

# Magisterial District Judge Lawsuit

## *Questions and Answers*

### Suing In Magisterial District Judge Court

If someone owes you money you may sue them in Magisterial District Judge Court. Common reasons to sue are for the return of a security deposit, or for the value of property a landlord refuses to give back to the tenant after the tenant moves.

#### **What is a Magisterial District Judge?**

A Magisterial District Judge is a locally elected official who decides civil lawsuits. The Magisterial District Judge used to be called a District Justice and before that a Justice of the Peace.

#### **Do I Need an Attorney?**

No. The system is designed to work without attorneys.

#### **How Much Can I Sue For?**

Magisterial District Judges hear cases in which there is \$12,000 or less at issue. Disputes concerning real estate sales and distribution of an estate after someone passes away cannot be filed at Magisterial District Judge court, but must be filed in the county Court of Common Pleas.

#### **Where Should I File a Magisterial District Judge Action?**

You can bring the case in the district in which the party you are suing lives, regularly conducts business or where the events occurred that are the basis of the lawsuit. Corporations can also be sued in the district where they are incorporated or where their principal place of business is located. You can find the geographical area covered by each Magisterial District Judge at the following website: <http://www.pacourts.us/courts/minor-courts/magisterial-district-judges/>

#### **Do I Have to Pay to File the Lawsuit?**

Yes. The fee to file the lawsuit depends on the amount you claim is owed. You also must pay the cost to have the lawsuit served on the defendant and may have to pay other state mandated fees as well. The fees have to be paid up front when you file the suit, but will be added to the judgment the defendant is required to pay if the Magisterial District Judge finds in your favor. If you are filing a countersuit, also known as a cross-complaint, to a lawsuit filed against you, there is no filing fee, but you may have to pay other state mandated fees and the cost to have the countersuit served on the other party.

#### **Can the Fees be Waived?**

Maybe. You complete a request to Proceed In Forma Pauperis (IFP) to seek waiver of the filing fees. The Magisterial District Judge's office should have forms available to request IFP status. If not, you may use the IFP form attached to this pamphlet. The IFP form requests information about your family size, income and expenses. The Magisterial District Judge will decide, based upon the

information in your request, whether the fees are waived. The Magisterial District Judge must make a decision within five days of your filing the request.

### **What Do I File?**

The paper you file to start the case is a Civil Complaint (a copy of the Civil Complaint form is included in this pamphlet so you can see what it looks like and what information you will have to put in the form when you file it with the Magisterial District Judge). The Magisterial District Judge will give you a complaint form. Write the names and addresses of the parties (if the other party is married sue their spouse as well) and how much money is at issue. Include a brief summary of why you are owed the money in the proper space in the Complaint. For example:

“My landlord, Mr. Smith, failed to return my security deposit to me after I moved.”

The defendant may file a countersuit against you for money he or she feels you owe them. The Magisterial District Judge will hear your lawsuit and the countersuit at the same time. You will have to defend yourself against any claim made in a countersuit. Before filing a lawsuit you should consider whether the person you are suing may have a valid countersuit they could file against you, especially if their claim might be worth more than yours. If that is the case, you may not want to file a lawsuit, especially if the other person is not likely to sue you anyway.

### **How Does the Defendant Find Out About the Lawsuit?**

After you file the complaint, the Magisterial District Judge’s office will serve it on the defendant, either in person or by mail. If you have to pay for service, ask for the complaint to be served by mail as mail service is less expensive.

### **When Will the Hearing be Set?**

The Magisterial District Judge will set a date for the hearing and send a written notice of the date to you and to the defendant. The hearing must be set for not less than 12 days and not more than 60 days after the complaint is filed. If you need to change the hearing date, called a continuance, you have the right to do so one time under the court rules. Subsequent continuances are at the discretion of the Magisterial District Judge and only for good cause shown. The same rules apply to the defendant. A continuance(s) cannot extend the date of the hearing more than 90-days from the date you file the Complaint.

### **How Should I Prepare for My Case?**

Presenting the case is a matter of common sense. You should make a written outline or checklist to use at the hearing. You want to be sure you ask all the questions and present all the evidence you want the Magisterial District Judge to consider.

### **What Happens at the Hearing?**

At the hearing, you will be the first to present testimony. After you and each witness testifies the Magisterial District Judge will give the other party a chance to ask questions of each person who testifies. The other party and his or her witnesses will testify after your side of the case has been presented. After the other party and each of his or her witnesses testifies, you may question them. The Magisterial District Judge may ask questions of the witnesses or you and the other party anytime. It is important not to interrupt the Magisterial District Judge or a witness unless you are making a legal

objection to the testimony being presented. Remember, all testimony is under oath so it is important that you tell the Magisterial District Judge the truth to the best of your ability.

### **May I Bring Documents?**

Yes, you can bring any documents that help prove your case. Any document important for the case must be presented at the hearing. The Magisterial District Judge will not give you a chance to go home and get any documents you forget to bring to the hearing. The Magisterial District Judge cannot consider written statements from people who do not come to the hearing to testify if the other party objects. However, the Magisterial District Judge can consider a bill, estimate, receipt, canceled check or bank statement if it helps prove your case or defend against a counterclaim. (for example: a bill from a plumber or an estimate from an exterminator).

### **What If Someone I Want to Be a Witness Does Not Want to Come to the Hearing?**

You have the right to get subpoenas from the Magisterial District Judge. A subpoena requires a witness to come to the hearing even if he or she does not want to come. If you request it in the subpoena, the witness can also be required to bring documents needed to prove your case. You should obtain and serve subpoenas as soon as possible after you file your Civil Complaint to be sure that the witnesses get them in time for the hearing.

### **May I Object to Something a Witness is Saying?**

Yes. The most common objections are relevancy and hearsay.

1. You can object to a statement that does not have anything to do with the case and is, therefore, not relevant. Example: The defendant testifies that they arrested your father fifteen years ago for drunk driving. That is not relevant to the eviction proceeding.
2. You can also object to hearsay. Example: The landlord testifies that your neighbor said to the landlord he saw your son breaking a window. A witness can only testify to what he or she actually saw, not what someone else said they saw.

You must make your objection at the time the witness is giving testimony that is not relevant or is hearsay. To object, interrupt the witness' testimony by stating: "I object because the testimony of the witness is (hearsay) (not relevant)."

### **When will the Magisterial District Judge Decide?**

After all the testimony, the Magisterial District Judge will decide the case. The Magisterial District Judge may issue a decision in court after taking all the evidence. If not, the Magisterial District Judge must decide within five days and send a copy of the decision to each party.

### **What If I Do Not Agree With the Magisterial District Judge's Decision?**

You have the right to appeal a decision with which you do not agree. You should consult an attorney about appealing. The appeal must be filed within 30 days of the decision. To appeal a

judgment for possession, it must be filed within 10 days of the decision. The decision date is either the day of the hearing or, if it is a written decision, the date of the written decision.

### **What if No Appeal Is Filed?**

If the Magisterial District Judge grants a money judgment, you are not paid and the other party has not filed an appeal, you can go to the Magisterial District Judge after thirty (30) days and request an Order of Execution. The constable or a sheriff's deputy will serve the Order of Execution and levy the personal property of the person who owes the money. The constable or sheriff's deputy will then list nonexempt personal property to sell to pay the judgment.

*We have attempted to insure the accuracy of the information in this pamphlet at the time it was created or revised. However, the law does change, sometimes quickly and unexpectedly. Therefore, you should consult an attorney before taking or refraining from any action based on the information in this pamphlet.*



*IMPORTANT*

The following form is not complete. It cannot be used to file a complaint.

You should obtain full and complete multiple-page complaint form at your local Magisterial District Judge Office. The Magisterial District Judge may help you fill out the form, if you ask.

Attached is a sample of the Civil Complaint form that you may use to file a complaint for money damages in Magisterial District Judge court.

# ***INSTRUCTIONS***

## ***Completing a Civil Complaint or Counterclaim***

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**Note: Please Type all Court Forms if Possible. If Necessary, Print Neatly.**

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1. Fill in the plaintiff's name and address. If you are suing or countersuing someone, you are the Plaintiff.
2. Fill in the Defendant's name and address. If more than one person owes you the money you are asking for in the complaint, list all the names here. If you are filing a counterclaim, the Defendant is the person(s) who originally filed suit against you.
3. Fill in the filing costs (the Magisterial District Judge's clerk may do this). See paragraph above concerning payment of fees to file the lawsuit and requesting a waiver of the fees for more information.
4. Enter the dollar amount of the damages you are seeking.
5. Describe the date, time and place of the transaction and the reason you are entitled to a judgment.
6. Print your name.
7. Sign your name. When you sign your name, you are swearing that what you have stated is true.
8. Leave the attorney information blank.
9. The Magisterial District Judge will insert the hearing time and date on the form and the address of the magisterial office on the complaint form.

At the time the complaint is filed, the Magisterial District Judge will set a hearing date which will not be less than 12 or more than 60 days from the date the complaint is filed. Counterclaims are heard at the same time as the hearing scheduled on the original complaint filed against you.

The Magisterial District Judge will serve the defendant with a copy of the complaint form at least 10 days before the hearing.

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: \_\_\_\_\_

**CIVIL COMPLAINT**

Magisterial District Number:  
  
MDJ Name: Hon.  
  
Address:  
  
Telephone: (    )

PLAINTIFF:                      NAME and ADDRESS  
┌  
└  
  
VS.  
  
DEFENDANT:                      NAME and ADDRESS  
┌  
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Sample Only

Docket No.:  
Date Filed:



	AMOUNT	DATE PAID
FILING COSTS	\$ <input type="text"/>	<input type="text"/>
POSTAGE	\$ <input type="text"/>	<input type="text"/>
SERVICE COSTS	\$ <input type="text"/>	<input type="text"/>
CONSTABLE ED.	\$ <input type="text"/>	<input type="text"/>
TOTAL	\$ 0.00	<input type="text"/>

*Social security numbers and financial information (e.g. PINS) should not be listed. If the identity of an account number must be established, list only the last four digits. 204 Pa.Code §§ 213.1 - 213.7.*

Pa.R.C.P.M.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

**TO THE DEFENDANT:** The above named plaintiff(s) asks judgment against you for \$ \_\_\_\_\_ together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

I, \_\_\_\_\_ verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

\_\_\_\_\_  
(Signature of Plaintiff or Authorized Agent)

The plaintiff's attorney shall file an entry of appearance with the magisterial district court pursuant to Pa.R.C.P.M.D.J. 207.1.

**IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.**

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing.

**If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.**

# ***INSTRUCTIONS***

## ***How to Complete a Petition to Proceed In Forma Pauperis (IFP)***

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**Note: Please Type all Court Forms if Possible. If Necessary, Print Neatly.**

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To begin any lawsuit you must pay a filing fee. However, having the filing fee waived may be possible if you can prove to the court that you cannot afford to pay the fee. Magisterial District Judge Rule 206E gives you the right to request In Forma Pauperis (IFP) status.

To do this, you must file a Petition to Proceed In Forma Pauperis. An IFP is a detailed list of your income and expenses. The IFP form also includes an affidavit, you are required to sign, stating that you cannot pay the costs associated with filing your lawsuit. You must complete the IFP and file it at the Magisterial District Judge office. The following are step-by-step instructions on how to fill out the IFP.

As in your complaint and order, complete the caption with all the parties' legal names, the docket number if they have assigned one and the type of case.

1. State whether you are the plaintiff or defendant.
3. (a) Fill in your name, address and social security number.
3. (b) If you are currently employed, print your employer's name, address your monthly salary, and the type of work you do. If you are not currently employed, fill in the dates of your last employment (if none, write "none"), your wages at your last job and the type of work you did.
3. c) List any other income you received within the last twelve (12) months. If any of the entries apply to you, fill in your average monthly income from that source. If any entry does not apply, simply write in "none".
3. (d) List any income that other people in your household receive. If someone is not a member in your household, do not list their income here. If none of these apply, simply write in "none".
3. (e) List any property you own. If you do not have any of the type of property listed, simply write in "none".
3. (f) Fill in an average monthly figure where applicable and write "none" to a type of debt that does not apply to you. [Note: The "other" category is quite broad. You can use this category to list your average monthly electric, gas, oil, telephone and cable TV bills. You can also list

miscellaneous expenses such as hospital bills, laundry, haircuts and food here. Make sure you list



each expense and identify it.]

3. (g) List the people who depend on you for support. If you have a child(ren), list their names and ages here. Also, list any other people dependant upon you for support and their relationship to you.

4. & 5. These are standard statements that need to be included in your petition as they appear.

When you have completed the affidavit portion of the IFP, sign and date it at the bottom.

**NOTE: A blank IFP form is enclosed. If your Magisterial District Judge does not have an IFP form for you to fill out, you may complete the attached form and submit it when you file your complaint.**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_,  
Plaintiff(s)  
VS.  
\_\_\_\_\_,  
Defendant(s)

: DOCKET NO.  
: DATE FILED:  
:  
:  
:  
:  
:

**PETITION TO PROCEED IN FORMA PAUPERIS**

I hereby request that I be permitted to proceed in forma pauperis (without payment of the filing fee). In support of this I state the following:

1. I am the (Plaintiff)(Defendant) in the above matter and because of my financial condition am unable to pay the fees and costs of prosecuting or defending the action or proceeding.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the information below relating to my ability to pay the fees and costs is true and correct:

(a) Name: \_\_\_\_\_

Address: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

(b) Employment - If you are presently employed, state:

Employer: \_\_\_\_\_

Address: \_\_\_\_\_

Salary or wages per month: \_\_\_\_\_

Type of work: \_\_\_\_\_

If you are presently unemployed, state:

Date of last employment: \_\_\_\_\_

Salary or wages per month: \_\_\_\_\_

Type of work: \_\_\_\_\_

c) Other income within the past twelve months

Business or profession: \_\_\_\_\_

Other self-employment: \_\_\_\_\_

Interest: \_\_\_\_\_

Dividends: \_\_\_\_\_

Pension and annuities: \_\_\_\_\_

Social Security benefits: \_\_\_\_\_

Support payments: \_\_\_\_\_

Disability payments: \_\_\_\_\_

Unemployment compensation and supplemental benefits: \_\_\_\_\_

Workman's compensation: \_\_\_\_\_

Public assistance: \_\_\_\_\_

Other: \_\_\_\_\_

(d) Other contributions to household support

Spouse's name: \_\_\_\_\_

If your spouse is employed, state: \_\_\_\_\_

Employer: \_\_\_\_\_

Salary or wages per month: \_\_\_\_\_

Type of work: \_\_\_\_\_

Contributions from children: \_\_\_\_\_

Contributions from parents: \_\_\_\_\_

Other contributions: \_\_\_\_\_

(e) Property owned

Cash: \_\_\_\_\_

Checking account: \_\_\_\_\_

Savings account: \_\_\_\_\_

Certificates of deposit: \_\_\_\_\_

Real estate (including home): \_\_\_\_\_

Motor vehicle: Make \_\_\_\_\_ Year \_\_\_\_\_

Cost \$ \_\_\_\_\_ Amount owed \$ \_\_\_\_\_

Stocks; bonds: \_\_\_\_\_

Other: \_\_\_\_\_

(f) Debts and obligations

Mortgage: \_\_\_\_\_

Rent: \_\_\_\_\_

Loans: \_\_\_\_\_

Other: \_\_\_\_\_

(g) Persons dependent upon you for support:

Spouse's name: \_\_\_\_\_

Children, if any:

Name

Age

\_\_\_\_\_  
\_\_\_\_\_

Other persons:

Name

Relationship

\_\_\_\_\_

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Plaintiff

Action by the Magisterial District Judge:

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Magisterial District Judge