

INSTRUCTIONS – ADLC JUSTICE COURT
CIVIL EVICTION ACTIONS- Revised 6/2023

YOU, THE PLAINTIFF, are RESPONSIBLE to move the case forward. The court acts as an unbiased party and IS NOT RESPONSIBLE to track OR file any actions on your behalf. 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.

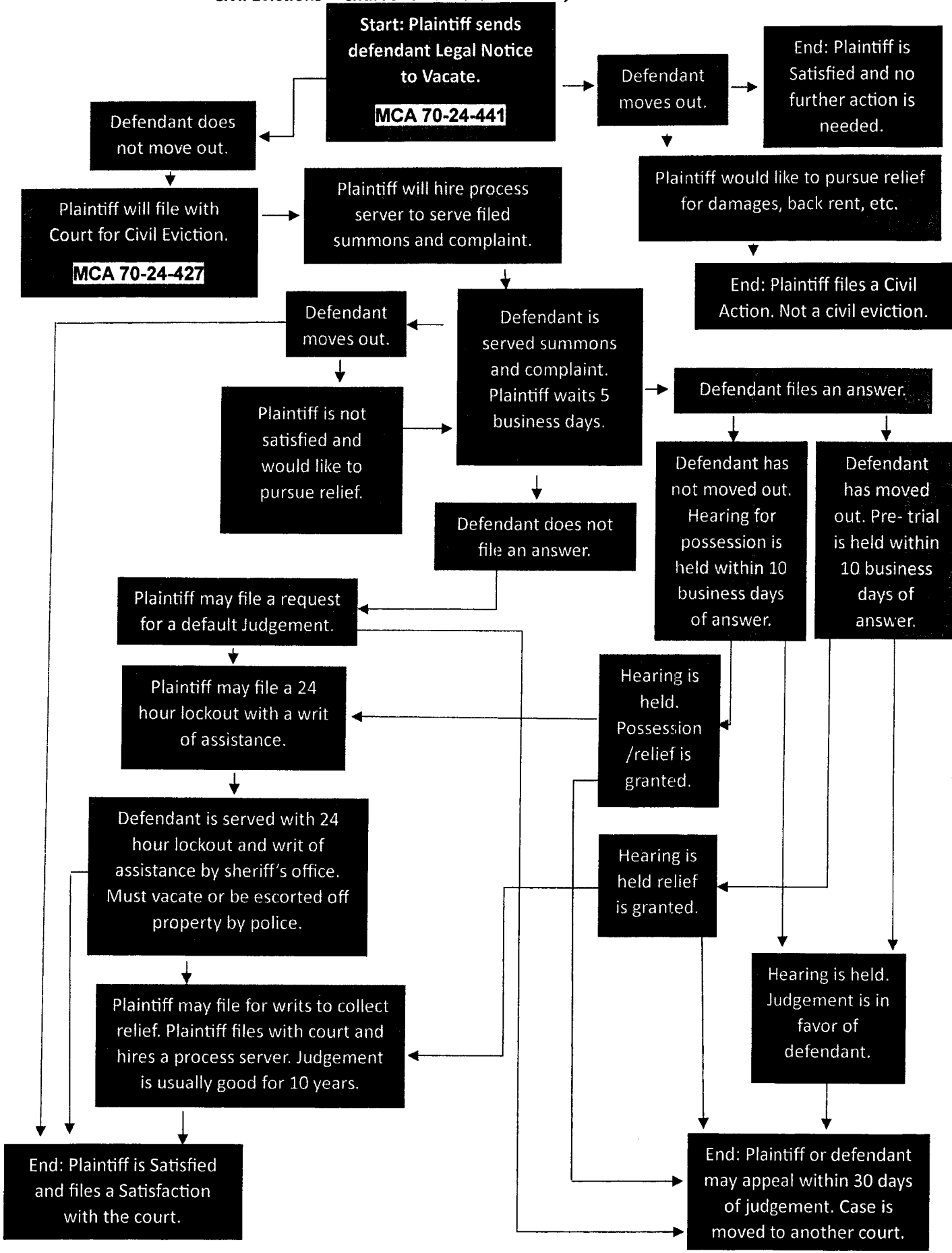
If you do not understand the forms or the instructions, please contact an attorney to assist you.

(MCA 3-1-6) NEITHER THE JUDGE NOR THE CLERK OF THE COURT IS ALLOWED TO GIVE THE PLAINTIFF OR DEFENDANT 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.

INFORMATION ON SELF HELP PROGRAMS PROVIDED BY THE STATE OF MONTANA IS AVAILIABLE UPON REQUEST.

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

Civil Evictions - *Chart shows most scenarios, not all.



PART 1 OF 4
FILING YOUR COMPLAINT

1. GATHER YOUR DOCUMENTS FOR FILING.
 - a. **RENTAL AGREEMENT:** Do you have a hard copy of the agreement between you and the defendant? This can be a paper agreement or any electronic correspondence like email or text messages.
 - b. **LEGAL NOTICE TO VACATE:** Montana law requires you to notify the defendant in writing with a clear deadline before filing your complaint and add this to your filing documents. Do not file your complaint until that deadline has past.
 - i. There will be NO REFUND from the court on your filing fee if your issue is resolved before or after your summons is served.
 - ii. The amount demanded in the complaint cannot exceed \$15,000 in justice court, excluding costs. (MCA 3-10-301)

2. Who is the Plaintiff? Whomever files for the Eviction is the Plaintiff. This person or persons (MCA 25-23-1-4a) will be required to appear when summoned for court and file appropriate documents for Substitution in accordance with MCA 25-23-1-11.

3. Provided in this packet are 3 blank documents with examples, here is a brief description of those documents:
 - a. **Complaint-** 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. Attach your agreement referenced in step 1 here.
 - b. **Summons-** You will need to prepare a summons to be served on the opposing party,
 - c. **Praecepte Or Certificate of service-** A praecipe or directive for the Sheriff's office, process server, or other person, OR Certified mailing labels if served by 1st class mail (certified mail).
 - i. With a Praecepte the process server of your choice will usually notify and the court AND you when the summons and complaint are served.
 - ii. With Certified Mail you will get the notification of service and will be responsible to notify the court of service.

4. After the papers are properly filled out, take them back to the Justice Court for filing. The filing fee is \$50.00 for each complaint, non-refundable but you can claim it in the costs on your judgement. At this time you will receive:
 - i. Part 2 of this packet (The whole packet is available upon request.)
 - ii. 1 copy of your documents for your records with:
 1. 1 complaint
 2. 1 summons
 3. 1 praecipe or copy of certified mailing labels
 - iii. Service packet: (if mailing you are the server and will only receive the Original certified mailing labels and copy for defendant for this section.)
 1. Process server copy
 - a. Copy of complaint
 - b. Original summons
 - c. Original praecipe
 2. Copies of the Complaint and summons for the defendant.

5. There are additional costs for service of the papers by Sheriff's office or process server and by Certified Mail. 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.
 - a. **KEEP YOUR RECIEPTS!** 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 if jointly filed).

Montana Code Annotated 2021

TITLE 70. PROPERTY

CHAPTER 24. RESIDENTIAL LANDLORD AND TENANT ACT OF 1977

Part 1. General Provisions

What Constitutes Notice

70-24-108. What constitutes notice. (1) A person has notice of a fact if any of the following is true:

- (a) the person has actual knowledge of it;
- (b) in the case of a landlord, it is delivered at the place of business of the landlord through which the rental agreement was made;
- (c) in the case of a tenant or a landlord, it is transmitted to an electronic mail address provided by the tenant or the landlord in the rental agreement. Notice by electronic mail is complete on receipt of a read receipt generated by an electronic mail system or an electronic mail reply other than an automatically generated electronic mail reply.
- (d) in the case of a landlord or tenant, it is delivered in hand to the landlord or tenant or mailed with a certificate of mailing or by certified mail to the person at the place indicated by the person as the place for receipt of the communication or, in the absence of a designation, to the person's last-known address. If notice is made with a certificate of mailing or by certified mail, service of the notice is considered to have been made on the date 3 days after the date of mailing.

(2) Notice received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised reasonable diligence.

History: En. 42-412 by Sec. 12, Ch. 313, L. 1977; R.C.M. 1947, 42-412; amd. Sec. 2, Ch. 222, L. 1993; amd. Sec. 1, Ch. 290, L. 2017.

Created by **LAWSON**

Reason for Termination	When Rental Agreement Ends:
Non-payment of rent	If you don't pay the rent in 3 days after receiving the landlord's notice
Repeat violation happening within 6 months, if you were already given a notice before	5 days
Activity on the premises that creates reasonable potential of damage to premises or injury to neighbors, such as gang activity, drug activity, unlawful firearm or explosive or toxic substances	3 days
Unauthorized pet or person	If you don't get rid of the pet or person in 3 days
Damaging the rental	3 days
Not allowing landlord to access the rental after a 24-hour notice to correct	3 days
Any other noncompliance or violation not specified by law (catch-all)	14 days

IN THE JUSTICE COURT OF ANACONDA DEER LODGE COUNTY

STATE OF MONTANA

BEFORE KEN WALUND, JUSTICE OF THE PEACE

800 MAIN ST, ANACONDA, MT 59711

PHONE (406) 563-4025

FAX (406) 563-4028

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

Case No: _____
SUMMONS
LANDLORD/TENANT

THE STATE OF MONTANA, TO THE ABOVE NAMED DEFENDANT(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 5 BUSINESS 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 **5 BUSINESS 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

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BEFORE KEN WALUND, 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:

Copy of legal notice to vacate is attached, date to vacate has passed and tenant has not vacated property.

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

