



Maryland Association for Justice, Inc.

2020 Position Paper

HB 726 Constitutional Amendment – Civil Jury Trials HB 727 Courts – Civil Jury Trials – Amount in Controversy

FAVORABLE

The Maryland Association for Justice (MAJ) supports an amendment to the Maryland Constitution to increase the amount in controversy required to demand a jury trial pursuant to the Maryland Rules to Thirty Thousand Dollars (\$30,000.00).

This amendment would allow more cases to be adjudicated in District Court, which currently has exclusive original jurisdiction in civil cases with an amount in controversy up to \$5,000, and concurrent jurisdiction with the Circuit Court in matters with an amount in controversy above \$5,000 and up to \$30,000, exclusive of prejudgment interest and costs.

The Maryland Constitution drafted in the 1850 Convention established an amount in controversy of Five Dollars (\$5.00). Beginning in 1970, the amount in controversy requirement has increased: to \$500 in 1970; to \$5,000 in 1982; to \$10,000 in 1998; and to \$15,000 in 2010. In general, these increases were necessitated by the ever-increasing costs of discovery and litigation in the Circuit Court.

Take, for example, a personal injury action involving medical expert testimony. Medical experts charge for their time by the hour – to review documents, consult with an attorney, prepare for and give deposition testimony, and prepare for and testify at trial. Charges for a medical expert's time typically are measured by the physician's average hourly income seeing patients. If a medical expert charged \$100 an hour in 1982, a comparable medical expert today might charge \$500 an hour (or more, depending on the expert's specialization), because the value of physician time increases according to *medical inflation*, a component of the Consumer Price Index (CPI) that increases much faster than ordinary inflation.

Because medical experts charge increasingly more for their time, the cost of a single medical expert easily can exceed \$10,000 in a single case.

District Court has distinct advantages in cases where the amount in controversy is lower. Trials in District Court are generally shorter, commonly lasting less than one day. In addition, discovery is limited in District Court actions, resulting in substantially lower litigation costs. Moreover, evidence can be presented from medical experts without the need for live testimony.

Claims with a lower amount in controversy cannot be litigated economically in the Circuit Court, particularly when those claims require medical expert testimony; the high costs of expert witnesses and discovery in the Circuit Court make such cases uneconomical to pursue, essentially putting justice out of reach for plaintiffs with smaller claims. To keep pace with medical inflation, the amount in controversy threshold for removing cases from District Court to Circuit Court must be increased

**MAJ respectfully urges a
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