

Current Procedures in the Magisterial District Courts

Effective February 15, 2021, while the Magisterial District Courts will be open to conduct all judicial services during regularly scheduled business hours, the Court facilities will remain closed to the general public not having business with the Courts through April 30, 2021. The Lancaster County Court of Common Pleas is taking precautions to manage concerns related to personal appearances in court facilities by following recommendations made by the Pennsylvania Department of Health and the Centers for Disease Control and Prevention. The welfare and safety of the public and court personnel is important to us. The following precautions are taking place in all court facilities:

- Face masks are required to be worn to enter any court facility and must remain on while in the court. Bring your own mask.
- Hearings will be given a specific start time so it is important to arrive on time for your scheduled event.
- The total number of persons entering the facility will be limited to allow appropriate social distancing.
- You may be asked to wait in your vehicle until your hearing is called. A sign-in sheet may be posted at the court facility or you may be asked to provide your cell phone number to be called when the court is ready for your appearance.
- Anyone requesting an exemption from the Pennsylvania Department of Health's requirement that face coverings be worn in public places due to medical reasons, should contact the Court ADA Coordinator listed herein as soon as possible, but no later than three (3) days before the scheduled event.

Court of Common Pleas ADA Coordinator
Office of District Court Administration
50 N Duke St
PO Box 83480

Lancaster, PA 17608-3480

Voice (717) 299-8041; Relay Service TTY/TDD 711 or (800) 654-5984

FAX (717) 295-3599; Email CourtADACoordinator@co.lancaster.pa.us

Criminal Cases

Effective February 15, 2021, all Preliminary Hearings will begin to be scheduled in the Magisterial District Court of Origin. The schedule of Block Hearings can be found on the Courts website using this link: <https://courtcal.co.lancaster.pa.us/CourtAdmin.Public/>.

Statewide rules pertaining to the rule-based right of criminal defendants to a prompt trial continue to be suspended. Any postponement caused by this Judicial Emergency shall

be considered a Court delay and shall constitute excludable time for purposes of the application of Pa.R.Crim.P. No. 600.

All Preliminary Hearings involving incarcerated defendants will be conducted using advanced communication technology. The defendant will not be transported to the Magisterial District Court. Exceptions may be made by the presiding official in high profile or complex cases.

Generally, Preliminary Hearings require the presence of the parties in the Magisterial District Courts and therefore subpoenas will be issued for witnesses to appear at the initial Preliminary Hearing. Proceedings requiring in-person appearances shall be conducted in a manner that employs all safety measures consistent with the United States Centers for Disease Control and Prevention (CDC) and the Pennsylvania Department of Health (DOH) guidelines.

Each presiding official may conduct business as it determines to be appropriate and feasible and are encouraged to consider deciding matters on the papers and/or to conduct court proceedings through the use of advanced communication technologies, to the extent that constitutional requirements can be satisfied.

While electronic payments on outstanding fines, costs and restitution is preferred, in person cash payments will be accepted.

Civil Cases

Effective February 15, 2021, all Civil Cases will be scheduled to in the Magisterial District Court of Origin.

Generally, Civil Hearings require the presence of the parties in the Magisterial District Courts. However, each presiding official may conduct business as it determines to be appropriate and feasible and are encouraged to consider deciding matters on the papers and/or to conduct court proceedings through the use of advanced communication technologies.

Any party to a case who wishes to utilize advanced communication technology rather than appear in person, must contact the Magisterial District Court in advance of the hearing to make the necessary arrangements.

Summary Cases

Effective February 15, 2021, Summary Trials will be scheduled to take place in the Magisterial District Court of Origin..

All Summary Cases involving incarcerated defendants will be conducted using advanced communication technology. The defendant will not be transported to the Magisterial District Court.

Generally, Summary Trials require the presence of the parties in the Magisterial District Courts. However, each presiding official may conduct business as it determines to be appropriate and feasible and are encouraged to consider deciding matters on the papers and/or to conduct court proceedings through the use of advanced communication technologies, to the extent that constitutional requirements can be satisfied

Any party to a case who wishes to utilize advanced communication technology rather than appear in person, must contact the Magisterial District Court in advance of the hearing to make the necessary arrangements.

While electronic payments on outstanding fines, costs and restitution is preferred, in person cash payments will be accepted.

Landlord/Tenant Cases

1. Every Landlord/Tenant action filed by a landlord against a tenant in Lancaster County, Pennsylvania for the recovery of possession of leased residential real property on or after September 4, 2020 through March 31, 2021 shall be accompanied by an Affidavit of Compliance with the CARES Act and the CDC's September 1, 2020 Agency Order ("Affidavit of Compliance") in the form attached hereto as Exhibit "A".
2. Through March 31, 2021, a landlord shall be precluded from proceeding with a Landlord/Tenant Complaint against a tenant for non-payment of rent if the leased residential real property is subject to:
 - a. An unsatisfied multifamily mortgage in forbearance status backed by Fannie Mae or Freddie Mac; or
 - b. An unsatisfied multifamily mortgage backed by Fannie Mae or Freddie Mac that was in forbearance status and expired, and the landlord has not provided the required notice to vacate to the tenant.

If the landlord is precluded from proceeding against a tenant with an action for the recovery of the possession of leased residential real property, the Landlord/Tenant Complaint shall not be accepted for filing by the Magisterial District Court.

3. Through June 30, 2021, a landlord shall be precluded from proceeding with a Landlord/Tenant Complaint against a tenant for non-payment of rent if the leased residential real property is:
 - a. Owned by the Federal Home Loan Mortgage Corporation (Freddie Mac) or the Federal National Mortgage Association (Fannie Mae) and acquired through foreclosure or deed-in-lieu of foreclosure transactions; or
 - b. Subject to an unsatisfied mortgage backed by the Veteran Benefits Administration (VA); or

- c. Subject to an unsatisfied mortgage backed by the Federal Housing Administration (FHA); or
- d. Subject to an unsatisfied mortgage backed by the U.S. Department of Agriculture (USDA) Single Family Housing Direct (SFHDLP) and Guaranteed Loans (SFHGLP).

If the landlord is precluded from proceeding against a tenant with an action for the recovery of the possession of leased residential real property, the Landlord/Tenant Complaint shall not be accepted for filing by the Magisterial District Court.

- 4. Additionally, for any residential property not subject to Nos. 2 or 3 above, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action (landlord) shall not evict any covered person from a residential property (tenant) in Lancaster County, subject to requirements listed in the CDC order. However,
 - a. Tenants are not relieved of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract; and
 - b. A landlord may charge and/or collect fees, penalties and/or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.
- 5. In order to invoke the protection of the CDC Order, the tenant must provide to the landlord an executed copy of the Declaration for the CDC's Temporary Halt in Evictions to Prevent Further Spread of COVID-19, a copy of which is attached hereto as Exhibit "B" and available at <http://www.pacourts.us/forms/for-the-public>.
 - a. Every adult listed on the lease, rental agreement or housing contract shall complete and provide a Declaration to the landlord. An adult tenant who does not sign a Declaration and provide the same to the landlord shall not receive the protection of the CDC Order.
 - b. The Declaration automatically imposes a stay on the landlord's ability to obtain an Order for Possession to evict the tenant, or if one has already been obtained, to cause the removal of the Tenant(s) from the property pursuant to Pa.R.C.P.M.D.J. Rule 519. The landlord retains the right to file a Landlord/Tenant Complaint and proceed to a hearing in the normal course.
- 6. The protection afforded by the Declaration does not apply if the tenant is/has:
 - a. Engaging in criminal activity while on the premises; or
 - b. Threatening the health or safety of other residents; or

- c. Damaging or posing an immediate and significant risk of damage to the rental property; or
 - d. Violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
 - e. Violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties or interest). This includes the situation where the tenant(s) fails to vacate the property upon the expiration of the lease.
7. If a Declaration is provided to the landlord prior to the filing of the Landlord/Tenant Complaint, the landlord shall file a copy of the Declaration, Landlord/Tenant Complaint and Affidavit of Compliance with the Magisterial District Court.
8. If the Declaration is not provided to the landlord until after a Landlord/Tenant Complaint has been filed, then either the landlord or the tenant shall file a copy of the Declaration with the Magisterial District Court as soon as possible. However, a Declaration may be filed at any stage in the proceedings prior to removal of the Tenant(s) from the property pursuant to Pa.R.C.P.M.D.J. Rule 519.
9. A landlord may challenge the truthfulness and/or applicability of a Declaration at any stage in the proceedings prior to removal of the tenant(s) from the property pursuant to Pa.R.C.P.M.D.J. Rule 519. The challenge shall be in writing, on a Challenge to Declaration form (or substantially similar form) as attached hereto as Exhibit "C". The challenge shall serve as a request for a hearing.
 - a. If the landlord files a Challenge to Declaration, the Magisterial District Judge shall:
 - (1) Set a hearing within 15 days, or as soon thereafter as the schedule permits. If the challenge is made at the time of the filing of the Landlord/Tenant Complaint, the hearing on the challenge may be heard at the time of the Pa.R.C.P.M.D.J. Rule 504 hearing;
 - (2) Deliver a copy of the Challenge to Declaration to the tenant(s) and a copy of the hearing notice to all parties by first class mail;
 - (3) If a Challenge to Declaration is made after the Pa.R.C.P.M.D.J. Rule 504 hearing, the Magisterial District Judge shall retain jurisdiction to hear the challenge;
 - b. A landlord challenging the truthfulness and/or applicability of the Declaration shall have the burden of proof to show that the Declaration is false or that one of the five categories to which the protection afforded

by the Declaration does not apply. The averments contained in the Declaration are presumed to be true.

10. After a hearing held pursuant to Section 8, the Magisterial District Judge shall determine whether the landlord has met his/her burden of proof in challenging the Declaration and whether the protection afforded by the Declaration applies to the action. The Magisterial District Judge's decision shall be made at the conclusion of the hearing or within three days thereafter. The parties shall be provided with notice of the decision.
 - a. If, prior to the entry of an Order of Possession, the Magisterial District Judge determines that a Declaration is valid and that the Declaration applies to prevent the tenant from being evicted, then the case may proceed in the normal course, except that the ability of a landlord to obtain an Order of Possession shall be stayed until after March 31, 2021.
 - b. If, following the entry of an Order of Possession, the Magisterial District Judge determines that a Declaration is valid and that the Declaration applies to prevent the tenant from being evicted, then the landlord's ability to remove the Tenant(s) from the property pursuant to Pa.R.C.P.M.D.J. Rule 519 shall be stayed until after March 31, 2021.
 - c. If the Magisterial District Judge determines that a Declaration is not valid or that the Declaration is not applicable, then the action, including the removal of the Tenant(s) from the property pursuant to Pa.R.C.P.M.D.J. Rule 519, may proceed in the normal course.
11. A party aggrieved by a Magisterial District Judge's determination on the truthfulness and/or applicability of a Declaration may, within 10 days of the Magisterial District Judge's determination, file an appeal in the Lancaster County Prothonotary's Office in a Miscellaneous action. A *de novo* hearing will be scheduled based upon rules and procedures prescribed by the Lancaster County Court of Common Pleas.
12. A landlord may request an Order for Possession within 180 days of the date the stay is stricken, dismissed, lifted or otherwise terminated, as provided by Pa.R.C.P.M.D.J. Rule 515(B).
13. If a Declaration has been deemed to be invalid, the tenant may refile the Declaration, along with proof demonstrating a change in circumstances such that the criteria set forth in the Declaration have been satisfied. Refiling of the Declaration imposes the stay as provided in Paragraph 4b. A landlord wishing to challenge the amended Declaration shall follow the procedures set forth herein.
14. Delayed filing of a Declaration or repeated filing of invalid/inapplicable Declarations may result in the assessment of additional costs on the tenant.

15. Any Landlord/Tenant action filed in the Magisterial District Courts that was stayed pursuant to the Administrative Order entitled In Re: Landlord/Tenant Actions and filed at No. A.D. 43-2020 shall proceed in accordance with Administrative Order #15-2021.