

# The Structure of Montana Courts – State and Federal

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## **MONTANA COURTS – SUPREME COURT TO SMALL CLAIMS COURT**

Article VII of the Montana Constitution established a three-level court system. Section 1 states:

Section 1. The judicial power of the state is vested in one Supreme Court, district courts, justice courts, and other such courts as may be provided by law.

Section 5 of the Constitution establishes Justice of the Peace courts. Thus, the Constitution establishes the Supreme Court, district courts and Justice of the Peace courts. There must be at least one justice court in each county of the state which “must be located at the county seat.” Additional justice courts may be established by the county commissioners in “each city having a population of over 5,000.”

Thus, by Constitution, there are the following courts:

- Montana Supreme Court
- District Courts
- Justice of the Peace courts

The reference in Article VII, Section 5 to “other such courts as may be provided by law” then gives the legislature the ability to create other courts. The legislature has created:

- Municipal courts (in cities with a population of 4,000 or more at last federal census).
- City courts, which may be combined with Justice courts pursuant to Montana law
- Water court
- Workers compensation court
- Youth court
- Treatment court

## **JURISDICTION OF COURTS**

- **Supreme Court**
  - o Original jurisdiction – review of ballot statements
  - o Appellate jurisdiction over district courts, water courts, workers compensation courts.
- **District courts**
  - o General jurisdiction; all felony and probate cases, most civil cases, certain special actions.
  - o Appellate jurisdiction over courts of limited jurisdiction (municipal, justice, city)

- **Justice of the Peace courts**
  - o Civil jurisdiction, generally, over civil actions up to \$12,000
  - o Temporary restraining orders and orders of protection
  - o Stream restoration if costs do not exceed \$12,000
  - o No jurisdiction over a claim against the state for payment of money
  - o Limited criminal jurisdiction
  - o Small Claims court – may be established as part of municipal court - \$7,000 limit
- **Municipal courts** (city with more than 4,000 population)
  - o Coordinate and coextensive jurisdiction with justice courts
  - o Concurrent jurisdiction with the district court in actions involving Landlord/Tenant Act and forcible entry and detainer.
  - o Applications for search warrants coextensive with jurisdiction of justice of the peace.
- **City courts**
  - o Concurrent jurisdiction, to a degree, with justice courts
  - o Applications for search warrants for offense within city limits
  - o Exclusive jurisdiction for violation of city or town ordinances
  - o Other exclusive jurisdiction involving taxes and assessments less than \$9,500
- **Water courts**
  - o Purpose is to adjudicate existing water rights and conduct contested case hearings upon certification by DNRC under Section 85-2-309, MCA.
- **Workers Compensation court**
  - o Not established under Article VII but, rather, by legislature with judge appointed by the governor. Workers compensation court is part of the executive branch, not the judiciary. Funded by workers compensation administration fund.
  - o Rules of evidence apply
  - o Direct appeal to the supreme court.

## FEDERAL COURTS IN MONTANA

- Montana consists of one judicial district, established as such by Congress in 1889 and not changed since. It is the largest district in the federal court system in the lower 48 states.
  - o Made up of five geographical divisions
    - Billings Division
    - Butte Division
    - Great Falls Division
    - Helena Division
    - Missoula Division
  - o Three Article III judges are authorized
    - Chief Judge Dana L. Christensen
    - Two unfilled slots at present

- Four Senior Judges
  - Judge Charles C. Lovell
  - Judge Jack D. Shanstrom
  - Judge Donald W. Molloy
  - Judge Sam E. Haddon
- Three full-time Magistrate Judges
  - Judge Carolyn S. Ostby
  - Judge R. Keith Strong
  - Judge Jeremiah C. Lynch
- One part-time Magistrate Judge
  - Gerard M. Schuster
- Two recalled Magistrate Judges
  - Richard M. Anderson
  - Robert L. Holter
- United States Bankruptcy Judge
  - Judge Ralph P. Kirscher
  - Judge John L. Peterson (recall status)
- Federal Court Executives
  - Clerk of Court – Tyler P. Gilman
  - Chief Deputy Clerk – Elizabeth Conley
  - Clerk of the Bankruptcy Court - Bernard F. McCarthy

Appeals from U.S. District Court are to the Ninth Circuit Court of Appeals

- Hon. Sidney R. Thomas – Ninth Circuit Judge
  - Judge Thomas' chambers are in Billings, Montana

### **Important Rules to Know, Understand and Live By in Federal Court**

- Federal Rules of Civil Procedure
- Federal Rules of Criminal Procedure
- District Court Local Rules
- U.S. District Court Standing Orders
- Bankruptcy Rules
- U.S. Code (federal courts are courts of limited, not general, jurisdiction)
- Federal Rules of Appellate Procedure

### **WORKING WITH COURT STAFF – EVERY COURT**

- Be nice.
- Be understanding
- Be pleasant.
- Learn their names and be interested.
- State court – Uniform District Court Rules

- State court – Local Rules
- Federal court – E-filing
  - o CM/ECF filing
  - o Registration required for CM/ECF and PACER
  - o Training/qualification