(s))</p> <p style="text-align: right;">Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled out by court)</p> <p style="text-align: center;"><b>Order Setting Hearing</b></p>
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(Rest of form to be filled out by court.)

The hearing on the Complaint for Action for Possession filed in this case is set for the following date: \_\_\_\_\_, time \_\_\_\_\_ (a.m./p.m.), and place: \_\_\_\_\_

Date signed: \_\_\_\_\_ Judge: \_\_\_\_\_

In the (check one box and fill in the blank for the court where you are filing):

Justice Court of \_\_\_\_\_ County,  
(county of court where you are filing)

City Court of \_\_\_\_\_,  
(city of court where you are filing)

Municipal Court of \_\_\_\_\_,  
(city of court where you are filing)

\_\_\_\_ Judicial District Court of \_\_\_\_\_ County,  
(number of district) (county of court where you are filing)

**State of Montana**

<p>_____ (your name)</p> <p style="text-align: right;">Plaintiff,</p> <p>v.</p> <p>_____ (name(s) of tenant(s))</p> <p style="text-align: right;">Defendant(s).</p>	<p>Cause No.: _____</p> <p>Dept. No.: _____ (filled out by court)</p> <p style="text-align: center;"><b>Judgment</b></p>
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(Rest of form to be filled out by court.)

A Complaint for Action for Possession was filed in this case. A hearing was held on: \_\_\_\_\_. Plaintiff appeared in person, and Defendant:



- Appeared in person
  - With counsel.
  - Without counsel.
- Did not appear.

Based on the testimony and evidence presented, the court makes the following:

**Findings of Fact:**

1 The Defendant(s) rented the Plaintiff's property located at:

\_\_\_\_\_

*Street Address*

\_\_\_\_\_

<i>City</i>	<i>State</i>	<i>Zip Code</i>
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2 Defendant(s) agreed to pay Plaintiff rent of \$ \_\_\_\_\_ per \_\_\_\_\_.

3 Plaintiff:

- Gave Defendant(s) written notice to vacate.
- Did not give Defendant(s) written notice to vacate.

4 Plaintiff gave Defendant(s) notice to vacate for the following reasons:

5 Defendant(s) did not move out of the rental.

**Conclusions of Law:**

1 The rental agreement:

- Was properly terminated before Plaintiff filed the Complaint in this Court.

- Was not properly terminated before Plaintiff filed the Complaint in this Court.

**2** The Defendant(s):

- Owe(s) the Plaintiff unpaid rent in the amount of \$\_\_\_\_\_.  
Here is how this amount was calculated:

- Do(Does) not owe(s) Plaintiff unpaid rent. Here is why unpaid rent is not owed:

- Has (Have) a right to retain possession of the rental. Here is why Defendant(s) do(does) not have to move out:

- Must move out and give up possession of the rental. Here is why Defendant(s) must move out:

**Order:**

This Court orders that:

- The Defendant(s) must pay the Plaintiff \$\_\_\_\_\_, which is the amount of unpaid rent due. The Court awards judgment to Plaintiff in the sum of \$\_\_\_\_\_ along with costs of court in the

amount of \$ \_\_\_\_\_ for a total judgment of \$ \_\_\_\_\_  
together with interest thereon at the rate of ten percent (10%) per annum  
from the date of this judgment until paid in full. Plaintiff is granted the right  
of execution on the judgment.

- The Defendant(s) does(do) not owe unpaid rent to Plaintiff.
- The Defendant(s) must move out of and surrender the rental  
property to the Plaintiff on or before \_\_\_\_\_,  
20\_\_\_\_.
- The Defendant(s) retain(s) possession of the rental.
- The Plaintiff takes nothing by this lawsuit.
- Other:

This is a final judgment.

Signed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge