
Bringing Suit Before a Magisterial District Judge

You may file a suit with a magisterial district judge (MDJ), formerly called a district justice, if you have a complaint against a person or business and wish to recover an amount of money totaling \$12,000 or less. This is called a civil lawsuit. The \$12,000 limit does not include the court costs involved in the suit, or any interest that may be due on your claim. If you are successful, you are entitled to be reimbursed for court costs.

You also may be brought before a MDJ to answer a summary offense charge or a motor vehicle violation. These are called criminal actions. For more information, see two other pamphlets in this series, "Traffic Violations and Summary Offenses" and "Criminal Law." If you are involved in a dispute over a landlord/tenant issue, the time frame for hearings and appeals is different from those addressed in this pamphlet. See the pamphlet, "Renting a House or Apartment," or contact your local MDJ office for more information.

Should I go to magisterial district court or common pleas court?

Claims for \$12,000 or less may be filed in common pleas court; however, magisterial district courts are less formal, less expensive and faster than common pleas courts. In common pleas court, it is oftentimes necessary to have an attorney represent you. In magisterial district court, an attorney is not required, but it may be advisable to have one present for certain types of cases.

Which magisterial district judge should I go to?

If you decide to sue in a magisterial district court, you must decide which MDJ has authority to handle the suit. There are rules that govern where a suit may be filed. Generally, the suit must be filed where the person you are suing lives or is located, or where your claim arose. For example, a small claim arising out of a traffic accident or contract dispute could be filed

with the MDJ who serves the territory where the accident occurred or where the contract was signed OR with the MDJ, who serves the territory in which the defendant lives or is located.

The MDJ closest to you can advise you on where to file. Magisterial district judges are listed on the website of the Unified Judicial System of Pennsylvania.

How should I start a lawsuit?

Most, if not all, claims are governed by an applicable statute of limitations. In some cases, that limit could be as short as 30, 60 or 90 days. In other cases, the limit is longer. For instance, with personal injury cases, the statute of limitations is two years and with breach of contract actions the statute of limitations is four years.

Once you have found the correct office, the next step is to file a complaint on a standard form you can obtain from the MDJ or online. The form is easy to complete. The important items on the form are:



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Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referenced here.

- your name and address;
- the name and address of the person or business you want to sue;
- the amount of money you are suing for, including all expenses; and
- a short statement of why you believe you are entitled to the money. Be sure to provide enough information so the person you are suing knows why he or she is being sued. Include the dates when things important to your case may have happened.

Although the complaint may be filed by mail, it is advisable to submit it personally to the MDJ. It will be easier for the clerk to tell you whether your complaint has been properly completed and, if it is not, how it should be corrected. It will also be easier to determine precisely what fees you must pay. There is always a cost for filing a suit. Keep in mind that if you succeed in the suit, the party you are suing (the defendant) will be required to pay you back for the cost of filing the suit.

There will be an additional fee for personal delivery service of the complaint to the defendant, which will vary according to how it is served.

How is the other party notified?

Once you have filed a complaint, the clerk will schedule a hearing between 12 and 60 days from the time you file. The law requires that before the hearing, the other party must receive a copy of the complaint (service). This can be done in one of two ways:

- You can request that the complaint be sent by certified mail. The letter will be delivered to the defendant and the receipt will be

returned to the MDJ as proof that it was received; or

- The complaint can be delivered by the sheriff or a constable for an additional fee, which can be recovered if you win the suit. Sometimes having the complaint personally served is more effective because a person may not be home or may refuse to accept a certified letter and a sheriff/constable can make certain that the complaint is served.

What should I do before the hearing?

You should gather all documents and papers relating to the suit. It is also a good idea to line up and confirm supportive witnesses to be present at the hearing.

With respect to any exhibits that you intend to introduce, you should make copies to provide to the MDJ and the defendant at the hearing.

Who may be present?

At the hearing, those present will be the MDJ, you (the plaintiff), your witnesses, your lawyer if you choose to have one, the defendant, defense witnesses, and possibly the defendant's lawyer. The courtroom will almost always be open to the public.

What happens at the hearing?

The MDJ will explain the procedure to you. Do not be afraid to ask questions. Parties will be sworn in to testify, and an oath will be administered. You have the right to have your own counsel, but do not have to retain counsel. You may represent yourself. During the hearing, you will be given an opportunity to testify

as to what happened that caused you to sue the defendant. Submit any papers, bills, receipts, letters, photographs, videos or other documents you have to the MDJ. You will probably be asked questions by the other side, or possibly by the MDJ. Then your witnesses will be allowed to tell what they know about the case. The defendant will be given the same opportunity. You will also be permitted to ask questions of the defendant, also known as cross-examination.

When will the judge make a decision?

The magisterial district judge's decision may be made at the hearing or you will be informed of the decision within five days of the hearing.

What happens after the decision is made?

If you succeed, the other party may arrange to pay you in installment payments, lasting up to 12 months, as set by the MDJ.

The defendant(s) has 30 days to appeal the decision to Common Pleas Court. If there is an appeal, a Notice of Appeal is filed with the prothonotary in the county courthouse. Copies of the Notice will be served on you and the MDJ who made the decision. The Notice prevents you from collecting any money until the appeal is decided.

If the MDJ's decision is in favor of the defendant(s), you also have the right to appeal in the same manner.

Any party filing an appeal must file a Proof of Service, showing that copies of the Notice of Appeal were served on the opposing party. The Proof of Service must be filed no later than 10 days after the appeal was filed.

If appealed, the case will then be heard in Common Pleas Court. Procedures in the Court of Common Pleas are governed by more formal rules of procedure, and the presence of an attorney is strongly recommended.

How do I proceed if no appeal is filed?

If your suit was successful and after 30 days you have not collected your money, one option that you have is to ask the MDJ to issue an Order of Execution. This involves filling out a form that the MDJ gives to the sheriff/constable, who then attempts to collect the money owed to you. Any fees you pay for the execution will be charged to the other party when the money is collected.

An execution order permits a sheriff/constable to levy on property, which means the property of defendant(s) can be sold to pay the debt. However, it is difficult to collect payment from a person or entity that has filed for bankruptcy or has no property or money.

How can I locate an attorney?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Many counties have this same service at the local level. Look in your Yellow Pages under "attorneys" for more details.

What if I live in Philadelphia?

This pamphlet does not cover the procedures for suing in Philadelphia County, which has a separate system called Municipal Court.