



STATE OF ARKANSAS
THE ATTORNEY GENERAL
DUSTIN MCDANIEL

Opinion No. 2014-046

June #, 2014

The Honorable Jon Woods
State Senator
Post Office Box 8082
Springdale, Arkansas 72766

Dear Senator Woods:

You have asked for my opinion on what you describe as a jurisdictional issue regarding Small Claims Division of District Court. I have summarized your background information and questions into the following:

Administrative Order No. 18 governs District Courts' operations. The Order prohibits persons or organizations from bringing an action in Small Claims Division if they are a "collection agency, collection agent, or assignee of a claim." Is this rule an issue of subject-matter jurisdiction such that the judge has no authority to issue a default judgment in favor of the collection agency or assignee? Or is the rule an issue of personal jurisdiction such that it may be waived by a defendant's failure to answer?

RESPONSE

Administrative Order 18 clearly provides that the "designation of divisions" within District Courts "is for the purpose of judicial administrative and caseload management and is not for the purpose of subject-matter jurisdiction." Thus, the prohibition on collection agencies suing in Small Claims division is an administrative, not a jurisdictional, bar. Thus, a District Court judge would have jurisdictional but not administrative authority to issue the default judgment in the scenario you describe. Anyone aggrieved by such a default judgment would have

to follow the standard rules for seeking reconsideration or review of such a judgment.

DISCUSSION

By virtue of Amendment 80 to the Arkansas Constitution, District Courts are “trial courts of limited jurisdiction” both as to “amount [in controversy]” and “subject matter.”¹ Any proceeding conducted in a District Court is subject to “the right of appeal to Circuit Court for a trial de novo.”² By order of the Arkansas Supreme Court, District Courts are divided into four “subject-matter divisions”: criminal, civil, traffic, and small claims.³ The Arkansas Supreme Court has made it clear that these “subject-matter divisions” are purely administrative (and not jurisdictional) in nature: “The designation of divisions is for the purpose of judicial administration and caseload management *and is not for the purpose of subject-matter jurisdiction.*”⁴ In fact, the judges of the different divisions have coextensive subject-matter jurisdiction: “The creation of divisions shall in no way limit the powers and duties of the judges to hear all matters within the jurisdiction of the district court.”⁵

The Arkansas Supreme Court has established a few unique rules that apply only to the Small Claims Division of District Court. One such rule prohibits attorneys from taking “part in the filing, prosecution, or defense of litigation in the small claims division.”⁶ If an attorney does make an appearance in Small Claims Division, the rules prescribe the next step: “When any case is pending in the small claims division of any district court and the judge of the court determines that an attorney is representing any party in the case, the case shall be immediately transferred to the civil docket.”⁷

¹ Ark. Const. amend. 80, § 7(a).

² *Id.*

³ Administrative Order 18(1)(a).

⁴ *Id.* at 1(b) (emphasis added).

⁵ *Id.*

⁶ *Id.* at (4)(a).

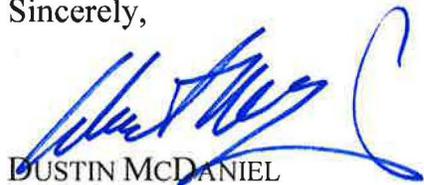
⁷ *Id.*

Another unique rule governing Small Claims Divisions prohibits any collection agency or “assignee of a claim” from suing in Small Claims Division: “No action may be brought in the small claims division by any collection agency, collection agent, or assignee of a claim....”⁸ Unlike the foregoing rule barring attorneys from appearing in small claims division, the rule barring collection agencies or assignees from suing in small claims division does not say what a small claims judge should do when he or she determines that a collection agency or assignee is suing in small claims division.

Despite this lack of clarity regarding the *effect* of violating the rule, the *nature* of the rule is quite clear: namely, the rule is administrative not jurisdictional. Accordingly, the small claims judge would lack the administrative authority to issue a default judgment in such a case. If a judge did, nevertheless, issue a default judgment in such a case, then any person aggrieved by that judgment would have to follow the standard rules for seeking reconsideration or review of such judgments.

Assistant Attorney General Ryan Owsley prepared this opinion, which I hereby approve.

Sincerely,



DUSTIN MCDANIEL
Attorney General

DM:RO/cyh

⁸ *Id.* at (4)(b).