



# Snyder County

Court House, P.O. Box 217 • Middleburg, Pennsylvania 17842-0217

(570) 837-4207 • FAX (570) 837-4282

## **Magisterial District Offices & FAQ**

### **Magisterial District Judge John H. Reed**

Magisterial District 17-3-03

1025 U.S. 522

Selinsgrove, Pa. 17870

Phone: 570-374-6722 / 570-374-0111

Fax: 570-374-2771

#### Serving:

Monroe Township

Jackson Township

Penn Township

Selinsgrove Borough

Middlecreek

Township

Shamokin Dam

### **Magisterial District Judge Lori Hackenberg**

Magisterial District 17-3-04

32 East Market Street

Middleburg, Pa. 17842

Phone: 570-837-4213

Fax: 570-837-4355

#### Serving:

Adams Township

Middleburg Borough

Beaver Township

Union Township

Township

Beavertown Borough

Perry Township

Center Township

Spring Township

Freeburg Borough

Washington Township

Franklin Township

West Beaver

Township

Chapman Township

West Perry Township

McClure Borough

**Magisterial District Judge Edward G. Mihalik Jr.**

Magisterial District 17-3-05

100 Airport Road, Suite A

Selinsgrove, PA 17870

Phone: 570-374-2062

Fax: 570-374-2826

Serving:

Monroe Township

Shamokin Dam

**1. HOW DO I FILE A PRIVATE CRIMINAL COMPLAINT?**

Private Criminal complaints have two varieties:

**A. Summary cases** are minor offenses such as Bad Checks (under \$200.00), Simple Trespassing, Retail Theft (shoplifting), etc. which may be filed with the Magisterial District Judge.

**B. Court Cases** are serious crimes which can be filed on a Private Complaint form by you or your attorney, but which must be submitted to the county District Attorney for approval. If the case is approved, then the complaint is forwarded back to the Magisterial District Judge staff for filing.

If the District Attorney declines to approve your case, then you may petition the Court of Common Pleas under PA Rule of Criminal Procedure 506. You will most likely be required to have an attorney file such a petition.

Please remember that as the prosecutor of a private summary case, you have the burden of proving beyond a reasonable doubt every element of the crime charged against the defendant—including his or her criminal intent. All proof must be available on the day of the trial, unless the Magisterial District Judge allows more time. “Hearsay” is not allowed; all witnesses must be present in court.

The prosecutor in a Court Case is the District Attorney, who will present the case not on your behalf, but on behalf of the commonwealth.

Court Costs – It costs you nothing to file a case. However, if you withdraw a complaint or the defendant is found not-guilty, you will be assessed the costs.

**2. HOW DO I FIND A CONSTABLE?**

Constables are enlisted by the Magisterial District Judge to serve process for their office – they are not employees of the Magisterial District Judge, nor are they employees of the Court of common pleas.

Constables are elected officials, and their deputies are appointed by each constable.

Constables are certified by the Pennsylvania Commission on crime and delinquency ( [www.pccd.state.pa.us](http://www.pccd.state.pa.us) ), and a listing of them can be found at this site.

We have several constables in Union County which serve both Magisterial District Judges.

Whether you use a constable for service of a complaint is up to you, for the most part. The Union County Sheriff is also often used to affect service. Both the Constables and the Sheriff have a statutory schedule of fees which they charge for their work.

A listing of Constables can also be found in the Clerk of Courts Office in the Union County Courthouse.

### **3. I HAVE LEGAL QUESTIONS REGARDING MY CASE- WHAT DO I DO?**

[The employees in the Magisterial District Judge office may not (By Rules of Court) give legal advice. Legal questions should be directed to your attorney.]

The following is a list of resources available: Yellow

- pages of the Phone Book. (Attorneys)
- Lawyer Referral Service: 742-225-6710

(As the Judicial officer hearing the case, the Magisterial District Judge may not advise you on the merits of your case, or consider letters containing factual matters outside of Court.)

### **4. WHAT IF I HAVE A COMPLAINT ABOUT A MAGISTERIAL DISTRICT JUDGE?**

1. You may write a letter to the Court Administrator for Union and Snyder Counties:

Charlotte Kratzer, Court Admin.  
Snyder County Courthouse  
Middleburg PA 17842

2. Write a letter to The Supreme Court Administrator:

Administrative Office of PA Courts  
5001 Louise Drive  
Mechanicsburg PA 17055

### **5. WHAT IF I WANT MY HEARING BEFORE A DIFFERENT MAGISTERIAL DISTRICT JUDGE?**

The moving party must request that the Magisterial District Judge recuse (excuse) himself/herself, and that this case be sent to another Magisterial District Judge. If the Magisterial District Judge agrees to recuse, then the Magisterial District Judge may secure another Magisterial District Judge to hear the matter or request the Court Administrator to appoint another Magisterial District Judge.

You must know that a change of venire is rarely granted.

("Judge-Shopping" is not allowed.)

### **6. HOW DO I APPEAL A MAGISTERIAL DISTRICT JUDGE DECISION?**

A. Summary criminal cases (traffic citations, Disorderly Conduct, Fish and Game Law Citations, parking tickets, etc.)

You have 30 days after the date of conviction to file an appeal with the County Clerk of Courts, who will provide you with the appropriate form and accept a fee for filing the appeal. Thereafter, the case will be heard by a Judge of the Court of Common Pleas.

Most people represent themselves, but you may hire a lawyer to speak on your behalf. If you are in danger of being jailed as a result of the new appeal, you may apply for the Public Defender if you cannot afford counsel. The Magisterial District Judge can supply you with the appropriate form.

B. Civil Cases/ Landlord-tenant cases

You have 30 days from the date of judgment to file your appeal with the county prothonotary, who will provide you with the proper filing form and accept a filing fee. Thereafter, in most cases, a panel of three lawyers will be appointed to hear the appeal. You may choose to hire a lawyer to represent your interests.

### **7. HOW CAN I FILE A CIVIL LAWSUIT?**

A. Who can File? : Any citizen who feels aggrieved by property damage, money owed to him/her or a contract gone sour may file for up to \$8,000, exclusive of costs.

B. Where do I file? In the Magisterial District Judge Court serving the district  
a. where the defendant resides and/or b. Where the cause of action arose.

C. Who can be sued? Individuals, Corporations, Partnerships and Sole Proprietorships  
Rules governing service on each of these different entities may be reviewed at the Magisterial District Judge Office in publications which the Magisterial District Judge may keep available for review.

D. Can I include attorney's fees? Generally not, unless a contract includes a clause allowing for "reasonable attorney fees"

E. How much will it cost? The filing fees are established on a graduated scale, depending upon the amount you are requesting (Contact the Magisterial District Judge for current costs.) In addition to a filing fee, you will be charged for service of the complaint upon the defendant.

THE HEARING IS SET FOR NO LESS THAN TWELVE NOR MORE THAN SIXTY DAYS FROM THE DATE OF FILING OF THE COMPLAINT. After filing, the following situations may occur:

- If the defendant notifies the Magisterial District Judge Court that he/she is planning to enter a defense to the complaint, the Magisterial District Judge Court personnel will then in turn notify you so that you may be present and prepared to present your case in the date of the hearing.
- If the defendant fails to show for the hearing, a **DEFAULT JUDGMENT** is entered in your favor.
- If after the hearing, the defendant is found liable for the debt, a judgment is entered in your favor.
- If you are the winner of your lawsuit, the losing party must pay the full award directly to you no later than thirty days after judgment, unless the decision is appealed or if the Magisterial District Judge grants partial payments. If the defendant fails to make payment, you may request an Execution (commonly known as a "Sheriff's Sale") or you may file a lien with the County Prothonotary in the county where the defendant resides.
- If after the hearing the defendant is found to be **NOT** liable for the debt, the judgment is entered in favor of the defendant and the plaintiff cannot recover any filing costs, service costs or the original debt.
- If the defendant is found to be only partially liable then a **REDUCED** judgment may be entered as determined by the Magisterial District Judge. Such cases the defendant is responsible for all filing and service costs and for any portion of the original debt that the Magisterial District Judge finds he/she liable for.

It is the burden of the parties to prove their respective cases. Please bring any documentation and photographs you may need as well as any necessary witnesses that will support your case. If a witness is unwilling to voluntarily appear, you may have subpoenas served upon them, at your cost.

After a judgment has been entered against the defendant, he/she has 30 days to appeal the decision or pay the debt in full.

- If the defendant appeals the decision, the case then goes to the Court of Common Pleas of Union County.
- If no appeal is taken or the defendant does not pay the debt in full, **YOU THE PLAINTIFF** must initiate one of two options available in order to pursue the case:

- A. You may file a lien with the Prothonotary.
- B. You may proceed to an Order of Execution in this office.

*NOTE:* These options must be exercised within a five-year period after the date of judgment or the judgment will be rendered null and void.

## **8. HOW CAN I FILE A LANDLORD TENANT COMPLAINT?**

Who Can File? Lessors (“Landlord/Landladies”) who wish to repossess real property from their tenant. A secondary consideration is monetary judgment for rent which is past due or damage to the premises. Both issues can be processed on the same complaint.

Filing Fees: Just as in any other small claims action, the costs are scaled according to the award you are requesting. Service costs are additional. Contact the Magisterial District Judge office for current cost information. All costs are paid in advance and added to the amount of the claim.

\*Service costs depend on the residence of the defendant!

Costs are recoverable as a part of the total judgment. Attorney’s fees, however, are not recoverable, unless reasonable attorney fees are a part of the lease.

### What Happens After Filing?

The sheriff or constable will serve the complaint upon the defendant (s), requiring an appearance before the Magisterial District Judge no less than seven (7) or more than twenty (20) days after the date of filing. The hearing can be postponed for a reasonable cause, with two (2) continuances allowed per party.

At the hearing the LESSOR (PROPERTY OWNER) MUST APPEAR to offer testimony and produce physical evidence (copy of lease, rent ledgers, receipt books, photographs, etc.) in order to support the complaint. The lessor may bring other witnesses at this time. If other witnesses are not willing to come voluntarily, the lessor may request the Magisterial District Judge clerks to issue subpoenas, which would be served on the defendant AT THE COST OF THE PLAINTIFF (LESSOR). These costs are also recoverable.

If the defendant fails to arrive for the hearing, the testimony is offered and a decision made by the Magisterial District Judge. If the defendant arrives, then the defendant may offer a defense. The Magisterial District Judge in either case will make a decision within five (5) days and notify all parties.

### Judgment may be for:

- Possession only in favor of the plaintiff.
- Possession plus overdue rent and/or damages in favor of plaintiff.
- For the defendant, if the plaintiff’s case is weak.
- Dismissal Without Prejudice- the justice dismisses the case due to a technical violation of a court rule. In this instance the plaintiff may RE-FILE the case.

Although many individuals can properly present a civil suit, if you are unsure of your case or how to proceed, you may hire a lawyer versed in landlord- tenant law to help you navigate through the system. Generally, most parties file without the assistance of counsel. Whether or not you hire a lawyer is strictly your choice. [THE COURT STAFF CAN EXPLAIN BASIC PROCEDURE BUT MAY NOT GIVE YOU A LEGAL OPINION.]

Incase of eviction, the following time limitations are important to keep in mind when serving a Notice to Quit on your tenant:

- NON-PAYMENT OF RENT 10 DAYS
- BREACH (VIOLATION OF THE LEASE OTHER THAN NON-PAYMENT OF RENT) 15 DAYS
- END OF LEASE (ONE YEAR OR LESS) 15 DAYS
- END OF LEASE (MORE THAN ONE YEAR) 30 DAYS

**\*\*UNREASONABLE COVENANTS IN THE LEASE, SUCH AS A WAIVER OF THE REQUIRED TIME PERIODS MAY NOT BE ENFORCED IN COURT.**

Once a Notice to Quit has been delivered to the tenant (s) you must act upon that notice within a reasonable time if in fact the tenant has failed to leave the premises. Should you allow the tenant to remain for an unreasonable time past the date he/she is to vacate, it can be construed that a new lease has been created or that the original lease has renewed itself under that same terms and conditions.

If you allow the tenant to holdover, you may be placed in the situation of having to deliver a new Notice to Quit.

Unless otherwise specified in the lease, Notices to Quit must be served personally upon the tenant. A final instruction: the hearings are conducted according to the Rules of Civil Procedure for Magisterial District Judges and the Rules of Evidence. The plaintiff lessor has the burden of proving by a preponderance of the evidence every element of the claim. Be certain to “have your ducks in order” to present a case, although many defendants do, usually on grounds of a violation of the “implied warrant of habitability.”

The “implied warrant of habitability” is a court-made rule which basically states that all rental properties are safe for human dwelling, that the roof doesn’t leak, the doors are secure against intruders, the plumbing works properly that there is adequate electrical service, that the heating system works and that the common areas (stairways, hallways, backyards, etc.) are free from any dangerous conditions.

#### What Do I Do If I Win The Case?

If you win a judgment of Possession, the defendant will be directed by the Magisterial District Judge to quit the premises no later than TEN (10) days from the date the judgment is entered. IF THE DEFENDANT STILL HAS NOT LEFT THE PREMISES, you can appear on the 11<sup>th</sup> day after judgment to file an Order of Possession. The Sheriff will be ordered to serve this upon defendant.

If the defendant still refuses to leave, the Sheriff or Constable may then proceed to eject (kick out) the defendant. If the procedure goes this far, the Sheriff or Constable may require you to post a bond.

If you also win judgment for monetary damages, you cannot execute on that part of the case until 30 days has passed. You may file an Order of Execution with the Magisterial District Judge on the 31<sup>st</sup> day after judgement.

#### What Happens If I Lose The Case?

The Plaintiff may file an appeal for a new hearing with the Union County Prothonotary. A panel of three attorneys appointed by the Court of Common Pleas would then hear the proceeding.