

RESOURCES

N.C. Small Claims Court: Cap Increases to \$10,000

The North Carolina General Assembly recently enacted legislation that will expand the types of matters that a magistrate can consider in Small Claims Court. Effective August 1, 2013, a magistrate will be empowered to consider matters where the amount in controversy is \$10,000 or less, a significant increase from the former threshold of \$5,000 or less. Small Claims Court will continue to exercise authority over summary ejectment actions and requests for possession of specific personal property.

Small Claims Court remains an economical option for collection of relatively smaller amounts. Often such matters can be handled without the need for an attorney. While incorporated entities are not permitted to represent themselves in court, an exception is made in Small Claims Court, where companies are permitted to and often appear through an owner or employee, avoiding the expense of hiring an attorney.

The decision to avoid the expense of hiring an attorney is also encouraged by an automatic right to appeal from a ruling made in Small Claims Court to the District Court. Following an appeal, a new trial occurs in the District Court, without regard to the initial decision in Small Claims Court. Appeal can be made in writing within ten days of the initial ruling or can be made orally at the hearing in Small Claims Court. Of course, once a matter is appealed to District Court, any incorporated entity must hire an attorney to appear in District Court.

Although the jurisdictional limits for Small Claims Court have doubled, the procedure for filing such an action remains relatively straight forward. A party must bring the action in the county where the defendant lives. The action is brought by completing two forms which are published by the Administrative Office of the Courts and generally available in the Clerk's Office at the county courthouse, AOC form CVM-100 and AOC form CVM-200. The filing fee is \$96.00.

Generally, Small Claims hearings proceed as any other court hearing. Unlike most court hearings, the majority of litigants in Small Claims Court appear without counsel. Defendants are not required to file a written answer to a complaint in Small Claims Court, although they may. Instead, each party appears on the day of trial with that party's witnesses. If no counsel is involved, each party tells the magistrate its side of the story. Each party may question the other side's witnesses, too. Also, any documents that support any party's side are examined by the Magistrate.

Given the recent increase in the jurisdictional limits of Small Claims Court, many more matters may be efficiently handled in Small Claims Court, where parties may avoid the expense of having to hire an attorney. Given the automatic right to a new trial on appeal and the relative informality of Small Claims Court, many more actions can be resolved by parties themselves in a cost efficient manner. As before, if a party chooses to have counsel in Small Claims Court, that option remains to them.