

SENATE BILL No. 774

October 25, 2011, Introduced by Senator BIEDA and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 8408 and 8412 (MCL 600.8408 and 600.8412),
section 8408 as amended by 1991 PA 192 and section 8412 as amended
by 1984 PA 278.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8408. (1) An attorney at law ~~, except on the attorney's~~
2 ~~own behalf, a collection agency or agent or employee of a~~
3 ~~collection agency, or a person other than the plaintiff and~~
4 ~~defendant, except as is otherwise provided in this chapter, shall~~
5 ~~not~~ **MAY** take part in the filing, prosecution, or defense of
6 litigation in the small claims division.

7 (2) A sole proprietorship, partnership, or corporation as
8 plaintiff or defendant **IN THE SMALL CLAIMS DIVISION** may be
9 represented by an officer or employee who has direct and personal

1 knowledge of facts in dispute. If the officer or employee who has
2 direct and personal knowledge of facts in dispute is no longer
3 employed by the defendant or plaintiff or is medically unavailable,
4 the representation may be ~~made~~ by that person's supervisor, or by
5 the sole proprietor, a partner, or an officer or a member of the
6 board of directors of a corporation.

7 (3) A county, city, village, township, or local or
8 intermediate school district as plaintiff or defendant **IN THE SMALL**
9 **CLAIMS DIVISION** may be represented only by an elected or appointed
10 officer or an employee who has direct and personal knowledge of the
11 facts in dispute. If the officer or employee who has direct and
12 personal knowledge of the facts in dispute is no longer an officer
13 or employee of the plaintiff or defendant, the representation may
14 be ~~made~~ by that officer's successor or that employee's supervisor,
15 or by a member of the governing body of the county, city, village,
16 township, or local or intermediate school district. In addition, a
17 person may not represent a county, city, village, township, or
18 local or intermediate school district in the small claims division
19 unless authorized to appear in the case by the governing body of
20 the county, city, village, township, or local or intermediate
21 school district.

22 (4) Before commencement of a trial **IN THE SMALL CLAIMS**
23 **DIVISION**, the plaintiff or defendant may, upon demand, require that
24 the trial be conducted before a district court judge and not a
25 magistrate, or may remove the case from the small claims division
26 to the general civil division of the district court. If the parties
27 commence a trial of the case in the small claims division, both

1 parties waive all rights mentioned in section 8412.

2 Sec. 8412. Unless a party removes a small claims action to the
3 district court ~~pursuant to~~ **UNDER** section 8408(4), all parties to an
4 action in the small claims division shall be considered to have
5 waived the right to ~~counsel, the right to~~ trial by jury, the right
6 to recover more than the applicable jurisdictional amount as
7 prescribed by section 8401, and any right of appeal, except that if
8 the action is heard before a district court magistrate ~~pursuant to~~
9 **UNDER** section 8427, the parties have a right to an appeal to the
10 small claims division of the district court as provided by section
11 8427. The affidavit prescribed in section 8402 shall contain a
12 statement that the plaintiff understands that he or she has waived
13 these rights.