



IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 501  
2 INTRODUCED BY Cady

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN  
5 INTERPLEADER IN SMALL CLAIMS COURT PROCEDURE; AND AMENDING  
6 SECTIONS 25-34-102 AND 25-34-201, MCA."  
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 25-34-102, MCA, is amended to read:

10 "25-34-102. Jurisdiction -- joinder -- interpleader.

11 (1) The small claims court has original jurisdiction in all  
12 actions for the recovery of money or specific personal  
13 property when such action arises out of a contract, express  
14 or implied, the amount of the claim, exclusive of costs,  
15 does not exceed \$1,500, and the defendant can be served  
16 within the county or counties for which the small claims  
17 court has been created.

18 (2) More than one claim may be joined if all claims  
19 joined would separately meet the requirements for  
20 jurisdiction in the small claims court and the total value  
21 of money claimed or property sought does not exceed \$1,500.

22 (3) The small claims court has jurisdiction over an  
23 interpleader under [section 3] in which the amount claimed  
24 does not exceed \$1,500."

25 Section 2. Section 25-34-201, MCA, is amended to read:

1 "25-34-201. Commencement of actions. (1) Actions in  
2 small claims court shall be commenced by filing an affidavit  
3 with the clerk of court. The small claims court judge shall  
4 assist any claimant in preparing an affidavit or may direct  
5 the clerk of court to provide such assistance.

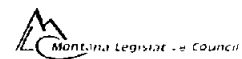
6 (2) The clerk of court shall provide forms for the  
7 affidavits, which shall be in substantially the following  
8 form:

9 "In the Small Claims Court of the ..... Judicial  
10 District in and for the County of ....., State of  
11 Montana.

12 ....., Doc. .... No. ....  
13 Plaintiff PLAINTIFF'S COMPLAINT/  
14 vs. AFFIDAVIT NOTICE TO  
15 ....., DEFENDANT, SEEKING  
16 Defendant MONEY DAMAGES

17 Plaintiff states that defendant(s) owe and should be  
18 ordered to pay to me the sum of ....., because on  
19 ..... (date) at ..... (place), the defendant(s)  
20 .....  
21 .....

22 Plaintiff declares that the defendant or defendants are  
23 not a "person in military service" or "person in the  
24 military service of the United States" as defined in Sec.  
25 101 of the Soldiers' and Sailors' Civil Relief Act of 1940.



1 To the best of my knowledge and belief, the defendant named  
2 above resides at the following address or the following is  
3 the business address:

4 .....  
5 .....

6 My printed name and printed address are as follows:

7 .....

8 Signed in my presence Signature:.....

9 .....

10 Clerk or Deputy Today's date:.....

11 ORDER OF THE COURT/NOTICE TO DEFENDANT

12 This claim has been filed against you. You must appear  
13 before this court on ..... (date) at ..... (time)  
14 at ..... (location).

15 If you do not appear, a judgment may be entered against you.  
16 Costs of the action also may be charged against you. You  
17 should read the information on the back of this claim and  
18 notice. If you have any questions about the procedure, you  
19 may contact the Clerk of the Court in person at  
20 ..... (location of court) or by telephone at  
21 ..... (number)

22 .....

23 Clerk of the Court

24 By:....."

25 (3) When an interpleader appears, he shall prepare an

1 interpleader affidavit under [section 3], or at his request  
2 the judge, justice, or clerk of the court shall draft the  
3 affidavit for him. Upon the interpleader affidavit being  
4 sworn to by the affiant, the judge, justice, or clerk of the  
5 court shall file it and make a true copy and at the same  
6 time shall prepare and sign the order directing the  
7 defendant to appear and answer the claim. A copy of the  
8 order must then be served upon the defendant in the manner  
9 provided by law for service of summons.

10 (4) Upon the matter being decided by the court, the  
11 court may order the court costs to be reimbursed from the  
12 interpleaded funds. The clerk of the court is charged with  
13 the responsibility of disbursing the interpleaded funds in  
14 accordance with the judge's order."

15 NEW SECTION. Section 3. Interpleader actions. (1) As  
16 used in this chapter, interpleader actions determine the  
17 rights of rival claimants to a fund held by a disinterested  
18 party and may be maintained in the small claims court when  
19 any person appears before a judge or clerk of court or  
20 justice of the peace and executes an affidavit setting forth  
21 the nature and basis of the claim.

22 (2) The person filing the interpleader affidavit shall  
23 deposit the funds with the clerk of court or justice of the  
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25 (3) The interpleader must be substantially in the

1 following form:

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3 District in and for the County of ....., State of  
4 Montana.

5 .....,

6 Plaintiff

7 vs.

8 .....,

INTERPLEADER AFFIDAVIT

9 Defendant

10 and

11 .....

12 Defendant

13 State of Montana )

14 )ss

15 )

16 ....., being duly sworn, deposes and says:

17 That ..... the defendant resides at

18 ....., in the above named county. That

19 ....., defendant resides at ....., in

20 the above named county. That the plaintiff has custody or

21 possession of money in the amount of \$....., held pursuant

22 to the following:

23 .....

24 .....

25 .....

1 .....

2 That the defendants claim or may claim to be entitled to the  
3 money. That the plaintiff deposits into the court \$.....,  
4 which represents the amount of money in dispute.

5 That the plaintiff resides at the address shown in the above  
6 caption.

7 .....

8 Affiant

9 Subscribed and sworn to before me this .... day of .....,  
10 19....

11 .....

12 Justice of the Peace

13 .....

14 Clerk

15 ORDER

16 The State of Montana to the within named defendants,  
17 greeting:

18 You are hereby directed to appear and answer the within  
19 and foregoing claim at my office in (name, building, or  
20 residence), in ..... County of .....,  
21 State of Montana, on the ..... day of ....., 19...., at  
22 the hour of .....(AM)(PM); and to have with you then and  
23 there, all books, papers, and witnesses needed by you to  
24 establish your claim to such money.

25 You are further notified that in case you do not so

1 appear, judgment will be given against you as follows:

2 Determining or foreclosing your claim to the  
3 above-described money as well as the disposition thereof;  
4 and, in addition, for costs of the action.

5 Dated this ..... day of ....., 19.....

6 .....

7 Justice of the Peace

8 .....

9 Clerk"

10 NEW SECTION. Section 4. Codification instruction.  
11 Section 3 is intended to be codified as an integral part of  
12 Title 25, chapter 34, part 1, and the provisions of Title  
13 25, chapter 34, apply to section 3.

-End-

APPROVED BY COMMITTEE ON JUDICIARY

1 HOUSE BILL NO. 501
2 INTRODUCED BY CODY
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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN
5 INTERPLEADER IN SMALL CLAIMS COURT PROCEDURE; AND AMENDING
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14 or implied, the amount of the claim, exclusive of costs,
15 does not exceed \$1,500, and the defendant can be served
16 within the county or counties for which the small claims
17 court has been created.

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25 Section 2. Section 25-34-201, MCA, is amended to read:

1 "25-34-201. Commencement of actions. (1) Actions in
2 small claims court shall be commenced by filing an affidavit
3 with the clerk of court. ~~The small claims court judge shall
4 assist any claimant in preparing an affidavit or may direct
5 the clerk of court to provide such assistance.~~

6 (2) The clerk of court shall provide forms for the
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8 form:

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10 District in and for the County of ....., State of
11 Montana.

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13 Plaintiff PLAINTIFF'S COMPLAINT/
14 vs. AFFIDAVIT NOTICE TO
15 ....., DEFENDANT, SEEKING
16 Defendant MONEY DAMAGES

17 Plaintiff states that defendant(s) owe and should be
18 ordered to pay to me the sum of ....., because on
19 ..... (date) at ..... (place), the defendant(s)
20 .....
21 .....

22 Plaintiff declares that the defendant or defendants are
23 not a "person in military service" or "person in the
24 military service of the United States" as defined in Sec.
25 101 of the Soldiers' and Sailors' Civil Relief Act of 1940.



1 To the best of my knowledge and belief, the defendant named  
2 above resides at the following address or the following is  
3 the business address:

4 .....  
5 .....

6 My printed name and printed address are as follows:

7 .....  
8 Signed in my presence Signature:.....  
9 .....

10 Clerk or Deputy Today's date:.....

11 ORDER OF THE COURT/NOTICE TO DEFENDANT

12 This claim has been filed against you. You must appear  
13 before this court on ..... (date) at ..... (time)  
14 at ..... (location).

15 If you do not appear, a judgment may be entered against you.  
16 Costs of the action also may be charged against you. You  
17 should read the information on the back of this claim and  
18 notice. If you have any questions about the procedure, you  
19 may contact the Clerk of the Court in person at  
20 ..... (location of court) or by telephone at  
21 ..... (number)

22 .....  
23 Clerk of the Court  
24 By:....."

25 (3) When an interpleader appears, he shall prepare an

1 ~~interpleader affidavit under [section 3], or at his request~~  
2 ~~the judge, justice, or clerk of the court shall draft the~~  
3 ~~affidavit for him.~~ Upon the interpleader affidavit being  
4 sworn to by the affiant, the judge, justice, or clerk of the  
5 court shall file it and make a true copy and at the same  
6 time shall ~~prepare and~~ sign the order directing the  
7 defendant to appear and answer the claim. A copy of the  
8 order must then be served upon the defendant in the manner  
9 provided by law for service of summons.

10 (4) Upon the matter being decided by the court, the  
11 court may order the court costs to be reimbursed from the  
12 interpleaded funds. The clerk of the court is charged with  
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4 Montana.  
5 .....  
6 Plaintiff  
7 vs.  
8 ....., INTERPLEADER AFFIDAVIT  
9 Defendant  
10 and  
11 .....  
12 Defendant  
13 State of Montana )  
14 )ss  
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16 ....., being duly sworn, deposes and says:  
17 That ..... the defendant resides at  
18 ....., in the above named county. That  
19 ....., defendant resides at ....., in  
20 the above named county. That the plaintiff has custody or  
21 possession of money in the amount of \$....., held pursuant  
22 to the following:  
23 .....  
24 .....  
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1 .....  
2 That the defendants claim or may claim to be entitled to the  
3 money. That the plaintiff deposits into the court \$.....,  
4 which represents the amount of money in dispute.  
5 That the plaintiff resides at the address shown in the above  
6 caption.  
7 .....  
8 Affiant  
9 Subscribed and sworn to before me this .... day of .....,  
10 19....  
11 .....  
12 Justice of the Peace  
13 .....  
14 Clerk  
15 ORDER  
16 The State of Montana to the within named defendants,  
17 greeting:  
18 You are hereby directed to appear and answer the within  
19 and foregoing claim at my office in (name, building, or  
20 residence), in ..... County of .....,  
21 State of Montana, on the ..... day of ....., 19...., at  
22 the hour of .....(AM)(PM); and to have with you then and  
23 there, all books, papers, and witnesses needed by you to  
24 establish your claim to such money.  
25 You are further notified that in case you do not so

1 appear, judgment will be given against you as follows:

2 Determining or foreclosing your claim to the  
3 above-described money as well as the disposition thereof;  
4 and, in addition, for costs of the action.

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7 Justice of the Peace

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10 NEW SECTION. Section 4. Codification instruction.

11 Section 3 is intended to be codified as an integral part of  
12 Title 25, chapter 34, part 1, and the provisions of Title  
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HOUSE BILL NO. 501  
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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN  
INTERPLEADER IN SMALL CLAIMS COURT PROCEDURE; AND AMENDING  
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-34-102, MCA, is amended to read:

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(1) The small claims court has original jurisdiction in all actions for the recovery of money or specific personal property when such action arises out of a contract, express or implied, the amount of the claim, exclusive of costs, does not exceed \$1,500, and the defendant can be served within the county or counties for which the small claims court has been created.

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Plaintiff PLAINTIFF'S COMPLAINT/  
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....., DEFENDANT, SEEKING  
Defendant MONEY DAMAGES

Plaintiff states that defendant(s) owe and should be ordered to pay to me the sum of ....., because on ..... (date) at ..... (place), the defendant(s)

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Plaintiff declares that the defendant or defendants are not a "person in military service" or "person in the military service of the United States" as defined in Sec. 101 of the Soldiers' and Sailors' Civil Relief Act of 1940.



1 To the best of my knowledge and belief, the defendant named  
2 above resides at the following address or the following is  
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23 Clerk of the Court

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2 ~~the judge, justice, or clerk of the court shall draft the~~  
3 ~~affidavit for him.~~ Upon the interpleader affidavit being  
4 ~~sworn to by the affiant, the judge, justice, or clerk of the~~  
5 ~~court shall file it and make a true copy and at the same~~  
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7 vs.

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9 Defendant

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18 ....., in the above named county. That

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20 the above named county. That the plaintiff has custody or

21 possession of money in the amount of \$....., held pursuant

22 to the following:

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3 money. That the plaintiff deposits into the court \$.....,

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7 .....

8 Affiant

9 Subscribed and sworn to before me this .... day of .....,

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11 .....

12 Justice of the Peace

13 .....

14 Clerk

15 ORDER

16 The State of Montana to the within named defendants,

17 greeting:

18 You are hereby directed to appear and answer the within

19 and foregoing claim at my office in (name, building, or

20 residence), in ..... County of .....,

21 State of Montana, on the ..... day of ....., 19...., at

22 the hour of .....(AM)(PM); and to have with you then and

23 there, all books, papers, and witnesses needed by you to

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-End-

STANDING COMMITTEE REPORT

SENATE

March 26 19 87

MR. PRESIDENT

We your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No 501

Third reading copy ( blue ) color

Interpleader in small claims court procedure.
Cody (Halligan)

Respectfully report as follows: That HOUSE BILL No 501

be amended as follows:

1. Page 2, line 5.

Following: "assistance"

Insert: "The small claims court judge shall assist any claimant in preparing an affidavit or may direct the clerk of court to provide such assistance."

AB

~~RECESS~~

~~RECESS~~

AND AS AMENDED
BE CONCURRED IN

SENATOR MAZUREK

Chairman.

[Handwritten signature of Senator Mazurek]

5-26

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20 Plaintiff states that defendant(s) owe and should be  
21 ordered to pay to me the sum of ....., because on  
22 ..... (date) at ..... (place), the defendant(s)

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11 Signed in my presence Signature:.....  
12 .....

13 Clerk or Deputy Today's date:.....

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12 Subscribed and sworn to before me this .... day of .....,  
13 19....

14 .....

15 Justice of the Peace

16 .....

17 Clerk

18 ORDER

19 The State of Montana to the within named defendants,  
20 greeting:

21 You are hereby directed to appear and answer the within  
22 and foregoing claim at my office in (name, building, or  
23 residence), in ..... County of .....,  
24 State of Montana, on the ..... day of ....., 19...., at  
25 the hour of .....(AM)(PM); and to have with you then and

1 there, all books, papers, and witnesses needed by you to  
2 establish your claim to such money.

3 You are further notified that in case you do not so  
4 appear, judgment will be given against you as follows:

5 Determining or foreclosing your claim to the  
6 above-described money as well as the disposition thereof;  
7 and, in addition, for costs of the action.

8 Dated this ..... day of ....., 19.....

9 .....

10 Justice of the Peace

11 .....

12 Clerk"

13 NEW SECTION. Section 4. Codification instruction.

14 Section 3 is intended to be codified as an integral part of  
15 Title 25, chapter 34, part 1, and the provisions of Title  
16 25, chapter 34, apply to section 3.

-End-