

Special rules for eviction cases...

There are shorter time periods and different rules for eviction cases. Ask for the separate brochure *Tenants: Being Evicted?*

Special Note

This brochure does not cover Philadelphia Small Claims Court, which is called Municipal Court. Further information about Philadelphia Municipal Court is available from **Community Legal Services, Inc.**, 1424 Chestnut Street, Philadelphia, PA 19102, (215) 981-3700; or **Philadelphia Legal Assistance**, 1424 Chestnut Street, 2nd floor, Philadelphia, PA 19102, (215) 981-3800; and from the Philadelphia Municipal Court, First Filing Unit, Room 500, 34 South Eleventh Street, City Hall, Philadelphia, PA 19107, (215) 686-2900.

For more information about the Magisterial District Court, visit the Court Channel on PALawHelp.org.

REMEMBER. The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.

Pennsylvania Legal Aid Network, Inc.
118 Locust Street
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(800) 322-7572
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Informational pamphlets on other legal topics can be found at



Your Online Source for Legal Information and Civil Legal Aid in Pennsylvania

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Magisterial District Courts

Public Information Pamphlet #29

Are there advantages to Magisterial District Court?

Where do I file a lawsuit?

How do I start the lawsuit?

What happens at the hearing?

**Pennsylvania
Legal Aid Network**

The Pennsylvania Legal Aid Network of civil legal aid programs provides help for people who have no place else to turn



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■ **IN PENNSYLVANIA**, small claims courts are called Magisterial District Courts. Magisterial District Judges used to be called Justices of the Peace. A case can be started in Magisterial District Court by any person who thinks he or she has a legal right to recover money from another person, or from a business. For example, the following cases could be filed in Court:

- a tenant who has moved from an apartment can sue a landlord who refuses to refund a security deposit;
- a car owner can sue an automobile repair shop that failed to fix his/her car properly;
- a person who loaned money to a neighbor can sue if the neighbor refuses to repay the loan.

The claim must be under \$8,000 plus interest to be brought in the Magisterial District Court.

Are there advantages to Magisterial District Court?

Most cases can be brought either in a Magisterial District Court or in the county Court of Common Pleas. Magisterial District Courts have the advantage of being less formal, less costly and faster. Also, you do not need an attorney in a Magisterial District Court; in Common Pleas Court it is wise to have an attorney.

Where to sue...

Each county in Pennsylvania (except for Philadelphia) is divided into districts, and each district has a Magisterial District Judge. A suit in Magisterial District Court should be filed in:

- the district where the person being sued (the defendant) lives;
- if the defendant is a corporation or business, in the district where it does business; or
- the district where the dispute took place.

If you are not sure which district is the right one, call the Magisterial District Judge nearest you for assistance. Magisterial District Judges are listed in the phone book under Magisterial District Judges, Justices of the Peace or Magistrates.

How do I start the lawsuit?

The plaintiff (the person bringing the lawsuit) starts the case by filling out a form called a complaint, which will give the name and address of the person or business being sued, the amount of money being sued for, and the reason for the claim. Complaint forms are available at each Magisterial District Judge's office.

When a complaint is filed, the Magisterial District Judge will check to see that it is properly filled out and will collect the filing fee. The fee for filing a complaint is between \$37.50 and \$82.50, depending on the amount of money claimed in the case. There also may be an additional charge to cover the cost of delivering a copy of the complaint to the defendant.

If you cannot afford to pay the fee, ask the Magisterial District Judge's office for an *in forma pauperis* form, and fill out your income and expenses on it. Then the Magisterial District Judge will decide whether to waive the fee. If you do have to pay the filing fee, the other party will be required to pay it back to you if you win the case.

When the complaint is filed, the Magisterial District Judge will write a time and date for the hearing on the complaint form. A copy of the

complaint will then be delivered to the defendant (the person being sued) by mail or in person by a sheriff or constable.

What happens at the hearing?

At the hearing, both sides have the right to tell their view of the story, present any witnesses and documents, and question each other and all witnesses. The plaintiff usually goes first. It is not necessary to have a lawyer, but the parties may bring lawyers to the hearing if they wish.

When both sides have presented all their evidence, the Magisterial District Judge will end the testimony. The Magisterial District Judge can give the decision, which is called a judgment, at the end of the hearing or can wait up to five days to make a decision.

What happens after the hearing?

The party who loses in a Magisterial District Court has the right to appeal to a higher court called the Court of Common Pleas. The appeal must be filed in the Prothonotary's Office or the Department of Court Records in the County Court House within 30 days of the date of the Magisterial District Judge's judgment. If an appeal is filed, the case will start over again from the beginning, as if the Magisterial District Judge hearing had never taken place.

If the plaintiff wins and the defendant neither pays nor appeals within 30 days, the plaintiff can get a paper called an Order of Execution from the Magisterial District Judges. There is an additional fee for this order. This paper will give a sheriff or constable the power to sell some of the defendant's property to pay the plaintiff the amount the Magisterial District Judge ordered, including court costs. The Magisterial District Judge can, however, give the defendant a twelve-month payment plan to pay off the debt.