

INSTRUCTIONS – SMALL CLAIMS ACTION

Briefly, these steps are listed for your information to start or defend a Small Claims Action:

1. The amount demanded in the Complaint cannot exceed \$7,000 excluding costs and the Defendant must be able to be served within the County issuing the Complaint.
2. A written Complaint must be prepared and SWORN TO before 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 and the date of the transaction. You must prepare a Praecipe or directive for the Sheriff's Office Constable or Process Server. For each person you are suing, you will need 2 copies of the Complaint, 2 copies of the Notice To Defendant and 1 Praecipe. The forms are self-explanatory and easy to fill out. All papers necessary are available at the Small Claims Division of Justice Court. A copy of the pamphlet prepared by the Attorney General must be given to the Plaintiff and a copy attached to the Notice to Defendant.
3. After the papers are properly filled out, take them back to the Clerk at Justice Court to be signed **in person** and SWORN TO and for filing. The **Filing Fee is \$30** for the Small Claims Court. There are additional costs (\$100 per Defendant) for service of the papers by the Sheriff's Office and will include mileage costs. Payment in full is required before service is done. If you obtain a Judgment in Court, you may be entitled to a full reimbursement of the fees you paid to pursue this case in Court, excluding the **\$5 for the packet**. You may print these forms for free online at <https://beaverheadcountymt.gov/justice-of-the-peace/>
4. The Defendant or opposing party will be notified of the lawsuit and date of trial by service of the papers by the Sheriff or Process Server. After the papers are served, the Notice to Defendant will be returned to the Court with an accounting of the fees spent. If the Notice to Defendant is returned to the Plaintiff, the Notice must be returned to the Court immediately.
5. If the Notice to Defendant is not served at **least 5 days** prior to the date of trial, a new trial date will be set by the Court and given to the Sheriff or Process Server for re-service. This "reset" procedure will be done as many times as is necessary to serve the Defendant and allow 5 days after service before the trial date.
6. If the parties reach an agreement or solution prior to trial, both parties are required to notify the Court.
7. If a Counterclaim is filed, a **\$10 fee** will be assessed to the Defendant. The Counterclaim must be filed with the Court and served on the Plaintiff at least **72 hours prior** to the date of the trial. Service of the Counterclaim on the Plaintiff is made by the Sheriff (\$100 per Plaintiff) or Process Server in the same manner as the service of the Notice to Defendant.
8. The Defendant may file a Counterclaim against the Plaintiff if the amount claimed arises from the same transaction or occurrence as the Plaintiff's Complaint and does not exceed \$6,500. If the Defendant does not appear, a Default Judgment may be issued after the Plaintiff presents all evidence necessary to prove the allegations of the Complaint. On the date for trial, if the Defendant appears a **\$20 appearance fee** is assessed.
9. The trial is an informal proceeding and will be recorded electronically.
10. No Attorney is allowed unless all parties have an Attorney.
11. The Defendant may file a Notice of Removal in a Small Claims Action, within 10 days of service, and have the entire case transferred to Civil Court.