**SMALL CLAIMS OUTLINE**

1. **Purpose**

It is the purpose of this chapter to provide a speedy remedy for small claims and to promote a forum in which such claims may be heard and disposed of without the necessity of a formal trial. (25-35-501, MCA)

1. **Jurisdiction – Venue**

Jurisdiction of small claims court is for the recovery of money or specific personal property, not exceeding $7,000, exclusive of costs. The Defendant must be served within the county where filing occurs. (25-35-502 MCA.)

A claim must be a fixed amount, like a balance on a bill or another easily determined amount previously agreed upon by the parties.

Interpleader actions filed in small claims court cannot exceed $7,000. (25-35-502, MCA.)

The proper venue for a small claims court case is the same as any venue in a Justice Court civil case. Venue is proper in the county where a defendant resides. Note: A MT corporation is resident of the county of its place of business. Venue may also be proper in the county where a contract is to be performed. (See 25-35-504, MCA & Rule 3, Mont. Justice Court & City Court Rules Civ. Proc.)

There is no small claims division in Municipal or City Courts.

1. **Commencement of Action**

A small claims action begins when a person appears before the judge or the clerk and executes a sworn complaint. The judge or clerk shall assist in the preparation of the complaint.

The complaint, order of court, and the notice to Defendant will set forth the date for the Defendant’s appearance, which is also the date of the hearing. The Defendant must have at least five (5) days notice of the hearing, or a new appearance date must be set.

1. **Counterclaim – Removal to Justice Court**

The Defendant may assert a counterclaim against the Plaintiff arising out of the same occurrence or transaction that is the subject of the Plaintiff’s claim. The counterclaim must be sworn to, before the court and served on the Plaintiff not less than 72 hours before the hearing date. The counterclaim cannot exceed $6,500, exclusive of costs.

The Defendant may request that the small claims action be transferred to the civil division of the Justice Court. No fee is required for removal. The notice to remove must be filed within 10 days after service on the Defendant of the complaint and order.

1. **Interpleader Actions**

Interpleader actions may be filed by persons holding money or property belonging to someone else, when more than one person may have a legitimate claim to the money or property. For example, an escrow company may hold earnest money deposited by a party buying real estate. If the transaction is not completed, the contract may indicate who should receive the earnest money under the circumstances. The escrow company usually does not want to be responsible for deciding which party gets the funds, however, because a court might later decide the escrow company chose the wrong party. So, the escrow company can deposit the funds with the Court and file an interpleader action naming the Buyer and the Seller as defendants. At the hearing, the Buyer and Seller present evidence as to which of them should receive the funds, and the Court decides the issue.

1. **Removal from District Court to the Small Claims Division**

District Court can remove cases filed in District Court to the Small Claims Division of the Justice Court, so long as the amount of the claim does not exceed $7,000. (25-35-503, MCA)

1. **Trial – Judgement – Appeal**

The hearing and disposition of the small claims action shall be informal. Evidence and witnesses will be heard in the same manner as other civil actions in a Justice Court. All small claims must be recorded either electronically or stenographically.

At the conclusion of the case, the justice shall make the findings and enter judgment on the record.

Either party may appeal to the district court of the county of the small claims action by giving written notice to the court and to the adverse party within ten (10) calendar days of the entry of judgment. The appeal is limited to questions of law based on the record of the proceedings in small claims court. There is not a new trial in the District Court on appeal.