

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

LARRY PAHUT - JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563-4028

INSTRUCTIONS FOR EVICTION ACTION

1. Must have given proper notice to Defendant and provide copy to the Court when case is filed, plus a copy of the rental agreement.
2. Time periods for proper notice are contained in the Landlord/Tenant Act (copies available in the Court), or the "FOR RENT" book by Klaus Sitte, available at the library. Be aware that time periods are different for trailers and mobile homes.
3. Defendant will be served by your choice of server and has (10) days in which to answer.
4. Whether or not an answer is filed, Plaintiff can request a judgment (accompanied by an affidavit of sum due), and an "Order for Eviction" from the Court. If the answer denies allegations in the complaint, Plaintiff may request a hearing or a trial.
5. The Police Department will serve the eviction notice and enforcement of the eviction is according to law enforcement policy.
6. All Montana Justice and City Court Rules of Civil Procedure apply to eviction cases.
7. Please make sure you are qualified under Rules 2 and 4, Montana Justice and City Court Rules of Civil Procedure before filing the case.

INSTRUCTIONS – JUSTICE COURT CIVIL EVICTION ACTIONS

Briefly, the following steps are listed for your information to start or defend a civil action:

1. The amount demanded in the complaint cannot exceed \$12,000 in justice court, excluding costs.
2. A written complaint must be prepared and filed with the Court. A complaint is a brief, concise statement of the facts making up your complaint. You must include the dollar amount requested and/or the return of specific property. The date of the transaction must also be stated. You will need to prepare a summons to be served on the opposing party, and a praecipe or directive for the Sheriff's office, process server, or other person, or an acknowledgment of service if served by 1st class mail (certified mail). For each person you are suing, you will need (2) copies of the complaint, (2) copies of the summons and (1) praecipe. The forms are self explanatory and easy to fill out. All papers necessary are available at Justice Court.
3. After the papers are properly filled out, take them back to the Justice Court for filing.
4. The filing fee is \$50.00 for each complaint. There are additional costs for service of the papers by Sheriff's office or process server. The costs may vary from area to area and will include mileage fees. A deposit is generally required before service is done. If there are additional mileage costs, you will be billed for the excess. Any deposit money not spent will be refunded to you. If you obtain a judgment in court, you may be entitled to a full reimbursement of the fees you paid to pursue this court case. (Husband and wife cannot represent each other and each need to sign the complaint in jointly filed).
5. The defendant(s) or opposing party will be notified of the lawsuit by service of the papers by the Sheriff's office, process server, or other person, or by 1st class mail (certified mail). After the papers are served, you will receive the summons back with a certificate of service or acknowledgment of receipt of this service with an accounting of fees spent, when applicable. **YOU MUST RETURN THIS SUMMONS** to the Court to continue with the lawsuit and to have your costs included in the judgment amount.
6. IF THE DEFENDANT(S) DENIES THE DEBT or disagrees with the complaint, the defendant must file a written answer with the court within (10) days of service. The answer fee is \$30.00 for each defendant. The defendant must send a copy of the answer counterclaim (if any) to the opposing party (plaintiff). If no answer is received by the court within (10) days after service, the plaintiff may ask for a judgment by default. (Husband and wife cannot represent each other and each need to file separate answers).
7. If the defendant(s) files a written answer, a pre-trial hearing may be set by the court. An answer is a concise statement of the denial of the claim. The parties may settle the action any time prior to the pre-trial hearing. If a settlement is reached both parties must notify the Court.
8. The pre-trial hearing is an informal hearing held in the courtroom between the parties. This hearing is scheduled for the benefit of the parties and allows for a full and fair discussion of the lawsuit filed. Settlement is highly possible and the pre-trial hearing and will save the parties cost and time of going to a formal trial. If the plaintiff does not appear at the scheduled pre-trial hearing, the complaint may be dismissed. If the defendant does not appear, a default judgment may be granted.

9. If a settlement is reached at the pre-trial hearing, the Judge will docket the terms of the settlement or dismissal, or issue a stipulated judgment. If no settlement is reached, the Court will set the case for a trial as soon as possible.
10. If a case continues to trial, the parties will be given a handout outlining the procedure that will be expected to be followed at the trial. Each party is responsible for proving to the Court the facts of their side of the case. At the trial, each party will be expected to bring all of their witnesses, written documents (i.e., lease, contract, bills of sale, receipts, etc.), or other evidence needed for judgment. Generally, deadlines to comply with discovery or exchange of information are set by the Court.
11. After the trial is held, the Court will issue a judgment based on the facts presented in the case. Each party will receive a copy of the judgment. Either party will have (30) days to file a written notice of appeal with the District Court and complete the procedures necessary. An appeal will be heard in the District Court as a brand new trial. You will be required to pay a filing fee to the Clerk of District Court and post an appeal bond, if set by the judge.

Your evidence is held for thirty (30) days after the judgment is issued. After that time you may pick up your evidence from the Court file. The Court will not mail evidence back to you. If an appeal is filed, the evidence is transferred to the District Court with all other papers.

12. If you obtain a judgment, either by default or after a pre-trial hearing or a trial is held, you may proceed to the actual collection of the judgment.
13. If the parties wish to negotiate a payment plan for the payment of the judgment, you may do so. The Court would encourage any payments to be handled directly between the parties involved.
14. Payment of judgment is due immediately, however, we recommend that you wait ten (10) days after judgment before you begin the collection process.
15. If the winning party does not receive payments in a timely fashion or if no payment arrangement is made, you may ask the Court to issue an execution. An execution is an order to the Sheriff or levying officer to assist your collection process. You may execute against a savings or checking account, personal property (not a necessity of life), wages, vehicles, campers, or any other assets the judgment debtor may have. You will be required to fill out a praecipe specifically identifying "what" you want to execute against.

This includes bank, name and address, title and identification numbers, color, make, model number, and any other information that will specifically identify the property or item to be seized. You must advise the Sheriff or levying officer where the property you wish to have seized is located and any and all other pertinent information.

You must research the item you want to have seized to be sure the item is free from lien. If there is a lien on an item, you will be responsible to the lien holder for the amount due.

There is an additional fee required for service of the execution by the Sheriff's office or levying officer. The fee varies plus mileage, per execution. These costs will be added to the judgment accruing costs. Any monies collected, such as wages or money retrieved from a checking or savings account, will be distributed to you, after the Sheriff or levying officer collect their costs. If personal property is seized, the property will be sold at a Sheriff's sale and the proceeds, less Sheriff's costs, will be given to you.

When you file an execution, be aware that you may not get the entire amount due the first time. It may be necessary to file more than one execution. The debtor is allowed to withhold a certain percentage from execution to support his/her family or for the necessities of life. An execution may be served numerous times while it is valid. Only one execution may be issued at one time. A return of execution, with or without anything being received, must be filed with the Court before another execution may be issued.

16. If your judgment is for automobile damages resulting from an accident and the debtor makes no effort to satisfy the judgment within sixty (60) days, you have an additional alternative. Contact the Court and request in writing, to notify the Driver Control Bureau to suspend the debtor's driver's license and/or vehicle registration.

17. You may also request the Court for a "Show Cause Hearing" and examination of the judgment debtor. The debtor will be subpoenaed into Court and ordered to show cause why no effort has been made to satisfy the judgment. This hearing will only be set after you have attempted to execute at least once against the debtor for the judgment due.

At the hearing, you will be allowed to ask the debtor questions about income, monies available, personal property value, spouse's income, and any other questions regarding the debtor's financial history to satisfy the amount of judgment.

18. You may also file a "Certificate of Transcript of Docket" with the Clerk of District Court that will place a lien on any real property (land or home) that the debtor may have. The property will not be sold without the satisfaction of the judgment prior to the sale.

19. An execution may be served by any sheriff in any county of the state.

20. Your judgment is good for ten (10) years (MCA §27-2-201(2)), so although you have been unable to collect on the judgment recently if the debtor should get a job within the time limit, you may execute any time within ten (10) years. The judgment will also be recorded against the debtor's credit record with the Credit Bureau. After 10 years, the judgment may be extended for good cause.

21. You must notify the Court as soon as the judgment is satisfied. You will be responsible if the judgment is satisfied and not cleared from the debtor's record in Court.

NEITHER THE JUDGE NOR THE CLERK OF THE COURT IS ALLOWED TO GIVE YOU LEGAL ADVICE. IT IS PROHIBITED BY LAW. WE MAY ONLY ASSIST YOU BY GIVING YOU THE NECESSARY FORMS, THE INSTRUCTION HANDOUT, AND ADVISING YOU OF THE OPTIONS AVAILABLE TO YOU TO PURSUE OR DEFEND A CIVIL ACTION.

An attorney is not necessary for you to pursue a civil action or defend against one. However, if you feel you need an attorney, you have a legal right to obtain one at any time during the proceedings.

If you do not understand the forms or the instructions, please contact an attorney to assist you.

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

BEFORE LARRY PAHUT, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563-4028

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

Case No: _____

COMPLAINT

COME(S) NOW, the Plaintiff(s) and for his/her/their claim for relief against the Defendant(s), allege(s) as follows:

WHEREFORE, Plaintiff(s) request(s) judgment as follows:

DATED this _____ day of _____, _____.

(Plaintiff(s)/Plaintiff(s) Attorney Signature

Plaintiff Name

Defendant Name

Mailing Address

Mailing Address

City, State Zip

City, State Zip

Plaintiff Phone Number

Defendant Phone Number

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

BEFORE LARRY PAHUT, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563-4028

your name

Plaintiff(s)
vs
Their name

Defendant(s)

Case No: _____

COMPLAINT
"Example"

COME(S) NOW, the Plaintiff(s) and for his/her/their claim for relief against the Defendant(s), allege(s) as follows: *(This is only an example)*

Possession of property at:
Back rent past due \$ Amount to date
unpaid rent until evicted
unknown damages
any other requests (ie-serving + filing fees)

WHEREFORE, Plaintiff(s) request(s) judgment as follows:

Total amount due to date plus court and
 serving fees \$ amount to date

DATED this _____ day of Date, _____.

Signature
(Plaintiff(s)/Plaintiff(s) Attorney Signature)

Plaintiff Name
Your info.
Mailing Address

City, State Zip

Plaintiff Phone Number

Defendant Name
Their info.
Mailing Address

City, State Zip

Defendant Phone Number

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STATE OF MONTANA

BEFORE LARRY PAHUT, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563-4028

_____)	
_____)	Case No: _____
Plaintiff(s))	SUMMONS
_____)	LANDLORD/TENANT
_____)	
Defendant(s))	

THE STATE OF MONTANA, TO THE ABOVE NAMED DEFENDANT(S), GREETING(S):

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, which is filed in the above entitled Court. A copy of same is served upon you. In the event that you deny any or all of the material facts stated in the complaint, you must file your written answer within ten (10) days together with a \$30.00 filing fee for each defendant with the above-entitled Court and serve a copy of your answer upon the Plaintiff(s), or Plaintiff(s) attorney at the address shown on the complaint.

The answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant(s) believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a counterclaim within ten (10) days after service of the Complaint and Summons, exclusive of the day of service, the Plaintiff may request entry of default judgment against you for the relief demanded in the Complaint.

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

Justice of the Peace or Clerk

STATE OF MONTANA)ss
COUNTY OF ANACONDA-DEER LODGE)

I HEREBY CERTIFY THAT I received the within Summons on the _____ day of _____, _____, and personally served the same on the _____ day of _____, _____, upon _____, in the County of _____.

A copy of said Summons and Complaint, referred to in said Summons, was left with the Defendant(s).

DATED this _____ day of _____, _____.

Service \$ _____
Mileage \$ _____
Total \$ _____

Sheriff/Deputy/Constable/Levying Officer

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

BEFORE LARRY PAHUT, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563-4028

Your name

Plaintiff(s)

Their name

Defendant(s)

Case No: _____

SUMMONS

LANDLORD/TENANT

"Example"

THE STATE OF MONTANA, TO THE ABOVE NAMED DEFENDANT(S), GREETING(S):

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, which is filed in the above entitled Court. A copy of same is served upon you. In the event that you deny any or all of the material facts stated in the complaint, you must file your written answer within ten (10) days together with a \$30.00 filing fee for each defendant with the above-entitled Court and serve a copy of your answer upon the Plaintiff(s), or Plaintiff(s) attorney at the address shown on the complaint.

The answer must contain a denial of any or all of the material facts stated in the Complaint that the Defendant(s) believes to be untrue, and also a statement, in plain or direct manner, of any other facts constituting a defense. Any matter not denied shall be deemed admitted. If you fail to answer or assert a counterclaim within ten (10) days after service of the Complaint and Summons, exclusive of the day of service, the Plaintiff may request entry of default judgment against you for the relief demanded in the Complaint.

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

Justice of the Peace or Clerk

STATE OF MONTANA)ss
COUNTY OF ANACONDA-DEER LODGE)

I HEREBY CERTIFY THAT I received the within Summons on the _____ day of _____, _____, and personally served the same on the _____ day of _____, _____, upon _____, in the County of _____.

A copy of said Summons and Complaint, referred to in said Summons, was left with the Defendant(s).

DATED this _____ day of _____, _____.

Service \$ _____

Mileage \$ _____

Total \$ _____

Sheriff/Deputy/Constable/Levying Officer

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

BEFORE LARRY PAHUT, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563-4028

Plaintiff(s)

vs

Defendant(s)

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Case No: _____

CIVIL REQUEST

The Plaintiff hereby requests the following from the Court:

(Check all that apply)

- Default Judgment
- Summary Judgment
- Writ of execution
- Writ of assistance (Execution Warrant)
- Hearing

DATED this _____ day of _____, _____.

Signature Judgment Creditor

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

BEFORE LARRY PAHUT, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563-4028

Plaintiff(s)

vs

Defendant(s)

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Case No:

PRAECIPE

TO CITY OFFICER/CONSTABLE/COUNTY SHERIFF/PROCESS SERVER

Please serve the 24-Hour Writ of Assistance and Notice to Vacate Property on the Defendant(s)
at the following address:

And make your return to:
Anaconda-Deer Lodge County
Justice Court
800 Main St
Anaconda, MT 59711

DATED this day of , .

Clerk of Justice Court

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY
STATE OF MONTANA
LARRY PAHUT - JUSTICE OF THE PEACE
800 MAIN ST, ANACONDA, MT 59711
PHONE (406) 563-4025 FAX (406) 563-4028

Plaintiff(s)

vs

Defendant(s)

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Case No: CV-

**NOTICE TO VACATE
PROPERTY**

NOTICE TO VACATE PROPERTY

YOU ARE HEREBY ORDERED BY THE COURT OF THE FOLLOWING:

Per the attached Execution Warrant and Writ of Assistance, you are given 24 hours to vacate the property located at _____ or you will be locked out and/or forcibly removed by law enforcement.

Dated this _____ day of _____ .

Justice of the Peace

**IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY
STATE OF MONTANA
LARRY PAHUT - JUSTICE OF THE PEACE
800 MAIN ST, ANACONDA, MT 59711
PHONE (406) 563-4025 FAX (406) 563-4028**

Plaintiff(s)

vs

Defendant(s)

)
)
)
)
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)
)

Case No:

**EXECUTION WARRANT
WRIT OF ASSISTANCE**

STATE OF MONTANA TO ANY LAW ENFORCEMENT OR PROCESS SERVER:

Whereas, the _____ received a Judgment against the _____ in the Justice Court of Anaconda/Deer Lodge County. The _____ is Judgment Creditor in this case; and that under the terms of said Judgment the Creditor is entitled to a total sum of \$ _____ (if zero dollars amount to be determined after property vacated and account due settled), and that the aforementioned Judgment also entitles the Creditor to the recovery of property as indicated below:

_____ Immediate possession of the following described premises (see attached affidavit), located at:

NOW THEREFORE YOU ARE COMMANDED: Pursuant to the above stated entitlement, after reception of this writ, you enter into and upon the premises, and eject and remove all and every person or persons holding possession of the same against the Judgment, along with all their personal effects, within your jurisdiction and dispose of the same as law directs, and that you put and establish the Creditor in full and peaceable possession of the premises and/or personal property as ordered by the Court.

Given under my hand this _____ day of _____, _____.

Justice of the Peace

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

BEFORE LARRY PAHUT, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025 FAX (406) 563--4028

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

Case No: _____

PRAECIPE

TO CITY OFFICER/CONSTABLE/COUNTY SHERIFF/PROCESS SERVER

Please serve complaint and summons on the Defendant(s) at the following address:

and make your return to:

ANACONDA-DEER LODGE COUNTY
 JUSTICE COURT
 800 MAIN ST
 ANACONDA, MT 59711

DATED this _____ day of _____, _____.

 Plaintiff(s)/Plaintiff(s) Attorney Signature

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY
STATE OF MONTANA
BEFORE LARRY PAHUT, JUSTICE OF THE PEACE
800 MAIN ST, ANACONDA, MT 59711
PHONE (406) 563-4025 FAX (406) 563-4028

Your name
Plaintiff(s)
vs

Their name
Defendant(s)

PRAECIPE
"Example"

Case No: _____

TO CITY OFFICER/CONSTABLE/COUNTY SHERIFF/PROCESS SERVER
List name of server here
Please serve complaint and summons on the Defendant(s) at the following address:

Defendant's physical address

or place of serving

and make your return to:
ANACONDA-DEER LODGE COUNTY
JUSTICE COURT
800 MAIN ST
ANACONDA, MT 59711

DATED this _____ day of _____
Date

Your signature
Plaintiff(s)/Plaintiff(s) Attorney Signature