



Handbook On The Rules Of Civil Procedure For West Virginia Magistrate Courts

Louis J. Palmer Jr. & Robin Jean Davis

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The West Virginia magistrate court system was created under the authority of Article VIII, § 10 of the Judicial Reorganization Amendment of 1974. The West Virginia Supreme Court of Appeals has held that [t]he constitutionally created office of magistrate is an independent judicial office and the exercise of the power of the office is subject only to the constitution and the law. *State ex rel. Skinner v. Dostert*, 166 W.Va. 743, 278 S.E.2d 624 (1981). With respect to the civil jurisdiction of magistrate courts, procedural laws in the form of Supreme Court rules and legislative statutes have been created. The Rules of Civil Procedure for the Magistrate Courts of West Virginia were promulgated by the Supreme Court on June 22, 1988. This Handbook provides guidance on how those rules should be applied. In addition, this Handbook provides guidance on how to apply legislative procedural statutes that are applicable to magistrate courts. It must be emphasized that this Handbook is only a reference tool, it does not purport to be the law. The magistrate court system replaced the justice of the peace courts, pursuant to Article VIII, § 15 of the state constitution, on January 1, 1977. During the long period in which the justice of the peace court system was in place, a rich body of case law was created. Whenever possible this Handbook references to case law decided for justice of the peace courts, as illustrative on how specific issues should be handled by magistrates. In addition, the Handbook provides case law guidance on issues decided under the rules of civil procedure for circuit courts. This Handbook is intended to be user-friendly. In doing so, the material in this Handbook has been arranged under each Rule that is set out in the Rules of Civil Procedure for the Magistrate Courts. To the extent that the Handbook covers procedural matters only found in statutes and other administrative rules promulgated by the Supreme Court, such matters have been set out near closely related Rules.

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