

Magisterial District Justices

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The magisterial district courts are the small claims courts of Pennsylvania. The magisterial district justices (“MDJs”) are the small claims judges. It is within their jurisdiction to conduct preliminary hearings in criminal matters where the only issue is whether there is sufficient evidence to send the matter to the common pleas court for trial. Hopefully your interest in this article has nothing to do with the criminal functions of the court!

Among the other responsibilities of the magisterial district courts is the resolution of cases involving evictions and civil cases where the amount in controversy is \$12,000 or less. MDJs may hear cases involving larger sums, but can only award the maximum amount of \$12,000. The attractiveness of the magisterial district courts is the low cost and that the proceedings can be navigated without legal counsel. Legal counsel is not required in the court of common pleas or the appellate courts, but try navigating your way without one!

For obvious reasons, many cases rooted in real estate find their way to the MDJs. Though more and more MDJs are lawyers, it is not a requirement of the job. Before being sworn into the position, all MDJs must pass a test that includes civil law including real estate and landlord/tenant law. One would hope that the MDJ before whom you appear would be expert in the law, and most fit the bill. A Hotline caller, however, recently relayed how the MDJ refused to enforce his lease because it was a lease in writing for more than one year, and, according to the MDJ such leases were not enforceable!! Most MDJs are willing to be persuaded that the law is other than what they had thought, but a gentle and non-condescending approach is suggested. Providing a legal opinion or treatise on the matter is also suggested.

A limitation on taking a matter before an MDJ is the ease in which it is appealed. This can also be a benefit, but it certainly means that complete resolution before the MDJ is not a certainty. Appeals can be taken for any reason, or no reason. An appeal from the court of common pleas is a different matter; the appeal must be based on an error of law and not merely because the appellant is unhappy with the decision.

Despite the ease with which an appeal is taken from an MDJ decision, there are benefits. First, many cases are resolved without appeal. Second, a hearing before an MDJ gives one a relatively inexpensive rehearsal. On appeal, the shortcomings in one’s presentation can be rectified. Third, a hearing before an MDJ is inexpensive discovery. Practice in the court of common pleas enables one to take depositions and serve written discovery seeking information well in advance of trial. You can get much of the same by trying a case before the district justice. In fact, you can request that the testimony of a witness or the entire hearing for that matter, be transcribed for later use. The person seeking the transcription is the person who pays for the cost.

Landlord and tenant practice is primarily relegated to the magisterial district courts. If you manage property you should get to know the MDJ(s) that will entertain your cases. Judges are nuanced and some have requirements that others may not observe. Most would welcome an introductory visit. State that your objective is to simply become aware of the procedures to be

applied by the MDJ. Don't expect all MDJs to be open to this kind of introduction and don't ask for favors. Do your homework and be conversant with Pennsylvania's Landlord and Tenant Law. Don't expect the MDJ to teach you the law; rather, you are there to determine if there are any special procedures or practices that the MDJ prefers so that you can comply. Hopefully the introduction will enure to the benefit of you and your client.

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Mr. Goldsmith is an attorney with Mette, Evans & Woodside and serves as general counsel to PAR. A substantial portion of his practice is dedicated to providing advice and counsel to real estate licensees. He and his firm represent and defend real estate salespersons and brokers in civil lawsuits and licensing claims across the Commonwealth. Jim also defends Realtors® in disciplinary hearings conducted by the Real Estate Commission. Jim has been one of the voices of the PAR Legal Hotline since its inception in 1992.