

**Berks County Bar Association**

**Bench-Bar Conference 2018**

**MDJ Round Table**

## **Continuances**

The MDJ Courts are tasked with the work of a Prothonotary Office, A Clerk of Courts Office, a Court Administration Office, a Collection Agency, and many other responsibilities. It is often difficult to accommodate everyone involved in a case before the courts; Police, the DA Office, Attorneys, and private parties. The entry of appearance is helpful in scheduling with an attorney's staff. All efforts are made to schedule cases in such a way to avoid continuances, however, continuances are at times unavoidable. Requests for continuance should be in writing and should include the specific reason for the request. If an attorney has a conflict with a matter before the court of common pleas, include the docket number and the judge in your request.

### **Rule 209. Continuances and Stays. (*In Part*)**

- A. Continuances may be granted for cause or by agreement.
- B. Continuances shall be to a specific time and date. The magisterial district judge shall note continuances on the docket and shall promptly give or mail to the parties' written notice of continuances.
- C. Except for good cause shown,
  - a. not more than one continuance shall be granted to each party, and
  - b. the aggregate of all continuances shall not extend the date of the hearing:
    - i. beyond 90 days from the date of filing the plaintiff's complaint in proceedings commenced pursuant to Rule 303 (Civil), or
    - ii. beyond 30 days from the date of filing the plaintiff's complaint in proceedings commenced pursuant to Rule 502 (Landlord Tenant).

## **Satisfaction of Civil Judgments**

### **Rule 341. Request for Entry of Satisfaction; Service; Entry of Satisfaction.**

(A) If a judgment debtor has paid in full, settled, or otherwise complied with a judgment rendered in a magisterial district court, anyone interested in the judgment may request the entry of satisfaction of the judgment by filing a written request in the office of the magisterial district judge who rendered the judgment.

(B) A request for entry of satisfaction by anyone other than the judgment creditor must be served upon the judgment creditor in accordance with the rules in the 300 Series regarding service of the complaint.

(C) Within 90 days from the date of service of the request for entry of satisfaction, the judgment creditor shall enter satisfaction in the office of the magisterial district judge in which the request for entry of satisfaction was filed.

**Rule 342.** Failure of Judgment Creditor to Enter Satisfaction; Supplementary Action.

(A) If the judgment creditor does not enter satisfaction within the 90-day period after service of the request as specified in Rule 341C, the judgment debtor may commence a supplementary action for damages by filing a civil complaint in the office of the magisterial district judge in which the request for entry of satisfaction was filed.

**Landlord Tenant - Abandonment of Personal Property**

The new law has been in effect for some time now, but the courts are still seeing litigation regarding this issue. Mainly, Landlords are either ignoring the law all together or only allowing tenants a very limited window to get their property.

If a tenant fails to remove personal property and landlord has taken possession of the leased premises, Act 129 describes what notices must be given to tenant and when the landlord can remove the personal property after such notices. New leases should have these notices included in them and paperwork from the court now has it as well.

If the tenant contacts the landlord within 10 days of possession and states an intention to retrieve the property, the landlord is required to hold onto the tenant's personal property for a period of 30 days. The cost of storing and/or maintaining the tenant's personal property is recoverable by the landlord. But if the tenant does not contact landlord within 10 days, landlord may dispose of or sell the personal property at his or her discretion.

**Landlord Tenant – PA's Unfair Trade Practices and Consumer Protection Law**

Wallace v. Pastore, 742 A.2d 1090, 1093 (Pa. Super. Ct. 1999)

The Superior Court of Pennsylvania upheld a verdict for treble (triple) damages in favor of a tenant and against his landlord, finding that Pastore had misrepresented the existence and extent of damage to the apartment in the accounting of the Security Deposit distribution.

Nexus Real Estate, LLC v. Erickson, PICS Case No. 17-0983 (Pa. Super. June 12, 2017)

The Superior Court of Pennsylvania upheld a verdict for treble (triple) damages in favor of a tenant and against his landlord and the landlord's property manager stemming from a string of broken promises to promptly fix the issues plaguing the leased residential property. Erickson sought monetary damages, alleging breach of the warranty of habitability and violations of the Pennsylvania's Unfair Trade Protection and Consumer Protection Law (UTCPL).

## **MDJ Rules of Interest**

**Rule 215.** Magisterial district judges may authorize the use of advanced communication technology during any civil proceeding or action governed by the Rules of Civil Procedure for Magisterial District Judges.

**Rule 315.** Claim by Defendant. The defendant, by filing a complaint at least five days before the date set for the hearing, may assert in the case any claim against the plaintiff that is within the jurisdiction of a magisterial district judge. Such a claim need not arise from the same transaction or occurrence from which the plaintiffs claim arose, nor need it be the same type of claim.

**Rule 316.** Amendment to Complaint. Amendments to the complaint may be made only at the hearing in the presence of the adverse party or his representative. Amendments other than those made as to form shall constitute grounds for continuance.

**Rule 321.** Hearings and Evidence. The magisterial district judge shall be bound by the rules of evidence, except that a bill, estimate, receipt or statement of account which appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy or authenticity.

**Rule 322.** Judgment. Judgment shall be given at the conclusion of the hearing or within five (5) days thereafter and shall be entered on the complaint form. The judgment shall include a separate entry for costs in favor of the party entitled thereto.

**Rule 323.** Judgment-Payment in Installments. The magisterial district judge may in his entry of judgment order the payment of the same in periodic installments which shall not extend beyond twelve (12) months from the date of judgment.

## **Current Issue**

If a Landlord files a LLT case against a Tenant, and then later withdraws the action or the Judge dismisses the action, the case stays in the MDJS System. When the Tenant leaves and starts looking for a new property to rent, prospective Landlords are running names through the AOPC system and finding these cases. Some Landlords are using this as a reason to deny rental applications, not wanting to take a chance on someone who had to have a Landlord file an action against them.

The Minor Judiciary Practice Law Section is working towards a rule change to allow these actions upon withdraw or dismissal to be effectively expunged from the MDJS system.