

SB 815

Senate Bill No. 815
As Amended

SENATE BILL NO. 815 - By: Burrage and Ivester of the Senate and Sherrer of the House.

[civil procedure - small claims docket - effective date]

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

SECTION 1. AMENDATORY 12 O.S. 2001, Section 1751, as last amended by Section 1, Chapter 70, O.S.L. 2004 (12 O.S. Supp. 2008, Section 1751), is amended to read as follows:

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

1. Actions for the recovery of money based on contract or tort, including subrogation claims, but excluding libel or slander, in which the amount sought to be recovered, exclusive of attorneys fees and other court costs, does not exceed ~~Six Thousand Dollars~~ Twenty-five Thousand Dollars (\$25,000.00);

2. Actions to replevy personal property the value of which does not exceed ~~Six Thousand Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00). If the claims for possession of personal property and to recover money are pled in the alternative, the joinder of claims is permissible if neither the value of the property nor the total amount of money sought to be recovered,

1 exclusive of attorneys fees and other costs, exceeds ~~Six Thousand~~
2 ~~Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00); and

3 3. Actions in the nature of interpleader, as provided for in
4 Section 2022 of this title, in which the value of the money which is
5 the subject of such action does not exceed ~~Six Thousand Dollars~~
6 ~~(\$6,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00).

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

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

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

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

4 F. A small claims affidavit shall include a statement
5 acknowledging that the plaintiff is disclaiming a right to a trial
6 by jury on the merits of the case.

7 SECTION 2. AMENDATORY 12 O.S. 2001, Section 1759, as
8 amended by Section 1, Chapter 122, O.S.L. 2005 (12 O.S. Supp. 2008,
9 Section 1759), is amended to read as follows:

10 Section 1759. A. Except as provided by subsection C of this
11 section, if a claim, a counterclaim, or a setoff is filed, prior to
12 the expiration of the time prescribed by Section 1758 of this title,
13 for an amount in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Twenty-
14 five Thousand Dollars (\$25,000.00), the action shall be transferred
15 to another docket of the district court unless both parties agree in
16 writing and file said agreement with the papers in the action that
17 said claim, counterclaim, or setoff shall be tried under the small
18 claims procedure. If such an agreement has not been filed, a
19 judgment in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Twenty-five
20 Thousand Dollars (\$25,000.00) may not be enforced for the part that
21 exceeds ~~Six Thousand Dollars (\$6,000.00)~~ Twenty-five Thousand
22 Dollars (\$25,000.00). If the action is transferred to another
23 docket of the district court, the person whose claim exceeded ~~Six~~

1 ~~Thousand Dollars (\$6,000.00)~~ Twenty-five Thousand Dollars
2 (\$25,000.00) shall deposit with the clerk the court costs that are
3 charged in other cases, less any sums that have been already paid to
4 the clerk, or the claim shall be dismissed and the remaining claims,
5 if any, shall proceed under the small claims procedure.

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

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

18 SECTION 3. This act shall become effective November 1, 2009.

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-10-09 - DO
20 PASS, As Amended and Coauthored.