

# Do's, Don'ts for Magistrate Judge Trials

By Annie Kelley

EVER WONDER ABOUT A CONSENT TRIAL by a federal magistrate judge? Curious as to what advantages there are, or what powers the magistrate judge has in this type of trial? Litigators are sometimes less familiar with this option because of a lack of understanding the process or a misnomer about the judges and their backgrounds.

U.S. Magistrate Judge Timothy R. Rice, veteran litigator Peter G. Rossi and moderator Peter F. Vaira explained how to try a case in front of a magistrate judge, and the do's and don'ts of a consent trial at the Feb. 20 meeting of the Federal Courts Committee.

Federal magistrate judges are granted the authority to conduct a civil action or proceeding, including a jury or non-jury trial, if all parties consent. Because district court judges often have a huge backlog between a lengthy criminal and exploding civil dockets, Judge Rice noted that a main advantage to consent trials is sched-

uling and convenience. Consent trials are given a date certain, and are not placed in trial pool.

If a case is going to go to trial, a consent trial is a good way to expedite the case. Plaintiff attorneys often like this option, as a goal may be to get a case into court as quickly as possible. Judge Rice explained that he tries to be accommodating and works with lawyers for a date certain agreeable to both sides to make the process more user-friendly and less stressful.

Once both parties consent, the case is assigned to the magistrate judge from the district judge. The case functions on the same track and the same rules apply as if tried by the district court. For example, parties still have a jury trial right, the same appeal rights, the judge has full contempt powers (both civil and criminal), and the same recusal process applies. After the district court judge signs the consent form, it is off his/her docket, and all proceedings are under the magistrate judge. As such, appeals go directly to the circuit court.

**Magistrate judges** are granted the authority to conduct a civil action or proceeding, including a jury or non-jury trial, if all parties consent.

Ten or 20 years ago, magistrate judges did not try as many cases. As magistrate judges are appointed by federal district judges and the selection process has become less political, the caliber and criteria has greatly risen for magistrate judges. Judges know that they will have to handle litigation, are there is no one on the bench who has not been in the litigation field.

Every type of case can, and has, consented. From class actions to medical malpractice to breach of contract, magistrate judges adjudicate all types of cases. As there are more good trial attorneys in the bar, it was noted that the time has come for an even greater rise in consent trials, as magistrate judges are very well qualified and litigants are learning more about the judges, their backgrounds, and the pro-

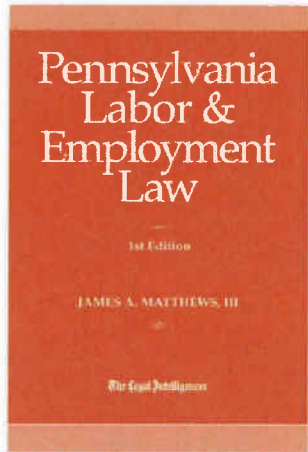
cess and advantages to a consent trial.

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