

SMALL CLAIMS INSTRUCTIONS

Briefly, the following 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 SWORN TO, and for filing. The filing fee is \$30 for the Justice Court. There are additional costs for service of the papers by the Sheriff's office or process server. The costs may vary from area to area and will include mileage costs. A deposit is generally required before service is done. If there are additional mileage costs, you will be billed for the excess. Any deposit money not spent will be refunded to you. 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.
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, it 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 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 \$2,500. 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 and contests the complaint or files a counterclaim, a \$20 fee will be assessed the Defendant.
9. The trial is an informal proceeding and will be recorded either electronically or steno graphically.
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 and have the entire case transferred to the regular civil Justice Court. If the Defendant DOES NOT FILE A NOTICE OF REMOVAL WITHIN 10 DAYS AFTER RECEIVING SERVICE OF THE NOTICE TO DEFENDANT, THE DEFENDANT WAIVES THE RIGHT TO A JURY TRIAL AND THE REPRESENTATION BY AN ATTORNEY.

12. At the trial, the Court will give a brief review of the procedure that will be followed during the proceedings. The parties will be required to prove to the Court the facts of the complaint and/or counterclaim. At the trial, each party will be expected to bring all of their witnesses, written documents (i.e., leases, contracts, bills of sale), or other evidence needed for judgment.
13. After the trial is held, the Court will issue a judgment based on the facts presented in the case. When the trial is concluded, the Judge will make the findings and enter judgment. Either party will 10 days to file a written notice of appeal with the Court and complete the procedures necessary. An appeal to the District Court is limited to questions of law only. You will be required to pay a filing fee to the Clerk of the District Court and post an appeal bond, if set by the Justice of the Peace.

All evidence may be held for thirty (30) days after the judgment is issued. After that time, you may pick up your evidence from the court file. The Court will not mail the evidence back to you. If an appeal is filed, the evidence is transferred to the District Court.

14. If you obtain a judgment in Justice Court either by default or after a trial is held, you may proceed to the actual collection of the judgment. Payment of the judgment is due immediately. However, we recommend that you wait ten (10) days after judgment before you begin the collection process.
15. If the parties wish to negotiate a payment plan for the payment of the judgment, you may do so. The court would encourage any payments to be handled directly between the parties involved.
16. If the winning party does not receive payments in a timely fashion or if no payment arrangement is made, you may ask the Court to issue an *execution*. An execution is an order to the Sheriff or levying officer to assist your collection process. You may execute against a savings or checking account, personal property (not a necessity of life), wages, vehicles, campers, or any other assets the judgment debtor may have. You will be required to fill out a *praecipe* specifically identifying “what” you want to execute against.
 - ** You will need three (3) copies of the *Writ of Execution*. One will become the original document. The original Writ must be returned to the Court when the Writ of Execution expires in 120 days in order for the Court to issue any future Writs. One copy of the Writ of Execution will go to the location that the money or property is to be seized and the other copy will be for your records.
 - ** If the Writ of Execution is filed with the Court, you must complete the *Notice of Execution Levy*. The Sheriff will complete Notice of Seizure. You must include a stamped self-addressed envelope to the Defendant (postage may be approximately \$.57) for mailing the Notice of Execution of Levy to the Defendant. The Notice must be mailed within five (5) days of seizure and the Sheriff or Process Server will mail the Notice of Execution Levy only if the Writ of Execution was successful.
 - ** An *Affidavit of Service*, completed by the Sheriff or Process Server, must be included with Notice of Execution Levy. This will be your proof as to the date and time the Writ of Execution was served on the Defendant. The original Affidavit of Service must be returned to the Court after you have made a copy for your records.
 - ** If you are executing the garnishment of wages to become due, *The Federal Law Restricting Wage Garnishments* form must be included. This form shows the employer how much money may be executed upon.
 - ** If you are executing property, money in a cash box or till, include the *Answer to Attachment or Execution*, completed by Sheriff, Process Server or Business.
 - ** Note: If you are executing a bank account, the Bank or Institution may require you to supply the account number and/or the Social Security Number and Date of Birth of the Defendant(s).
 - ** You must include, for the Defendant to return to the Court, a *Request for Hearing on Claimed Exemptions*. This should be attached to the *Notice of Execution Levy*.

UPON COMPLETION OF ALL THE FORMS:

** You will need to return all forms to the Court. The Court will stamp the *Writ of Execution* as an Original and seal with the Court Seal. The Original Writ along with two copies, as well as Forms now must be mailed or delivered to the Sheriff or Process Server for processing. The Sheriff or Process Server does charge a fee for this service. Remember if you are executing on property, you may be required to hold secure the property until sale or execution is completed.

17. You may also request the Court for a “Show Cause Hearing” and examination of the judgment debtor. The debtor will be subpoenaed into court and ordered to show cause why no effort has been made to satisfy the judgment. This hearing will only be set after you have attempted to execute against the debtor for the judgment due.

At the hearing, you will be allowed to ask the debtor questions about his income, monies available, personal property value, spouse’s income, and any other questions regarding the debtor’s financial history to satisfy the amount of the judgment.

18. You may also file a “Certification of Transcript of Docket” with the Clerk of the District Court that will place a lien on any real property (land or home) that the debtor may have. The property will not be sold without satisfaction of the judgment prior to sale.
19. Your judgment is good for ten (10) years, so although you have been unable to collect on the judgment recently if the debtor should get a job within the time limit, you may execute any time within the ten (10) years. The judgment will also be recorded against the debtor’s credit record with the Credit Bureau.
20. You must notify the Court as soon as the judgment is satisfied. You will be responsible if the judgment is satisfied and not cleared from the debtor’s record in Court.

NEITHER THE JUDGE NOR THE CLERK ARE ALLOWED TO GIVE YOU LEGAL ADVICE. IT IS PROHIBITED BY LAW!! WE MAY ONLY ASSIST YOU BY GIVING YOU THE NECESSARY FORMS, THE INSTRUCTIONS, AND ADVISING YOU OF THE OPTIONS AVAILABLE TO YOU TO PURSUE OR DEFEND A SMALL CLAIMS ACTION.

An attorney is not necessary to pursue a small claims action or defend against one. HOWEVER, if you feel you need an attorney, you have a legal right to obtain one. You should review paragraphs 10 and 11 of this instruction sheet on the process regarding an attorney. If you do not understand these forms or the instructions, please contact an attorney.

**** PLEASE MAKE COPIES OF THE FOLLOWING FORMS FOR FUTURE USE BEFORE COMPLETING! ****

SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF POWDER RIVER COUNTY,
STATE OF MONTANA, BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE

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Plaintiff(s)

vs.

Defendant(s)

COMPLAINT and SUMMONS TO APPEAR

Complaint No. SM#: _____

Date _____ Money Rec'd _____ Receipt # _____

COMPLAINT

STATE OF MONTANA, COUNTY OF POWDER RIVER } ss.

Comes now the Plaintiff, being first duly sworn, upon oath, and complains and alleges that the Defendant(s) is (are) indebted to the Plaintiff in the sum of \$ _____ for _____

which sum is now due, owing and unpaid despite demands for the payment of the said sum; that the Defendant(s) refused to pay the same and no part thereof has been paid, together with Plaintiff's costs herein expended. That the obligation sued on was contracted to be performed in the above-named Powder River County. That at the commencement of action Defendant resides in the above-named Powder River County.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this ____ day of _____, 20____.

Work Phone _____

Home Phone _____

Subscribed and Sworn to before me

Plaintiff

Justice of the Peace, Powder River County

Plaintiff's Address, City, State, Zip

ORDER OF THE COURT / NOTICE TO DEFENDANT

THE STATE OF MONTANA, to the above-named Defendant(s): You are hereby directed to appear and answer the within and foregoing complaint, in the above entitled court at: POWDER RIVER COUNTY JUSTICE COURT, Broadus, Montana.

on _____, at _____ M.

reset for _____, at _____ M.

reset for _____, at _____ M.

You are hereby further notified that, within 10 days service upon you of this complaint and order, you may remove this action from the small claims court to Justice Court, and that failure to remove shall constitute a waiver of your rights to trial by jury and representation by counsel.

and to have with you, then and there, all books, papers, and witnesses needed by you to establish your defense to said claim; and you are further notified that in case you do not appear, judgment will be taken against you by default, relief demanded in the complaint and for costs of the action, including costs of the service of the complaint and order of the court/notice to defendant.

To the Sheriff, Constable or Service of Process of said county, greetings.

Make legal service and due return thereof on the Defendant at

_____, _____, Montana.

Dated this ____ day of _____, 20____.

Justice of the Peace

SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF POWDER RIVER COUNTY,
STATE OF MONTANA, BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE

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COUNTERCLAIM

Plaintiff(s)

vs.

Complaint No. SM#: _____

Defendant(s)

Date _____ Money Rec'd _____ Receipt # _____

COUNTERCLAIM

STATE OF MONTANA, COUNTY OF POWDER RIVER } ss.

Comes now the Defendant, being first duly sworn, upon oath, and complains and alleges that the Plaintiff(s) is (are) indebted to the Defendant in the sum of \$ _____ for _____

which sum is now due, owing and unpaid despite demands for the payment of the said sum; that the Plaintiff(s) refused to pay the same and no part thereof has been paid, together with Defendant's costs herein expended. That the obligation sued on was contracted to be performed in the above-named Powder River County. That at the commencement of action Plaintiff resides in the above-named Powder River County.

I declare under penalty of perjury that the foregoing is true and correct.

Work Phone _____

Home Phone _____

Dated this ____ day of _____, 20____.

Subscribed and Sworn to before me

Defendant

Justice of the Peace, Powder River County

Defendant's Address, City, State, Zip

ORDER OF THE COURT / NOTICE TO PLAINTIFF

THE STATE OF MONTANA, to the above-named Plaintiff(s): You are hereby directed to appear and answer the within and foregoing counterclaim, in the above entitled court at: POWDER RIVER COUNTY JUSTICE COURT, Broadus, Montana.

on _____, at _____ M.

You are hereby further notified that, within 10 days service upon you of this complaint and order, you may remove this action from the small claims court to Justice Court, and that failure to remove shall constitute a waiver of your rights to trial by jury and representation by counsel.

reset for _____, at _____ M.

reset for _____, at _____ M.

and to have with you, then and there, all books, papers, and witnesses needed by you to establish your defense to said counterclaim; and you are further notified that in case you do not appear, judgment will be taken against you by default, relief demanded in the counterclaim and for costs of the action, including costs of the service of the counterclaim and order of the court/notice to plaintiff.

To the Sheriff, Constable or Service of Process of said county, greetings.

Make legal service and due return thereof on the Plaintiff at

_____, _____, Montana.

Dated this ____ day of _____, 20____.

Justice of the Peace

SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE

Plaintiff

vs

Defendant.

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Cause No. _____

SUBPOENA

THE PLAINTIFF/DEFENDANT SENDS GREETINGS TO:

(Name)

(Address)

(City, State, Zip)

We command you, that all and singular business and excuses being laid aside, you appear and attend before the Justice Court of the State of Montana, in and for the County of Powder River, at a term of said court, to be held in the courtroom of the Powder River County Courthouse, Broadus, Montana, on

_____,
_____, 20____, at _____ A.M./P.M., then and there to testify in the above-entitled action now pending in said Justice Court, on the part of the Plaintiff / Defendant. You will be punished for contempt of said Court for failure to comply.

WITNESS, the Honorable Catherine A. Landa, Justice of the Peace in the County of Powder River, State of Montana, and the seal of said Court, this _____ day of _____, 20____.

CATHERINE A. LANDA, Justice of the Peace

**SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE**

	*	
	*	Cause No. _____
	*	
Plaintiff	*	
vs.	*	PRAECIPE
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	*	
	*	
Defendant	*	
	*	

TO: THE SHERIFF OF POWDER RIVER COUNTY:

Please serve the Small Claims Complaint, Order of Court, and Notice to Defendant, upon the Plaintiff/Defendant _____ (name of party) at _____ (location) and return the original to Powder River County Justice Court, Small Claims Division, Broadus, Montana.

***** PLEASE NOTE THAT THE ORDER OF COURT / NOTICE TO DEFENDANT MUST BE SERVED AT LEAST FIVE (5) DAYS PRIOR TO TRIAL, OR A NEW TRIAL DATE MUST BE SET BY THE COURT. *****

Dated this ____ day of _____, 20__.

CATHERINE A. LANDA
Justice of the Peace

**SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE**

Plaintiff
vs.

Defendant

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* Cause No. _____
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* **MOTION FOR**
* **DEFAULT JUDGMENT**
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COMES NOW, the Plaintiff(s) and respectfully moves the Court to enter DEFAULT and DEFAULT JUDGMENT in the above entitled case, as Defendant(s) has failed to appear or otherwise defend the action within the twenty (20) days allowed by law in Rule 7B, MJCRCP.

Dated this _____ day of _____, 20_____.

Plaintiff(s)

Plaintiff(s)

Address

City, State, Zip

Telephone

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion for Default Judgment was served upon the Defendant(s) or Defendant's attorney(s) by placing the same in the U.S. mail, postage prepaid, addressed as follows:

Signature of person mailing document

SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE

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Cause No. _____

Plaintiff

vs.

JUDGMENT AFTER DEFAULT

Defendant

The Defendant(s) _____, having been duly served a copy of the Complaint and Summons, and more than twenty (20) days having passed since the service thereof, and the Defendant(s) having FAILED TO APPEAR OR OTHERWISE DEFEND,

The default of Defendant(s) has been entered the _____ day of _____, 20____; and, The Plaintiff having shown by proper proof, basis for judgment, now;

IT IS HEREBY ORDERED AND JUDGMENT IS MADE and entered that the Plaintiff recover from Defendant the following:

Principal Sum	\$ _____
Credits	\$ _____
Interest	\$ _____
Filing Fees	\$ _____
Service Fees	\$ _____
Other Costs	\$ _____

For a Total Judgment to the Plaintiff of \$ _____, said sum to bear interest at 10% per annum until paid.

Made and entered this _____ day of _____, 20_____.

CATHERINE A. LANDA
Justice of the Peace

**SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE**

Plaintiff
vs.

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Cause No. _____

WRIT OF EXECUTION

Defendant

THE STATE OF MONTANA TO THE SHERIFF, CONSTABLE, OR A LEVYING OFFICER OF POWDER RIVER COUNTY;

WHEREAS, on the ____ day of _____, 20____, _____

(Plaintiff/Defendant) recovered a judgment in the said Justice Court against _____

(Plaintiff/Defendant) as follows:

Original or Balance Due on Judgment in the amount of	\$ _____
Accrued interest at ____% per annum on Judgment	\$ _____
Costs & Disbursements accrued	\$ _____
Less payments/credits	\$ _____
Total sum due & owing at date of this execution	\$ _____

Together with all costs of execution and/or for personal property described as follows:

NOW, you, the Sheriff, constable, or levying officer, are hereby required to make this sum due on the judgment or damages, with interest, costs, and accruing costs, to satisfy the judgment out of the PERSONAL PROPERTY of the debtor NOT EXEMPT FROM EXECUTION on the day on which the judgment was docketed in the county, or at any time hereafter, and return this writ not less than 10 days nor more than 120 days after the date of issuance subscribed thereon, with record of your actions, endorsed thereon.

Dated this ____ day of _____, 20____.

CATHERINE A. LANDA
Justice of the Peace

NOTICE OF PROPERTY EXEMPT FROM CREDITORS

Under the law **SOME PROPERTY IS EXEMPT FROM SEIZURE**. Below are listed many common types of exempt property to help you decide whether the property is exempt. NOTE: The lists below do NOT contain all possible exemptions. The exemption listed below do NOT apply to property used as collateral under a note or security interest. Further information as to exemptions from execution may be obtained by examining Title 25, Chapter 13, Part 6, Montana Code Annotated.

1. Wages and Support Payments:

Under Federal and State Law, your wages are exempt up to the *larger* of the following two amounts:

A. 75% of *your* net wages; or

B. 30 times the Federal Minimum hourly wage for each work week. *NOTE:* If you are required to pay maintenance or support for any person, only 50% to 65% of your wages may be exempt, depending on the circumstances.

2. Cash Assistance from the Government:

General cash assistance from the government is entirely exempt; for example, Social Security, veteran's pensions, AFDC payments and disability payment are entirely exempt. Child support payments may be entirely exempt. The money from any of these sources may be exempt even if it is deposited into a bank account.

3. Motor Vehicles

A car or truck is exempt up to a value of \$2,500.00.

4. Necessary Personal and Household Property:

(Personal property such as clothing, household furnishings, animals, and crops are exempt to \$4,500.00 total value. (Each item must be worth less than \$600.00.)

5. Tools of Trade:

Tools of trade are exempt up to \$3,000.00 total value.

6. Homestead:

Your family home may be exempt up to \$60,000.00. However, to claim this exemption you must file a form called a Declaration of Homestead with the County Clerk and Recorder.

NOTE REGARDING BANKRUPTCY:

If you currently have a case in bankruptcy court, the only valid Writ is one issued by the Bankruptcy Court.

NOTICE OF RIGHT TO A HEARING AND PROCEDURE FOR RETURN OF PROPERTY

If you think the Sheriff or private process server has taken exempt property under a writ, tell this to the Clerk of the Justice Court at the _____ County Courthouse, in _____, Montana and file with the court a *Notice of Claimed Exemptions*. Ask the Clerk to set a hearing date.

YOUR MUST FILE THE NOTICE OF CLAIMED EXEMPTIONS WITH TEN (10) WORKING DAYS (EXCLUDING HOLIDAYS AND WEEKENDS) OF THE DATE OF SERVICE OF THE NOTICE OF EXECUTION EXEMPTIONS OR WITHIN TEN (10) DAY OF THE DATE OF ITS MAILING TO BE ELIGIBLE FOR A HEARING ON CLAIMED EXEMPTIONS.

You must also mail a true and correct copy of your Notice of Claimed Exemptions to the Sheriff or Process Server having possession of your property and to the judgment creditor or counsel of record for the judgment creditor. Failure to file a claim of exemption within ten (10) working days will result in the Sheriff or Process Server releasing the monies executed upon or proceeding forward with an execution sale of any property obtained.

At this hearing you may explain why you believe the property taken is exempt. The judgment creditor may present its evidence. The judge will then decide if the property taken should be returned to you.

This is an attempt to collect a debt. Any information obtained by the Sheriff or private process server will be used for that purpose.

Dated this _____ day of _____, 20 _____

Sheriff/Process Server

CERTIFICATE OF MAILING

The undersigned does hereby certify on the _____ day of _____, 20_____, a true and correct copy of the foregoing notice was mailed to the following by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed as follows: _____

Sheriff/Process Server

AFFIDAVIT OF SERVICE

_____, being first duly sworn, deposes and says that:
Pursuant to Sections 25-13-301 and 25-13-614, MCA, I have delivered a Notice of Execution Levy to the
judgment debtor by:

Personal service _____ on
_____ (Date)

At: _____

OR

Mailing the Notice by U.S. Mail, postage prepaid on _____ (Date)

To: _____

At: _____

Sheriff/Process Server

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20 ____.

Notary Public for the State of Montana
Residing at _____
My Commission Expires: _____

THE FEDERAL LAW RESTRICTING WAGE GARNISHMENTS

Effective September 1, 1997, Federal Law limits the amount of an employee's disposable earnings which may be made subject to garnishment and will prohibit the discharge of an employee because of garnishment for any one indebtedness.

An employee's "Disposable Earning" means that part of his earning remaining after the deduction from those earnings of any amount required by law to be withheld. Examples of such deductions are:

- Federal Income tax withholding deductions
- Federal Social Security Tax (FICA) deductions
- State & City Tax withholding deductions

The term "earnings" means compensation paid or payable for personal service whether called wages, salary, commission bonus or otherwise.

AMOUNT OF RESTRICTION ON GARNISHMENT

The maximum part of the total "disposable earnings" of an individual which is:

- (a) 25% of the disposable earning for that week or
- (b) The amount of which his/her disposable earnings for that week exceeds 30 times the Federal minimum hourly wage prescribed by §6(a)(1) of the Fair Labor Standards Act in effect at the time earning are payable (currently, this is \$7.25 an hour or \$217.50 a week).

The following examples illustrate the statutory test for determining the amount subject to garnishment.

- (a) An employee's earnings may not be garnished in any amount where these disposable earning are \$217.50 in a particular week, \$435.00 biweekly (every two weeks), \$471.25 semi-monthly (twice a month), or \$942.50 monthly (once a month).
- (b) An employee's gross earnings in a particular week are \$250.00. After deductions required by law, disposable earnings are \$225.00. Both test must be figured to determine which is the lesser amount which is the amount subject to garnishment.

EXAMPLE: An employee's gross earnings in a particular week are \$250.00. After deductions required by law, his disposable earning are \$225.00. The lesser amount would be determined as follows:

- (1) $\$225.00 \times 25\% = \56.25
- (2) $\$225.00 - \$217.50 = \$7.50$

In this week, only \$7.50 may be garnished, since this is the lesser amount (\$217.50 would be paid to the employee.)

CRIMINAL PENALTIES FOR VIOLATIONS

Whoever willfully violates the discharge provisions of this law may be prosecuted criminally and fined up to \$1000.00 or imprisoned for not more than one year or both.

DETACH AND RETURN TO THE LEVYING OFFICER WITH YOUR CHECK

1.	Total Earnings		Disposable Earnings
	Less Federal Tax		
	Less State Tax	4.	Amount Exempt
	Less Social Security		a) \$217.50 if weekly
	Other ()		b) \$435.00 if bi-weekly
			c) \$471.25 if semi-monthly
2.	Disposable Earnings		d) \$942.50 if monthly
3.	25% of #2	5.	Disposable Earnings
			Minus Exempt Amount (a,b,c, or d)

LESSER AMOUNT BETWEEN #3 AND #5 IS THE AMOUNT SUBJECT TO GARNISHMENT.

Name on Garnishment _____ Cause No. _____ Date _____

SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE

Plaintiff

vs.

Defendant

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Cause No. _____

**ANSWER TO ATTACHMENT
OR EXECUTION**

Answer to demand for a statement served on me this _____ day of _____ 20 ____, by
the Process Server or the Sheriff of _____ County, under and by virtue of a Writ of
Execution issued in the above entitled Cause my answer is that I am indebted to Defendant(s) in the sum of
\$ _____, and that I have in my possession and under my control personal property belonging to the
Defendant(s). To wit:

ACCOUNTS:

MONIES DUE AND/OR WAGES DUE:

MONIES IN CASH BOX AND/OR TILL:

Dated this _____ day of _____ 20 _____.

Sheriff/Process Server/or Business

SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE

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Cause No. _____

Plaintiff

vs.

NOTICE OF EXECUTION
LEVY

Defendant

NOTICE TO JUDGMENT DEBTOR

YOUR PROPERTY HAS BEEN TAKEN
BUT YOU MIGHT HAVE EXEMPTIONS FROM EXECUTION

A Writ of Execution has been issued at the request of the Judgment Creditor,
_____, of _____, Montana, to attempt to
collect the Judgment dated _____ and entered against you in the above entitled Court.

Writ of Execution directs the Sheriff to take your property (such as wages, bank accounts, and other
personal property) to pay a Judgment. If there is not enough personal property, then your real property may be
sold. The process of taking your property is called a "levy".

A levy upon the earnings of a Judgment Debtor continues in effect for 120 days or until the Judgment is
satisfied, whichever occurs first.

The Sheriff has seized the following property: _____

However, the law provides that certain property and benefits cannot be used to pay a Judgment; this
property is said to be "exempt" and you are entitled to have it returned to you.

If you claim that any of the property that was taken is exempt, you are entitled to a prompt hearing
before the Court.

To have a hearing on your Claim of Exemption you must file a petition with the Clerk of Court within
10 days after this Notice to Judgment Debtor was served upon you.

IF YOU DO NOT FILE THE PETITION FOR HEARING ON CLAIMED EXEMPTIONS WITHIN 10
CALENDAR DAYS AFTER SERVICE OF THIS NOTICE OR DATE OF MAILING THEN YOUR
PROPERTY WILL BE SOLD OR DISBURSED AS PROVIDED BY LAW.

It may be helpful for you to ask the advice of an attorney.

EXAMPLES OF EXEMPTIONS

Some exemptions are listed in the Montana Code Annotated (M.C.A.) Title 25, Chapter 13, Part 6, and in the United States Code (U.S.C.). Copies of these laws may be at the County Courthouse, and the Montana State University Library. Most public librarians have copies of the M.C.A. The following are examples of exemptions:

- Your interest in household furnishings and goods, appliances, jewelry, wearing apparel, books, firearms and other sporting goods, animals feed, crops, and musical instruments. Any one item may not exceed \$600.00 and all property may not exceed \$4,500.00 in value.
- One motor vehicle, not to exceed \$2,500.00 in value.
- Implements, professional books, and tools, of your trade or dependent of yours.
- Your dwelling house or mobile home and appurtenances not to exceed \$250,000.00 in value.
- Certain state and federal benefits and entitlements, such as retirement benefits; disability or illness benefits; medical; surgical or hospital care benefits; maintenance and child support; burial plots; and workers compensation benefits.

The Clerk of Court, of the entitled Court, has forms and other information.

TO CLAIM AN EXEMPTION, YOU MUST FILE A PETITION WITH THE CLERK AND A HEARING WILL BE SET TO DETERMINE IF THE EXEMPTION IS GOOD.

Dated this ____ day of _____, 20____.

SHERIFF

(1) “To claim an exemption from execution, a judgment debtor shall file a written request for a hearing with the court that issued the execution accompanied by a written statement that describes the property that the judgment debtor claims is exempt and the reasons for the claim that the property is exempt and accompanied by copies of any documentation upon which the judgment debtor is relying for the exemption claim. A copy of the request, statement, and any documentation must be mailed by the judgment debtor on the date of filing to the judgment creditor or the judgment creditor’s attorney and to the sheriff or levying officer. The request, statement, and any documentation must be filed within 10 days, excluding weekends and holidays, of the date of:

a) the judgment debtor’s receipt of notification of execution if notification was by personal service;

or

(b) the date of notification was mailed to the judgment debtor pursuant to §25-13-211(2).

(2) If the judgment debtor does not file the request, statement, and any documentation claiming an exemption within the period provided for in subsection (1), the judgment debtor may not claim an exemption in the seized property.

(3) A court that receives a request for an exemption hearing, along with the statement and documentation, shall conduct the hearing within 10 days, excluding weekends and holidays, from the date of receipt of the request.

(4) The court shall forward the order determining the judgment debtor’s exempt claim to the sheriff or levying officer.

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the _____ day of _____, 20____, a true and correct copy of the foregoing NOTICE OF EXECUTION OF LEVY was mailed to the following by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed as follows:

Signature

Dated this _____ day of _____, 20____.

Plaintiff / Defendant

Address

**SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE**

	*	
	*	Cause No. _____
Plaintiff	*	
vs.	*	REQUEST FOR HEARING ON CLAIMED EXEMPTIONS
	*	
	*	
Defendant	*	
	*	

Defendant represents and petitions the Court as follows:

1. A judgment was entered against the above-named Defendant in the above-entitled Court. Upon application to the Court, a Writ of Execution was issued. The Sheriff or Levying officer has levied the execution upon the property of the Defendant.
2. The Defendant believes that the Sheriff or Levying Officer has levied against exempt property. The Defendant claims an exemption in the following property:

DESCRIBE THE PROPERTY CLAIMED EXEMPT AND TYPE OF EXEMPTION

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____
- (6) _____

(Attach additional sheets if space is not sufficient.)

3. Defendant is entitled to a prompt hearing on claimed exemptions. Defendant requests a hearing before the court on the claimed exemptions.

Dated this _____ day of _____ 20 _____.

**SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE**

Plaintiff
vs.

*
*
*
*
*
*
*
*
*

Cause No. _____

NOTICE OF APPEAL

Defendant

The above named Plaintiff(s) / Defendant(s) hereby appeal(s) to the District Court of the above named County from the Judgment entered in the above Justice Court entered on the ____ day of _____, 20____.

The Judge is requested to transmit the record on appeal to the District Court as provided by law.

Dated this ____ day of _____, 20____.

Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Appeal was served upon the Defendant(s) or Defendant's attorney(s) by placing the same in the U.S. mail, postage prepaid, addressed as follows:

Signature of person mailing document

**SMALL CLAIMS DIVISION OF THE JUSTICE COURT OF
POWDER RIVER COUNTY, STATE OF MONTANA
BEFORE CATHERINE A. LANDA, JUSTICE OF THE PEACE**

	*	
	*	Cause No. _____
	*	
Plaintiff	*	
vs.	*	CERTIFICATION OF TRANSCRIPT OF DOCKET
	*	
	*	
	*	
Defendant	*	
	*	

COMES NOW, Judge Catherine A. Landa, Justice of the Peace, in the above entitled County, and hereby certifies that the document attached is a true and correct copy of the transcript of the original docket rendered in the above entitled action, on file in the office of the Justice of the Peace. I further certify that I have compared the copy with the original on file and it is a full, true and correct copy.

WITNESS my hand of the Justice Court of Powder River County.

Dated this ____ day of _____, 20____.

(SEAL)

CATHERINE A. LANDA
Justice of the Peace