

1 **SENATE FLOOR VERSION**

2 February 14, 2012

3 SENATE BILL NO. 1196

By: Burrage of the Senate

4 and

5 Sherrer of the House

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7
8 An Act relating to small claims procedure; amending
9 12 O.S. 2011, Sections 1751 and 1759, which relate to
10 jurisdiction; expanding actions eligible for small
11 claims docket; requiring certain disclaimer;
12 increasing amount of claim for transfer of certain
13 cases; updating language; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1751, is
17 amended to read as follows:

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

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

1 2. Actions to replevy personal property the value of which does
2 not exceed ~~Six Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars
3 (\$10,000.00). If the claims for possession of personal property and
4 to recover money are pled in the alternative, the joinder of claims
5 is permissible if neither the value of the property nor the total
6 amount of money sought to be recovered, exclusive of ~~attorneys~~
7 attorney fees and other costs, exceeds ~~Six Thousand Dollars~~
8 ~~(\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00); and

9 3. Actions in the nature of interpleader, as provided for in
10 Section 2022 of this title, in which the value of the money which is
11 the subject of such action does not exceed ~~Six Thousand Dollars~~
12 ~~(\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00).

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

20 C. In those cases which are uncontested, the amount of
21 ~~attorneys~~ attorney fees allowed shall not exceed ten percent (10%)
22 of the judgment.

23 D. No action may be brought under the small claims procedure
24 for any alleged claim against any city, county or state agency, or

1 employee of a city, county or state agency, if the claim alleges
2 matters arising from incarceration, probation, parole or community
3 supervision.

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

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

10 SECTION 2. AMENDATORY 12 O.S. 2011, Section 1759, is
11 amended to read as follows:

12 Section 1759. A. Except as provided by subsection C of this
13 section, if a claim, a counterclaim, or a setoff is filed, prior to
14 the expiration of the time prescribed by Section 1758 of this title,
15 for an amount in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Ten
16 Thousand Dollars (\$10,000.00), the action shall be transferred to
17 another docket of the district court unless both parties agree in
18 writing and file ~~said~~ the agreement with the papers in the action
19 that ~~said~~ the claim, counterclaim, or setoff shall be tried under
20 the small claims procedure. If such an agreement has not been
21 filed, a judgment in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Ten
22 Thousand Dollars (\$10,000.00) may not be enforced for the part that
23 exceeds ~~Six Thousand Dollars (\$6,000.00)~~ Ten Thousand Dollars
24 (\$10,000.00). If the action is transferred to another docket of the

1 district court, the person whose claim exceeded ~~Six Thousand Dollars~~
2 ~~(\$6,000.00)~~ Ten Thousand Dollars (\$10,000.00) shall deposit with the
3 clerk the court costs that are charged in other cases, less any sums
4 that have been already paid to the clerk, or the claim shall be
5 dismissed and the remaining claims, if any, shall proceed under the
6 small claims procedure.

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

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

19 SECTION 3. This act shall become effective November 1, 2012.

20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-7-12 - DO PASS,
21 As Coauthored.

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