

RULE 23. Magistrates

(A) Appointment

Magistrates shall be appointed by the Court and serve as full time employees of the Court as provided by Civil Rule 53, and shall also serve as Magistrates under Criminal Rule 19.

(B) Categories of Referred Cases

The following category of cases are assigned to the Common Pleas Magistrates:

- (1) Civil Protection Orders
- (2) Foreclosures
- (3) Certification of title for motor vehicles
- (4) Default judgment including: Default judgment damages hearings
- (5) Requests to set aside bond forfeitures
- (6) Civil forfeitures
- (7) Certificated of qualification of employment
- (8) Poverty affidavit hearings
- (9) Garnishments
- (10) Attachments
- (11) Replevins
- (12) Judgment debtor exams
- (13) Forcible entry and Detainer
- (14) Evictions
- (15) Administrative Appeals
- (16) Felony Arraignment and Bond

This is a non-exclusive list and other categories of cases may be referred by the Court to the Magistrates from time to time.

(C) Specific Referrals

In addition to the categories assigned to the magistrate's, a magistrate may do any of the following which is referred to him or her by the Trial Judge including:

- (1) Determine any motion in any civil case, including discovery motions, and motions in criminal cases in accordance with Criminal Rule 19, which is limited to indicted misdemeanor charges;
- (2) Conduct the trial of any case that will not be tried to a jury, criminal or civil, in criminal cases, a referral is limited to indicted misdemeanor charge or charges;
- (3) Jury Trials where the parties have given unanimous written consent under Civil Rule 53;
- (4) Conduct proceedings upon application for the issuance of a temporary protection order authorized by law;
- (5) Exercise any other authority specifically vested in magistrates by statute and consistent with Civil Rule 53.

(D) Magistrate's Orders

A magistrate may enter orders without judicial approval if necessary to regulate the proceedings and if not dispositive of a claim or defense of a party. Orders must be in writing and filed with the Clerk. [Civil Rule 53 (D)(2)].

(E) Objections to a Magistrate's Order

Any party may file a motion to set aside a magistrate's order pursuant to Civil Rule 53 (D) and must be filed no later than ten (10) days after the magistrate's order was filed. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order, though the magistrate or the Court may by order stay the effectiveness of a magistrate's order. Memoranda contra the objection must be filed within 10 days of filing of the original objection. Requests for findings of fact and conclusions of law will stay the time for filing objections.

(F) Magistrate's Decisions

A magistrate shall issue a decision respecting any matter referred under Civil Rule 53 (D)(1) where that matter is dispositive of a claim or defense of a party.

- (1) Findings of fact and conclusions of law. Subject to the terms of the relevant reference, a magistrate's decision may be general unless findings of fact and conclusions of law are timely requested by a party or otherwise required by law. A request for findings of fact and conclusions of law shall be made before the

entry of a magistrate's decision or within seven (7) days after the filing of a magistrate's decision. If a request for findings of fact and conclusions of law is timely made, the magistrate may require any or all of the parties to submit proposed findings of fact and conclusions of law. [Civil Rule 53 (D)(3)]

- (2) A magistrate's decision must be in writing, filed with the clerk and comply with Civil Rule 53 (D)(3).
- (3) A magistrate's decision is not effective unless adopted by the Court. A Court that adopts, rejects or modifies a magistrate's decision shall also enter a judgment or interim order pursuant to Civil Rule 53.

(G) Objections to the Magistrate's Decision ~~or Order~~

(1) Time Limits on Objections

Objections to the Magistrate's Decision along with memoranda in support thereof shall be timely files by any party in accordance with Civil Rule 53. Memoranda contra objections may be filed by any party within ten (10) days of filing of the original objection. Requests for findings of fact and conclusions of law will stay the time for the filing of objections.

(2) Extension of Time for Objections

The time limits established by Civil Rule 53 for the filing of objections to a magistrate's decision or order may be extended by the trial judge by filing a motion for a continuance supported by an affidavit stating facts indicating a practical impossibility of compliance.

(3) Transcript

If a transcript is necessary to support objections to the magistrate's decision or order, the transcript must be filed by the moving party within thirty (30) days after the filing of the objections. The request for a transcript shall be submitted to the court reporter within three (3) days after the filing of the objections. A Court may extend the time for preparation of the transcript.

(H) Felony Arraignment and Bond

Unless conducted by the trial judge, a magistrate shall conduct arraignment and set bond. Post-arraignment, any request for bond review shall be heard by the assigned trial judge.

(I) Magistrate Order or Decision

The Magistrate will issue his or her order or decision after the trial or hearing in accordance with Civil Rule 53 but may require that briefs, proposed findings or other memoranda be submitted by counsel prior to the issuance of the order or decision.

(J) Motions to Set Aside a Magistrate's Order and Objections to Magistrate's Decision

A Motion to Set Aside and Magistrate's Order or Objections to the Magistrate's Decision along with memoranda in support thereof shall be timely filed by any party in accordance with Civil Rule 53. Memoranda contra objections may be filed by any party within ten (10) days of filing of the original objection. Requests for findings of fact and conclusions of law will stay the time for the filing of objections.

Effective: (March 1, 2023)