



Department of Justice

Office of Consumer Protection

2225 11th Ave ~ Box 200151
Helena, MT 59620-0151
(406) 444-4500 or (800) 481-6896

Small Claims Court Checklist: How to File a Claim

Plaintiff

- ___ Send a letter to the defendant demanding payment by a specific time. A certified letter is recommended. When you file the claim and go to trial, bring the proof of mailing the letter.
- ___ Request a complaint form from the clerk or justice of the peace, complete the form and sign it in front of the clerk or the justice.
- ___ Provide the name and complete street address of the defendant. If suing a corporation, make sure the correct legal name is on the complaint.
- ___ Make sure the sum of money or property being sued for is a specific amount of \$7,000 or less.
- ___ File the complaint in the county where the defendant lives or in a county where the defendant may be served.
- ___ Pay the filing fee. If you cannot afford the fee, complete an affidavit asking the court to waive the fees.
- ___ Have the court issue any required subpoenas for witnesses you need at trial.
- ___ If the defendant wasn't served at least five days before the hearing, ask the court to reset the hearing date.
- ___ Bring all required evidence/documents/witnesses to court on the scheduled date and be prepared to present your case.
- ___ If the case is settled prior to trial, file a signed, written agreement with the court.
- ___ If you wish to appeal the small claims court's decision, file your appeal within 10 days after the judge's order is signed and pay the required fee.

Defendant

_____ After the complaint is filed, the court will order a hearing within 10 to 40 days of the date of the order. If you are unable to be there or cannot be prepared by that date, ask the court to reschedule the hearing.

_____ You can settle with the plaintiff out of court. If so, a signed copy of your written settlement agreement must be filed with the court.

_____ Consider using a mediator or third person to help settle the dispute.

_____ If you prefer a jury trial or want an attorney to represent you, file a motion within 10 days from the date the complaint is served to remove the case to justice court.

_____ If filing a counterclaim, the amount in question cannot exceed \$6,500.

_____ Serve your counterclaim on the plaintiff at least 72 hours before the hearing date.

_____ Pay the clerk a fee for each defendant when you appear for trial, or when you file a counterclaim, or when you remove the case to justice court.

_____ If you cannot afford the fees, complete an affidavit asking the court to waive the fees.

_____ Before the hearing, have the court issue any necessary subpoenas for witnesses you need.

_____ Bring all supporting evidence/documents/witnesses to court on the hearing date and be prepared to present your case.

_____ If you wish to appeal the small claims court's decision, file your appeal within 10 days after the judge's order is signed and pay the required fee.