

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 24, 2010

House Bill No. 2304

HOUSE BILL NO. 2304 - By: BAILEY of the House and ELLIS of the Senate.

An Act relating to civil procedure; amending 12 O.S. 2001, Sections 1751, as last amended by Section 1, Chapter 70, O.S.L. 2004 and 1759, as amended by Section 1, Chapter 122, O.S.L. 2005 (12 O.S. Supp. 2009, Sections 1751 and 1759), which relate to the Small Claims Procedure Act; raising the monetary limits for small claims suits; raising the monetary limits for claims, counterclaims, and setoffs; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 12 O.S. 2001, Section 1751, as last amended by  
2 Section 1, Chapter 70, O.S.L. 2004 (12 O.S. Supp. 2009, Section 1751), is amended to  
3 read as follows:

4 Section 1751. A. The following suits may be brought under the small claims  
5 procedure:

6 1. Actions for the recovery of money based on contract or tort, including  
7 subrogation claims, but excluding libel or slander, in which the amount sought to be  
8 recovered, exclusive of attorneys fees and other court costs, does not exceed ~~Six Thousand~~  
9 ~~Dollars (\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00);

10 2. Actions to replevy personal property the value of which does not exceed ~~Six~~  
11 ~~Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00). If the claims for  
12 possession of personal property and to recover money are pled in the alternative, the

1 joinder of claims is permissible if neither the value of the property nor the total amount  
2 of money sought to be recovered, exclusive of attorneys fees and other costs, exceeds ~~Six~~  
3 ~~Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00); and

4 3. Actions in the nature of interpleader, as provided for in Section 2022 of this title,  
5 in which the value of the money which is the subject of such action does not exceed ~~Six~~  
6 ~~Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00).

7 B. No action may be brought under the small claims procedure by any collection  
8 agency, collection agent, or assignee of a claim, except that an action may be brought  
9 against an insurer or third-party administrator by a health care provider as that term is  
10 defined in Section 6552 of Title 36 of the Oklahoma Statutes, who is an assignee of  
11 benefits available under an accident and health insurance policy, trust, plan, or contract.

12 C. In those cases which are uncontested, the amount of attorneys fees allowed shall  
13 not exceed ten percent (10%) of the judgment.

14 D. No action may be brought under the small claims procedure for any alleged  
15 claim against any city, county or state agency, or employee of a city, county or state  
16 agency, if the claim alleges matters arising from incarceration, probation, parole or  
17 community supervision.

18 E. No action by a plaintiff who is currently incarcerated in any jail or prison in the  
19 state may be brought against any person or entity under the small claims procedure.

20 SECTION 2. AMENDATORY 12 O.S. 2001, Section 1759, as amended by  
21 Section 1, Chapter 122, O.S.L. 2005 (12 O.S. Supp. 2009, Section 1759), is amended to  
22 read as follows:

1 Section 1759. A. Except as provided by subsection C of this section, if a claim, a  
2 counterclaim, or a setoff is filed, prior to the expiration of the time prescribed by Section  
3 1758 of this title, for an amount in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Ten  
4 Thousand Dollars (\$10,000.00), the action shall be transferred to another docket of the  
5 district court unless both parties agree in writing and file said agreement with the  
6 papers in the action that said claim, counterclaim, or setoff shall be tried under the small  
7 claims procedure. If such an agreement has not been filed, a judgment in excess of ~~Six~~  
8 ~~Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00) may not be enforced for  
9 the part that exceeds ~~Six Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars  
10 (\$10,000.00). If the action is transferred to another docket of the district court, the  
11 person whose claim exceeded ~~Six Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars  
12 (\$10,000.00) shall deposit with the clerk the court costs that are charged in other cases,  
13 less any sums that have been already paid to the clerk, or the claim shall be dismissed  
14 and the remaining claims, if any, shall proceed under the small claims procedure.

15 B. If the action is transferred to another docket of the district court, the plaintiff  
16 shall file a petition that conforms to the standards for pleadings prescribed by the  
17 Oklahoma Pleading Code, Section 2001 et seq. of this title, within twenty (20) days from  
18 the timely filing of the claim, counterclaim, or setoff. The answer of the defendant shall  
19 be due within twenty (20) days after the filing of the petition and the reply of the plaintiff  
20 shall be due within ten (10) days after the answer is filed.

1 C. Except as provided by Section 1757 of this title, if a defendant does not file a  
2 counterclaim within the period prescribed by Section 1758 of this title, the action shall  
3 not be transferred to another docket of the district court.

4 SECTION 3. This act shall become effective November 1, 2010.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-23-10 - DO PASS,  
6 As Coauthored.