

Rule 210. Practices Prohibited.

The following practices are specifically prohibited:

[(1)](a) The use of depositions or interrogatories for discovery or use at a hearing.

[(2)](b) Adding parties after the complaint is filed, **except as provided by Pa.R.Civ.P.M.D.J. 513.1.**

[(3)](c) Attachment proceedings previous to judgment.

[(4)](d) Entry of a judgment by warrant of attorney or by confession of judgment.

[Official Note] Comment: In keeping with the policy of making the procedures in actions before magisterial district judges as simple and nontechnical as possible and in view of the time limitations imposed elsewhere in these rules, it was thought desirable to prohibit specifically the practices mentioned in the four subdivisions of this rule. See *also* **[Rules 204 and 381] Pa.R.Civ.P.M.D.J. 204 and 381.**

Pa.R.Civ.P.M.D.J. 513.1 permits an individual to file an intervention request in a landlord-tenant action.

Rule 305. Setting the Date for Hearing; Delivery for Service; Notice to Defendant; Form.

The magisterial district judge, at the time the complaint is filed, shall:

- [(1)](a)** Set a hearing date which shall be not less than 12 or more than 60 days from the date the complaint is filed.
- [(2)](b)** Insert the hearing time and date and the address of the magisterial district court in the complaint form.
- [(3)](c)** Deliver a copy of the complaint form with hearing time and date thereon to the plaintiff.
- [(4)](d)** Deliver a copy of the complaint form with hearing time and date thereon for service on the defendant as hereinafter set forth, which copy shall contain the following notice:

[(a) If you intend to enter a defense to this complaint you should so notify this office immediately.

(b) If you have a claim against the plaintiff which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

(c) YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.]

Notice to Defendant

You have been sued in court. If you wish to appear at the hearing and defend against the claims set forth in the complaint, you should notify the court in writing. You may give notice by completing the enclosed Notice of Intent to Defend form and returning it to the court. Alternatively, you may send the court a signed statement identical in content to the enclosed form. If you do not intend to dispute this claim, you do not need to appear in court and a judgment may be entered against you in your absence.

If you give written notice of intent to defend and attend the hearing, but the plaintiff does not appear at the hearing, then the magisterial district judge will enter judgment in your favor or continue the case for cause. If you do

not give written notice of intent to defend and attend the hearing, but the plaintiff does not appear at the hearing, the magisterial district judge will continue the case. If you do not appear at the hearing, either a judgment will be entered against you or the case will be continued for cause. If a judgment is entered against you, you may lose money or property or other rights important to you.

If you have a claim against the plaintiff that is within magisterial district court jurisdiction and that you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing. No claim by the defendant will be permitted in a supplementary action filed for failure of a judgment creditor to enter satisfaction.

If you need information about hiring a lawyer to represent you in this matter, contact either your county bar association or legal services agency.

(e) The copy of the complaint form delivered for service upon the defendant shall be accompanied by the Notice of Intent to Defend form prescribed by the State Court Administrator.

[Official Note] Comment: The 60-day limitation in **[subdivision (1) of this rule] subdivision (a)** was considered to provide sufficient time in which to effect service under the requirement of **[Rule 307] Pa.R.Civ.P.M.D.J. 307** that service be made at least ten days before the hearing. See **[Rule 314E] Pa.R.Civ.P.M.D.J. 314E** as to reinstatement of complaints dismissed because of lack of service. The copies required in **[subdivisions (3) and (4)] subdivisions (c) and (d)** are provided by the Magisterial District Judge Automated System. **[Giving the notice mentioned in subdivision (4)(a) is necessary if the defendant is to obtain judgment under Rule 319A because of the plaintiff's failure to appear. Subdivision (4)(b) gives notice of the right to file a cross-claim within magisterial district court jurisdiction. The procedure for filing such a claim is set forth in Rule 315, and the Note to that rule indicates possible procedures as to counterclaims not within magisterial district court jurisdiction. Subdivision (4)(c) provides for a warning concerning a default judgment, which may be rendered under Rule 319B.]**

Subdivision (d) sets forth the notice that must be provided to a defendant with a complaint, advising the defendant to notify the court if the defendant intends to appear at the hearing, the consequences of failing to appear at the hearing, and the right of the defendant to file a cross-complaint against the plaintiff within magisterial district court jurisdiction. The defendant must notify the court of his or her intention to defend against the complaint in order for the defendant to obtain judgment because of the plaintiff's failure to appear. See Pa.R.Civ.P.M.D.J. 319A.

See Pa.R.Civ.P.M.D.J. 315 (procedures for filing a cross-complaint); but see Pa.R.Civ.P.M.D.J. 342B(2) (prohibiting a defendant from filing a cross-complaint in a supplementary action).

The Notice of Intent to Defend form referenced in subdivision (e) shall be included with the complaint served on the defendant. It provides a convenient method for the defendant to advise the court that he or she intends to appear at the hearing and defend against the claims set forth in the complaint. Alternatively, the defendant may give the court a signed statement identical in content to the form provided by the court.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT--1992

The Note to Rule 305 recognizes that forms generated by the District Justice Automation Project may be provided to parties for their convenience at the discretion of the District Justice.

Rule 318. Informing Plaintiff of Notice of Intention to Defend.

If the defendant gives the magisterial district court notice of intention to defend in accordance with **[Rule 305(4)(a)] Pa.R.Civ.P.M.D.J. 305(d)**, the magisterial district court shall promptly give the plaintiff written notice that the defendant intends to enter a defense.

[Official Note: No specific form of notification from the defendant to the magisterial district court is required by this rule, but entries] **Comment: The defendant may give the court notice of intention to defend by using the form provided to the defendant pursuant to Pa.R.Civ.P.M.D.J. 305(e) or by a signed statement identical in content. See Pa.R.Civ.P.M.D.J. 305(e), cmt. (pertaining to the form notice provided to the defendant for his or her convenience). Entries** on the docket will show that the defendant gave notice of intention to defend and that the magisterial district court gave written notice to the plaintiff.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT--1992

Rule 318 recognizes that a Notice of Intent to Defend form will be generated by the District Justice Automation Project. Correspondingly, the Note maintains the same procedure for recording that either the plaintiff or his attorney of record was notified of the defendant's intent to defend and requires an acknowledgment that the Notice of Intent to Defend form was used.

Rule 504. Setting the Date for Hearing; Delivery for Service; Notice to Tenant or Occupant.

The magisterial district judge, at the time the complaint is filed, shall:

- [(1)](a)** Set a hearing date that shall be not less than seven or more than fifteen days from the date the complaint is filed.
- [(2)](b)** Insert the hearing time and date and the address of the magisterial district judge's magisterial district in the complaint form.
- [(3)](c)** Deliver a copy of the complaint form with hearing time and date thereon to the landlord or the landlord's agent.
- [(4)](d)** Deliver a copy of the complaint form with hearing time and date thereon for service as hereinafter set forth, which copy shall contain the following notice:

[(a) If you have a defense to this complaint, you may present it at the hearing.

(b) If you have a claim against the landlord arising out of the occupancy of the premises, which is within magisterial district court jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office before the time set for the hearing.

(c) IF YOU DO NOT APPEAR AT THE HEARING, a judgment for possession and costs, and for damages and rent if claimed, may nevertheless be entered against you. A judgment against you for possession may result in YOUR EVICTION from the premises.]

Notice to Tenant or Occupant

TO THE TENANT: You have been sued in court. You may appear at the hearing and defend against the claims set forth in the complaint. If you do not intend to dispute this claim, you do not need to appear in court and a judgment may be entered against you in your absence.

Failure to appear at the scheduled hearing may result in a judgment entered against you for possession and costs, as well as damages and rent if claimed. A judgment against you for possession may result in your eviction from the premises.

If you have a claim against the landlord arising out of the occupancy of the premises, which is within magisterial district court jurisdiction and that you intend to assert at the hearing, you must file it on a complaint form at this office before the time set for the hearing.

TO AN OCCUPANT: If you are an occupant of the premises, you may be evicted if you take no action upon receipt of this complaint, even if you are not named in the complaint. You may be able to be added to the case and defend your interests in remaining at the premises by: (1) filing an intervention request at this office any time before the hearing on the complaint; and (2) proving at the hearing that you are a tenant of the landlord. See Pa.R.Civ.P.M.D.J. 513.1. If you have a claim against the landlord arising out of the occupancy of the premises and that is within the jurisdiction of the magisterial district judge, you must file it on a complaint form at the same time as the intervention request. If you are added to the case as a tenant, you may be liable for any judgment entered in favor of the landlord, including property damage, back rent, court costs, and fees.

If you need information about hiring a lawyer to represent you in this matter, contact either your county bar association or legal services agency.

[Official Note] Comment: The hearing date in **[subdivision (1) of this rule] subdivision (a)** is required to be set not less than seven days from the filing of the complaint because of the requirement in **[Rule 506B] Pa.R.Civ.P.M.D.J. 506(b)** that service be made at least five days before the hearing. It was thought that the requirement that the hearing be held not more than 15 days from the filing of the complaint should provide ample time to make the type of service required in these cases.

The notice for the tenant set forth in **[subdivision (4) of this rule] subdivision (d)** varies somewhat from the notice required in civil actions under **[Rule 305] Pa.R.Civ.P.M.D.J. 305**. There are a number of reasons for this. First, there can be no default judgment in these possessory actions and, secondly, it was thought that cross-complaints of tenants in these cases should be limited to those arising out of the occupancy of the premises. **The notice in subdivision (d) is also intended for occupants of the property who are not named in the complaint.**

Rule 506. Service of Complaint.

[A.](a) The magisterial district judge shall serve the complaint by mailing a copy of it to the tenant's last known address by first class mail and noting on the docket the date of such mailing, and by delivering a copy of it for service to the sheriff of, or any certified constable in, the county in which the office of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. The officer receiving the copy shall serve it by handing it to the tenant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered**[or, if none of the above is found], if found, and** by posting it conspicuously on those premises.

[B.](b) The copy shall be served at least five days before the hearing.

[Official Note] Comment: Under **[subdivision A of this rule] subdivision (a)**, service must be made both by first class mail and delivery for service in the manner prescribed. **It is expected that the officer serving the complaint will exercise due diligence when attempting personal service upon the tenant. This may be demonstrated by, among other things, attempting service at varying times of day, making a reasonable number of knocks upon the tenant's door, knocking at all available doors of the premises, or announcing the officer's presence. Posting is required in all cases to facilitate notice to an occupant of the property.**

In actions where wage garnishment may be sought under **[Pa.R.C.P. No. 3311] Pa.R.Civ.P. 3311**, the landlord may authorize the sheriff or constable to make personal service upon the tenant. **[If the tenant is not present at the property the sheriff or constable is authorized to post the complaint so that the underlying landlord-tenant action may proceed.]** The landlord may authorize the sheriff or constable to make additional attempts to effectuate personal service upon the tenant so the landlord can later prove such service if attempting to garnish wages under **[Pa.R.C.P. No. 3311] Pa.R.Civ.P. 3311**. Additional service attempts by the sheriff or constable may result in additional fees.

Rule 507. Notation and Return of Service; Waiver of Service.

[A.](a) The magisterial district judge shall note on the docket the date that a service copy of the complaint was mailed to the tenant, and the sheriff or constable serving a copy of the complaint shall, at or before the time of the hearing, make proof of service on the form provided, which shall show the manner of service and the day, hour, and place thereof, **as well as any unsuccessful attempts at service.**

[B.](b) The appearance of a tenant in person or by representative or the filing of a claim in the case shall be deemed a waiver of any defect in service but not a waiver of a defect in venue.

[Official Note: This rule parallels the provisions of Rule 314A and C.]

– The following text is entirely new –

Rule 513.1 Intervention.

- (a) **Time to File.** An individual may file an intervention request with the magisterial district court in an action commenced pursuant to Pa.R.Civ.P.M.D.J. 502 at any time before the hearing on the complaint.
- (b) **Form.** The intervention request shall be on a form prescribed by the State Court Administrator, verified by the requester, and contain the following averments:
 - (1) the requester is a tenant of the landlord;
 - (2) the length of time the requester has occupied the property;
 - (3) to whom the requester paid rent for the property; and
 - (4) whether the requester is a party to a lease of the property with the landlord.
- (c) **Docketing.** The magisterial district court shall enter the intervention request on the docket of the action commenced pursuant to Pa.R.Civ.P.M.D.J. 502.
- (d) **Service.** The magisterial district court shall serve a copy of the intervention request by mailing it to the parties at the addresses as listed on the complaint form in the action or by handing it to the parties or the attorneys of record, if any. Notice of an intervention request shall constitute grounds for a continuance by the landlord.
- (e) **Hearing.** The requester shall appear at the hearing and present evidence in support of the intervention request.
- (f) **Findings.** If the magisterial district judge finds that the requester is a tenant of the landlord, the requester shall be added to the action as a tenant, and the action shall proceed pursuant to Pa.R.Civ.P.M.D.J. 512.
- (g) **Cross-complaint by Requester.** If the requester has a claim against the landlord that arises out of the occupancy of the premises and that is within the jurisdiction of the magisterial district judge:

- (1) the requester shall file the cross-complaint on the form prescribed for civil complaints with the intervention request;
- (2) the requester's cross-complaint shall be served on the parties at the same time and in the same manner as the intervention request; and
- (3) if the requestor's intervention request is granted, the magisterial district judge shall conduct the hearing on the cross-complaint at the same time as the hearing in the underlying action.

Comment: This rule establishes procedures for an individual to file an intervention request in an action commenced pursuant to Pa.R.Civ.P.M.D.J. 502 and present a defense to the complaint.

While Pa.R.Civ.P.M.D.J. 210(b) generally prohibits the addition of a party after the complaint is filed, Pa.R.Civ.P.M.D.J. 513.1 permits the addition of a party in the limited circumstance of an individual requesting to intervene in an action. Allowing the magisterial district court to consider such matters serves the general interests of the parties by avoiding delays that could occur by seeking relief at the court of common pleas.

At the hearing, the magisterial district judge will first consider and decide the request to intervene in the action. The requester must present evidence and testimony at the hearing in support of the request to intervene. Examples of evidence include, but are not limited to, a written lease, copies of cancelled checks, and receipts. See Pa.R.Civ.P.M.D.J. 512. If the magisterial district judge grants the intervention request, the requester shall be added to the action as a tenant and the hearing shall proceed on the underlying action.

If the requester is added to the case as a tenant, he or she may be liable for any judgment entered in favor of the landlord, including property damage, back rent, court costs and fees.

See Pa.R.Civ.P.M.D.J. 508 for provisions regarding cross-complaints in landlord-tenant actions, generally. Subdivision (g)(3) requires filing of a cross-complaint at the same time as the intervention request to ensure the underlying matter proceeds in a relatively expeditious manner.