

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 1010

By: Murdock

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5
6 AS INTRODUCED

7 An Act relating to small claims procedure; amending
8 12 O.S. 2011, Sections 1751, as last amended by
9 Section 1, Chapter 39, O.S.L. 2019, and 1759, as last
10 amended by Section 3, Chapter 389, O.S.L. 2017 (12
11 O.S. Supp. 2020, Sections 1751 and 1759), which
12 relate to the Small Claims Procedure Act; expanding
13 actions eligible for small claims procedure;
14 increasing amount of claim for certain transfer; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1751, as
18 last amended by Section 1, Chapter 39, O.S.L. 2019 (12 O.S. Supp.
19 2020, Section 1751), is amended to read as follows:

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

22 1. Actions for the recovery of money based on contract or tort,
23 including subrogation claims, but excluding libel or slander, in
24 which the amount sought to be recovered, exclusive of attorney fees
and other court costs, does not exceed ~~Ten Thousand Dollars~~

~~(\$10,000.00)~~ Twelve Thousand Five Hundred Dollars (\$12,500.00);

1 2. Actions to replevy personal property the value of which does
2 not exceed ~~Ten Thousand Dollars (\$10,000.00)~~ Twelve Thousand Five
3 Hundred Dollars (\$12,500.00). If the claims for possession of
4 personal property and to recover money are pled in the alternative,
5 the joinder of claims is permissible if neither the value of the
6 property nor the total amount of money sought to be recovered,
7 exclusive of attorney fees and other costs, exceeds ~~Ten Thousand~~
8 ~~Dollars (\$10,000.00)~~ Twelve Thousand Five Hundred Dollars
9 (\$12,500.00); and

10 3. Actions in the nature of interpleader, as provided for in
11 Section 2022 of this title, in which the value of the money which is
12 the subject of such action does not exceed ~~Ten Thousand Dollars~~
13 ~~(\$10,000.00)~~ Twelve Thousand Five Hundred Dollars (\$12,500.00).

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

21 C. In those cases which are uncontested:

22 1. Except as provided in paragraph 2 of this subsection, the
23 amount of attorney fees allowed shall not exceed ten percent (10%)
24 of the judgment;

1 2. Upon application to the court supported by sufficient
2 documentation, the court may award attorney fees not to exceed
3 twenty-five percent (25%) of the judgment.

4 Nothing in this subsection shall be construed to limit the
5 amount of attorney fees awarded in contested cases. Further,
6 nothing in this subsection shall be construed to prohibit an award
7 of attorney fees for the defense of an action brought under the
8 small claims procedure.

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

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

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

20 SECTION 2. AMENDATORY 12 O.S. 2011, Section 1759, as
21 last amended by Section 3, Chapter 389, O.S.L. 2017 (12 O.S. Supp.
22 2020, Section 1759), is amended to read as follows:

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

19 B. If the action is transferred to another docket of the
20 district court, the plaintiff shall file a petition that conforms to
21 the standards for pleadings prescribed by the Oklahoma Pleading
22 Code, Section 2001 et seq. of this title, within twenty (20) days
23 from the timely filing of the claim, counterclaim, or setoff. The
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1 answer of the defendant shall be due within twenty (20) days after
2 the filing of the petition.

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

7 SECTION 3. This act shall become effective November 1, 2021.

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