



MidPenn Legal Services

How to Sue At The Office of the Magisterial District Judge

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HOW TO SUE AT THE DISTRICT JUDGE OFFICE

INTRODUCTION

In Pennsylvania, people can bring lawsuits against individuals or businesses by filing a complaint at the office of a Magisterial District Judge. The District Judge was formerly called a District Justice Magistrate or Justice of the Peace. The advantage of filing with a District Judge is that the system can work well without attorneys. The District Judge can hear cases in which there is \$12,000.00 or less at issue.

HOW LONG DO I HAVE TO SUE?

If someone has broken an agreement with you and now owes you money, you may bring suit against that person or business. You must, generally, do so within 4 years of the time the agreement was broken. IF you have been injured due to negligence you will have 2 years to bring suit. Negligence usually means that someone owed you a duty to do something or make something to a reasonable standard and they did not do so. An example of negligence is when a repairman has not repaired your car properly. There are much shorter time periods that may apply, for example, when you are suing a government employee, office or agency. It is important to seek legal advice right away if such a party is involved.

WHERE DO I FILE?

You can bring the case to the office of the District Judge for the district where the person you wish to sue lives or regularly conducts their business. Usually, this will be near where you live. This is not always the case. There are special rules for where the case must be filed if the case is against a corporation or a government party. The District Judge will have a copy of the rules that are used to determine where cases should be filed. You should ask to see them and read them if you are unsure where to file.

HOW MUCH DOES IT COST?

The filing fee ranges between \$50.00 and \$110.00 depending on the amount of damages you are requesting. IF you are successful, this cost will be passed on to the person you sue, the defendant. You can request to proceed in forma pauperis. In that case, you would give the District Judge information on your income and bills and ask that the filing fee be waived. If you ask about in forma pauperis and the District Judge refuses, please contact MidPenn Legal Services. A copy of an in forma pauperis petition follows on the next 3 pages. You need to fill in the "Petition" completely.

	:	CIVIL ACTION
	:	BEFORE MAGISTERIAL DISTRICT JUDGE
Plaintiff	:	
	:	
v.	:	
	:	DOCKET NO.:
	:	
	:	
Defendant.	:	

PETITION

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

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay costs for filing and service of this action.
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 Number: _____

b. Employment
 My present employer is:
 Employer: _____
 Address: _____

 Salary or wages per month: _____
 Type of work: _____

Or I am presently unemployed.
 The date of my last employment was: _____
 Salary or wages per month: _____
 Type of work: _____

c. Other income that I have received within the past twelve months

Business or profession: _____

Other self-employment: _____

Interest: _____

Dividends: _____

Pension and annuities: _____

Social security benefits: _____

Disability benefits: _____

Unemployment compensation and supplemental benefits: _____

Workman's compensation: _____

Public assistance: _____

Other: _____

d. Other contributions to household support

Wife/Husband Name: _____

My Wife/Husband is employed: _____

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 depending upon me for support

Wife/Husband Name: _____

Children, if any: _____

Name: _____ Age _____
Name: _____ Age _____
Name: _____ Age _____
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 petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Sec. 4904, relating to unsworn falsification to authorities.

DATE: _____
_____ Petitioner

Action by the Magisterial District Judge: _____

DATE: _____
_____ Magisterial District Judge

HOW DO I START THE CASE?

The paper you file, as a plaintiff, to start the case is called a complaint. The District Judge will provide you with a form complaint. A copy of a form complaint is attached.

1. Fill in your name and address in the space for Plaintiff. This is in the upper right had corner right below the words, Civil Complaint.
2. Fill in the names and addresses of the people you are suing in the space marked Defendants(s).
3. Fill in the amount of money you claim the defendant owes you in the space provided in the section beginning with **TO THE DEFENDANT:**.
4. Fill in the reason you are suing the defendant in the empty section in the center of the page.

For example:

- a. The defendant agreed to pay me \$300.00 to paint his/her living room. He/She has not paid me.
 - b. The defendant and I resided together for 3 years. He/She now refuses to give me my TV and VCR valued at \$500.00.
 - c. The defendant hit my parked car and did \$750.00 worth of damage.
5. Sign the complaint where it says "Signature of Plaintiff or Authorized Agent." When you sign you are swearing that the statements made on the complaint are true to the best of your knowledge.

HOW DOES THE DEFENDANT FIND OUT ABOUT THE COMPLAINT?

After you file the complaint, the District Judge will have it served upon the defendant, either personally or by mail. Since you will pay for service, you may wish to ask that it be done by mail as it is much cheaper though it may be slower. Even if your in forma pauperis petition is granted, you will have to pay to have the complaint served on the defendant.

WHEN IS THE HEARING?

The District Judge will set a date for the hearing. A written notice of the date will be sent to you and to the defendant. The hearing must be scheduled for not less than 12 days after and not more than 60 days after the complaint is filed. You may ask that the hearing be postponed. However, there is no guarantee the request will be granted. You should not assume it will be. You should be ready to proceed on the date assigned by the District Judge.

WHAT HAPPENS AT THE HEARING?

At the hearing, the plaintiff will be the first to present testimony. You can testify and have witnesses. The defendant and his/her witnesses will testify after your side of the case has been presented.

You must have any document that is important to your case with you. The District Judge will only consider documents presented at the hearing. You will be given a chance to ask your witnesses questions. You will also be able to question the defendant and his/her witnesses. The District Judge may ask questions of all the witnesses at any time. The District Judge will decide whether or not to hear certain evidence if a party objects to it.

You have the right to get subpoenas from the District Judge. A subpoena requires a witness to come to the hearing even if he/she does not want to come. The subpoena also can require the witness to bring documents needed to prove your case. In order to get a subpoena, you must provide the magisterial district judge the name and address for service of the person subpoenaed; the name of the party on whose behalf the person is being ordered to testify; the date, time, and place at which the person is to appear; and a description of documents or things that the person is to produce, if any. You need to get the subpoenas as soon as possible to be sure that the witnesses get them in time for the hearing. You may want to get subpoenas for people who saw what happened but have to work and might not otherwise be able to get off work for the hearing. An example of a person you might want to subpoena, is a mechanic who can testify that the repairs made by the defendant were not done properly. A subpoena is served when it is handed to the witness by an adult individual who is not a party. The person who served the subpoena then completes the back of the subpoena and swears that he/she served it.

CAN THE DEFENDANT SUE ME AT THE SAME TIME?

If the defendant has a claim against you that is the result of the same incident, he/she can file a cross-complaint. Some examples of cross-complaints are:

- a. The paint job was inferior and you broke a window which cost him/her \$50.00 to replace.
- b. You took his/her microwave when you left and it is valued at \$200.00
- c. Your car was parked in the middle of the road at night and his/her car was damaged \$2000.00.

A defendant can file a cross-complaint up to five days before the hearing. IF the defendant files a cross-complaint, you will be notified. The District Judge will consider both claims at the hearing.

WHAT KIND OF EVIDENCE IS PRESENTED?

Remember that most of the time written statements from people who do not appear to testify will not be considered by the District Judge. The exception is that he/she will consider a bill, estimate, receipt or statement of account, which was made in the regular course of business. For instance, if you had to have a window replaced, you could present the receipt as evidence of damages.

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

After all the testimony, the District Judge will decide the case. He/She may make the decision right in court after all the evidence is taken. If he/she does not do this, a decision must be made within 5 days and a copy of it sent to each party.

CAN I APPEAL?

You have a right to appeal a decision with which you do not agree. You should consult an attorney before you appeal. The appeal must be filed within 30 days of the decision. The decision date is either the day of the hearing or if it is a written decision the date on the written decision. To avoid problems, it is best to file the appeal within 30 days from the day of the hearing.

HOW DO I COLLECT THE JUDGMENT?

If you win and there is no appeal taken after 30 days, the defendant should pay you the amount of the judgment. IF he/she does not, you have the right to have the assistance of the District Judge's office in the collection of the debt. This is done by going to that office and asking that an order of execution be entered. You must ask for this within 5 years of your judgment or you will not be able to collect your money in this way.

The District Judge will deliver the order to the sheriff or a constable who will serve it upon the defendant. At the time it is served the sheriff or constable will also list property of the defendant which will be sold. The money from the sale will be used to pay the costs of the sale and the amount the defendant owes you.

The property a District Judge can order sold does not include land. If you know or believe that the defendant owns land, you should tell the District Judge you wish to enter the judgment in the County Court of Common Pleas. He/She will provide the papers that you need to file with the Prothonotary of the Common Pleas Court. You file those papers in the counties where the defendant owns land. This will create a lien on the land so that you can cause it to be sold to pay your debt.

