

**Fallon County Justice Court**  
**Small Claims Division**  
**Instructions and Forms**

**Purpose (Section 25-35-501 MCA):** It is the purpose of the Small Claims Court 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.

Use the Small Claims process as described below if you want to bring a lawsuit against someone who owes you money or who has possession of personal property you want returned. Review the *Citizen's Guide* to Small Claims Court prepared by the Office of the Attorney General. If you need help, the clerk of court will assist you, but cannot give legal advice.

**Jurisdiction (Section 25-35-502 MCA):** The maximum you can collect through a judgment in small claims court is \$7,000.00, exclusive of costs. The value of the property you seek to recover in small claims court cannot exceed \$7,000.00. If you are seeking damages that have not been determined or agreed upon, you cannot file in small claims court, but must file in the Civil Division of the Justice Court. Small Claims may be filed in the county where the defendant lives or where he/she may be served.

**Attorneys (Section 25-35-505 MCA):** Individuals may represent themselves in a Small Claims Court. Attorneys are not necessary. A party may not be represented by an attorney unless all parties are represented by attorneys.

**Juries (Section 25-35-605 MCA):** Juries are not used in Small Claims Court. If a party prefers a jury trial, the case must be removed to Justice Court. Such request must be made within 10 days after the complaint is served on the Defendant.

**Waiver of Rights (Section 25-35-605(3) MCA):** Failure to request with the Justice a *Notice of Removal* of the Small Claims action to Justice Court by a Defendant within 10 days of the service of the Complaint and Order constitutes a waiver by the Defendant of his right to a trial by jury and representation by an attorney.

**INSTRUCTIONS**

**Assistance to Claimant (Section 25-35-601 MCA):** If you need help with the Small Claims procedure, the clerk of the Small Claims Court will assist you, but cannot give legal advice. Review the *Citizen's Guide* to Small Claims Court prepared by the Office of the Attorney General for additional information.

**Prior to Filing:** It is recommended, but not required, that you (the Plaintiff) send to the Debtor (Defendant) a certified, return-receipt letter asking for the funds you wish to collect on. Allow the Defendant a specified time (10 days, for example) to make arrangements for payment of the debt to you. If you do not receive any relief as a result

of the letter, follow the procedure as outlined in these Small Claims instructions. All referenced Small Claims forms are available online to print and at the office of the Justice Court located at 10 West Fallon in the Fallon County Courthouse.

**Filing (Section 25-35-602 MCA) NOTE: The “*Small Claims Complaint*” must be signed in the presence of the Judge. DO NOT SIGN THE FORM AHEAD OF TIME...IT MUST BE SWORN TO. If you are a business or corporation, please list that name as the “Plaintiff”, and allow for someone to sign on its behalf. Once that person has signed for the corporation or business before the Judge, they must be the one to present the case at trial.**

Once you have completed the Small Claims Complaint form, bring it to the Justice Court for filing. To file a Small Claims Complaint, you will be required to pay a \$20.00 filing fee to the Justice Court (Make checks payable to Fallon County Justice Court).

**Hearing Date (Section 25-35-603 MCA)** At the time of filing your case for Small Claims, the Court will set a trial date for not more than 40 days or less than 10 days from the date of the filing of the claim, and the “Order of the Court/Notice to Defendant” will be issued by the Court.

**Service (Section 25-35-604 MCA)** You (the Plaintiff) are responsible for having a copy of the “Small Claims Complaint” and “Order of the Court/Notice to Defendant” served on the Defendant. The Defendant must be served within the county in which the Small Claims Court is located; therefore, service of the Defendant outside Fallon County is not valid.

You (the Plaintiff) cannot serve the Defendant yourself. You can serve the Defendant by having a levying officer or the sheriff give the forms to the Defendant. You can also serve the Defendant by having a person over the age of 18 give the forms to the Defendant. You will be required to pay all the fees of the levying officer or the sheriff. The service fee required by the Fallon County Sheriff’s Office is **\$40.00 PER PERSON**, and should be paid directly to them (Make checks payable to Fallon County Sheriff’s Office). Proof of service must be signed by the person making the service and filed with the Justice Court prior to the hearing date.

The Defendant must be served not less than 5 days before the hearing date set by the Court. If service cannot be made on the Defendant within this time, you can ask the Court to reset the hearing date. Once the original “Complaint and Order of the Court/Notice to Defendant” has been served on the Defendant, it must be returned to the Justice Court prior to the hearing date.

**Small Claims Trial/Hearing (Section 25-35-702 MCA): *YOU MUST ATTEND THE HEARING.*** The hearing date, time, and location are stated in the Order of the Court/Notice to Defendant. Failure to attend the hearing will result in dismissal of your complaint (Plaintiff) or possible entry of judgment against you (Defendant). Be sure to bring along any witnesses, books, papers, or other evidence which will help prove to the

Court that you are entitled to a money judgment in your favor or possession to the property.

Testifying parties will be put under oath by the Court. Once under oath, the parties involved will present the facts truthfully. Both sides may present evidence and call witnesses.

**Judgment (Section 25-35-801 MCA):** The judgment is the written decision of the Judge. The prevailing party is entitled to collect costs, such as filing and service fees, as provided for in Section 25-35-802 MCA.

**Appeals (Section 25-35-803 MCA):** If either side is dissatisfied with the Court's judgment, the case may be appealed to District Court. The appeal must be in writing and must be made within ten (10) days of the original judgment. The appeal addresses questions of law only. The District Court Judge will not retry the case or accept new evidence or testimony.

**Settlements:** Sometimes it is possible to settle disputes before trial and avoid small claims court altogether. If after filing a Small Claims Complaint and prior to the hearing date set for trial the Defendant approaches you and wishes to settle the debt, either in full or in payments, parties should notify the Court immediately by filing the appropriate paperwork with the Court. Examples of such filings are: Stipulation, Stipulated Judgment, Satisfaction of Judgment, Notice of Dismissal.

*Satisfaction of Judgment:* If payment in full is made prior to the hearing date, the Plaintiff should file with the Court a "Satisfaction of Judgment". This indicates to the Court that the claim has been paid to the Plaintiff's satisfaction.

*Stipulation/Stipulated Judgment:* If payment arrangements are made between the Plaintiff and the Defendant prior to the hearing date, parties should file with the Court a "Stipulation", which is a written agreement between the parties outlining the payment terms; and the Plaintiff may request a Stipulated Judgment at the time of filing the "Stipulation".

*Notice of Dismissal:* The Plaintiff wishes to dismiss the Claim before the Court and vacate the hearing date

**Limits on Cases:** A party may not file more than ten (10) claims in a calendar year.

**SMALL CLAIMS FORMS:**

*A Citizen's Guide*

*Small Claims Complaint*

*Stipulation*

*Satisfaction of Judgment*

*Notice of Removal*

*Notice of Appeal*