
Model General Order regarding Small Claims Assignments and Magistrates' Authority

(Language in parentheses is optional. Language in brackets gives alternatives, and only one should be selected.)

Pursuant to G.S. 7A-211 the undersigned judge issues this general order to the Clerk of Superior Court and the magistrates of _____ County regarding the assignment of cases to small claims court within the county.

The undersigned hereby assigns to small claims court cases which meet all of the following four requirements and requests the Clerk to calendar those cases for the regular small claims court: Cases in which the amount in controversy at the time of the filing of the complaint is \$5,000 or less; the plaintiff is seeking monetary damages, recovery of specific personal property, summary ejection, or any combination of these remedies; the plaintiff requests that the case be assigned to a magistrate; and at least one of the defendants is a resident of the county in which the complaint is filed. The filing of a complaint on a regular AOC-CVM complaint form is a request for assignment to small claims court.

The Clerk is also ordered to assign to the regular small claims court cases in which the plaintiff seeks to enforce a motor vehicle lien pursuant to G.S. 44A-2(d) or 20-77; the amount in controversy is \$5,000 or less; the plaintiff requests assignment to a magistrate; and the claim arose in the county in which the complaint is filed.

(Cases filed on small claims complaints but not meeting the criteria set out above are not assigned and should be sent to district court.)

In determining whether the amount in controversy is within the allowable limit, the clerk shall apply the following rules: [In complaints for money owed, the “total amount owed” is the amount in controversy, except if the complaint alleges an unfair trade practice the amount in controversy is triple the total amount owed.] [In complaints for money owed, the “principal amount owed” is the amount in controversy, except if the complaint alleges an unfair trade practice, the amount in controversy is triple the principal amount owed.]¹ In summary ejection cases, the amount in controversy is the “total amount due.” In actions to recover possession of personal property, the amount in

1. The chief district judge must decide which interpretation of the amount-in-controversy statute to follow and choose one of the two bracketed sections as appropriate. G.S. 7A-243(1) specifies that the amount in controversy is computed without regard to interest and costs, while G.S. 7A-243(2) states that where monetary relief is prayed, the amount prayed for is in controversy. In trying to read the two sections together, it raises the question whether “interest and costs” refers to post-judgment interest and costs that are not known at the time of trial and are added by the clerk as opposed to prejudgment interest in a contract case. There are no cases that answer the question so the chief judge must decide for purposes of assignment. One policy argument for the “total amount” reading is that the legislature wished to limit the dollar amount of cases that were heard by magistrates.

controversy is the “total value of the property to be recovered” plus the “total amount of damages,” if any. In motor vehicle lien cases, the amount in controversy is the “total lien claimed to date.”

When complaints for expedited summary ejectment under vacation rental agreements are filed with the clerk, the clerk shall assign the cases to any magistrate in the county who is available. If such an action is filed at a time when the clerk’s office is closed, it shall be filed with the criminal magistrate’s office and any magistrate who is on duty shall schedule the case for a hearing and issue a summons pursuant to G.S. 42A-24. Any magistrate within the county is hereby authorized to conduct expedited eviction hearings for vacation rental agreements, whether or not regularly assigned to hold small claims court.

(Pursuant to G.S. 7A-228 the undersigned judge authorizes [the following magistrates: *(name magistrates)*] [all magistrates assigned to hold small claims court] to hear motions to set aside an order or judgment entered in small claims court pursuant to G.S. 1A-1, Rule 60(b)(1) and order a new trial before a magistrate.)

Issued the ____ day of _____, 20__.

Chief District Judge, _____ District Court District