

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1298

By: Ivester

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6 AS INTRODUCED

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

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

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

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

18 1. Actions for the recovery of money based on contract or tort,
19 including subrogation claims, but excluding libel or slander, in
20 which the amount sought to be recovered, exclusive of ~~attorneys~~
21 attorney fees and other court costs, does not exceed ~~Six Thousand~~
~~Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00);

22 2. Actions to replevy personal property the value of which does
23 not exceed ~~Six Thousand Dollars (\$6,000.00)~~ Seven Thousand Five
24 Hundred Dollars (\$7,500.00). If the claims for possession of

1 personal property and to recover money are pled in the alternative,
2 the joinder of claims is permissible if neither the value of the
3 property nor the total amount of money sought to be recovered,
4 exclusive of ~~attorneys~~ attorney fees and other costs, exceeds ~~Six~~
5 ~~Thousand Dollars (\$6,000.00)~~ Seven Thousand Five Hundred Dollars
6 (\$7,500.00); and

7 3. Actions in the nature of interpleader, as provided for in
8 Section 2022 of this title, in which the value of the money which is
9 the subject of such action does not exceed ~~Six Thousand Dollars~~
10 ~~(\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00).

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

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

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

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

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

8 Section 1759. A. Except as provided by subsection C of this
9 section, if a claim, a counterclaim, or a setoff is filed, prior to
10 the expiration of the time prescribed by Section 1758 of this title,
11 for an amount in excess of ~~Six Thousand Dollars (\$6,000.00)~~ Seven
12 Thousand Five Hundred Dollars (\$7,500.00), the action shall be
13 transferred to another docket of the district court unless both
14 parties agree in writing and file ~~said~~ the agreement with the papers
15 in the action that ~~said~~ the claim, counterclaim, or setoff shall be
16 tried under the small claims procedure. If such an agreement has
17 not been filed, a judgment in excess of ~~Six Thousand Dollars~~
18 ~~(\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00) may not
19 be enforced for the part that exceeds ~~Six Thousand Dollars~~
20 ~~(\$6,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00). If the
21 action is transferred to another docket of the district court, the
22 person whose claim exceeded ~~Six Thousand Dollars (\$6,000.00)~~ Seven
23 Thousand Five Hundred Dollars (\$7,500.00) shall deposit with the
24 clerk the court costs that are charged in other cases, less any sums

1 that have been already paid to the clerk, or the claim shall be
2 dismissed and the remaining claims, if any, shall proceed under the
3 small claims procedure.

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

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

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

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