

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 82
Judiciary

(Delegate Smigiel)

Courts - Pleading Monetary Damages

This bill authorizes a party to elect whether to specify the amount of monetary damages in controversy in a civil complaint, counterclaim, cross-claim, or third-party complaint under the Maryland Rules that is filed in a circuit court or the District Court of Maryland.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures to handle any expenses related to increased discovery in cases with parties who opt not to specify amounts in controversy in District Court cases. Any such increase depends on the number of parties who take advantage of this change.

Local Effect: Potential increase in local expenditures to handle increased discovery in circuit court cases with parties who opt not to specify amounts in controversy. The increase in expenditures would depend on the number of parties who decide to take advantage of this change.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a party who elects not to specify the amount of monetary damages in controversy to allege generally whether the monetary damages sought are: (1) within the limits of the exclusive original jurisdiction of the court in which the claim is filed; (2) within the limits of the concurrent civil jurisdiction of a circuit court and the District Court; (3) within the limits of the diversity jurisdiction of the U.S. District Court, if the suit is filed in a circuit court; (4) an amount that may entitle a

party to demand a jury trial; and (5) in excess of the limits of any applicable insurance, indemnification, or any other form of reimbursement or coverage known to the party for each other party from whom the monetary damages are sought.

If a party decides to specify the amount of monetary damages sought, the party may amend its *ad damnum* clause at any time, in accordance with the Maryland Rules. If a party decides not to specify the amount of monetary damages sought, the party may not amend its statement of allegations listed above within 60 days before a scheduled trial date except for good cause shown.

Current Law:

Maryland Rules

Under Maryland Rule 2-305, an original claim, counterclaim, cross-claim, or third-party claim in circuit court that sets forth a claim for relief must contain the following: (1) a clear statement of the facts necessary to constitute a cause of action; and (2) a demand for judgment for relief sought. If the pleading demands a money judgment, it must include the amount sought, unless otherwise required by law.

Maryland Rule 3-305, sets forth the same requirements for claims in the District Court, but does not specify that the money judgment amount sought must be included. However, as explained below, the District Court handles civil claims up to \$25,000.

In general, a party can file an amendment to a pleading:

- prior to 15 days of a scheduled trial date; or
- within 15 days of a scheduled trial date or after trial has commenced, after obtaining written consent of the adverse party or by leave of court.

Jurisdiction

The District Court of Maryland hears civil cases involving claims that do not exceed \$25,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees, if attorney's fees are recoverable by law or contract. The District Court has exclusive jurisdiction over civil claims at or less than \$5,000. It shares concurrent jurisdiction with the circuit courts for claims between \$5,000 and \$25,000. The circuit courts hear all civil cases involving claims over \$25,000. Because the District Court does not conduct jury trials, a plaintiff in circuit court can elect to have a jury trial. If a case involves an amount in controversy above \$10,000, *a party* in a civil action can demand a jury trial. In *Davis v. Slater*, 383 Md. 599 (2004), the Court of Appeals held that while Article 23 of the Maryland Declaration of Rights preserves the right of trial by jury in civil

proceedings where the amount in controversy exceeds \$10,000, it does not abrogate the common law right to a trial by jury in cases where the amount in controversy is \$10,000 or less.

One way a civil action can be heard in federal court is through diversity jurisdiction. Diversity jurisdiction requires that none of the plaintiffs in a case can be from the same state as any of the defendants. Under 28 U.S.C. § 1332(a), the matter in controversy must exceed the sum or value of \$75,000 in order to qualify for diversity jurisdiction.

Background: In 2003, New York enacted a statute prohibiting the specification of a dollar amount for damages in personal injury or wrongful death actions. However the statute does allow attorneys to specify the amount of monetary damages sought during an opening statement or a closing argument. Juries are instructed that statements made in this fashion are not evidence and that determination of damages is solely within the jury's discretion. Prior to this law, the only cases in which damage amounts could not be specified were medical and dental malpractice cases, and cases against municipalities. The law is intended to eliminate the tendency of lawyers to overestimate claims for damages out of fear that an underestimation of damage claims at the outset of a case could limit eventual recovery.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); New York Legislative Memo A.8827, 2003-2004 Regular Session; *Pleading Damage Dollar Amounts in Complaint No Longer Permitted In Personal Injury and Wrongful Death Actions*, Laurie Giordano, *New York Daily Record*, November 6, 2003; Department of Legislative Services

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