

How to Keep Your Case in the District Court

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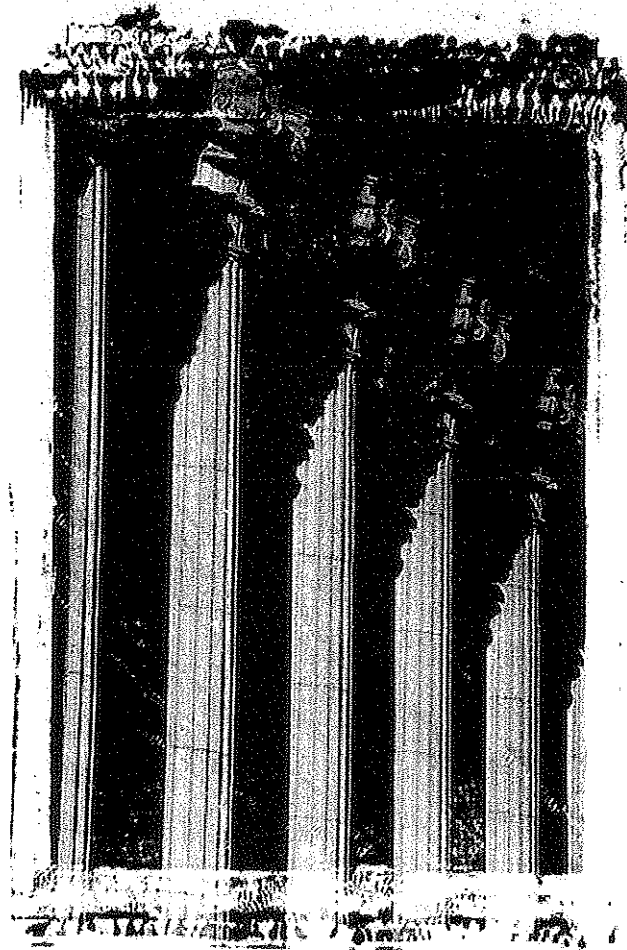
Many cases are not only better candidates for the District court, but just flat out belong there due to the nature of the injuries, the amount of damages claimed and the economics of the case. This article focuses on the jurisdiction of the District Court and how to make sure your case is not transferred or otherwise removed for various reasons, including exceeding the jurisdictional amount, misstatement of the ad damnum clause, multiple claimants and underinsured motorist issues.

Jurisdictional Amounts

The District Court of Maryland was created by an amendment to the Maryland Constitution and came into existence on July 5, 1971. It is a fully state-funded court of record possessing statewide jurisdiction. The jurisdiction of the court includes all landlord-tenant cases, replevin actions, personal injury actions, motor vehicle violations, misdemeanors and certain felonies.

As most of you know, in civil cases the District Court has exclusive jurisdiction in claims for amounts up to \$5,000.00, and concurrent jurisdiction with the Circuit Courts in claims for amounts above \$5,000.00 but less than \$30,000.00. The District Court does not conduct jury trials. The amount claimed for jurisdictional purposes is exclusive of attorney's fees, prejudgment, post judgment interest and costs pursuant to CJP § 4-401(1).

Due in large part to the efforts of the MAJ, it is now possible to admit medical records and bills without witness testimony by using the procedure set forth in CJP § 10-104. Indeed, using CJP § 10-104 is a great tool to save time, money and simplifies the handling of personal injury cases. Beware however, that actions that are filed in the District Court for more than \$15,000.00 are subject to a jury demand



by the defendant and transfer to the Circuit Court. See CJP § 4-402 (e)(2). Therefore, a practitioner should carefully weigh the decision of suing for an amount in excess of \$15,000.00 before filing in the District Court.

A good practice tip is to always advise the client of the possibility of the case being transferred to Circuit Court **before** filing in the District for more than \$15,000.00. Otherwise you may encounter client frustration and difficulty when they learn it will take another year to resolve the case in the Circuit Court.

The timing of the defendant's jury demand should also be considered if your case is subject to removal. Maryland Rule 3-325(a)(2) requires the filing of a separate written demand within ten days after the time for filing a notice of intention to defend. If the defendant fails to comply with this time requirement, a motion to strike the jury demand should be

filed. You should request that the Court strike defendant's prayer for jury trial and request that the District Court retain jurisdiction of this case.

Aggregated Claims

Situation #1 - "I have four clients all in one car with somewhat minor injuries. Will the case be transferred out of the District Court if I claim \$15,000.00 in damages on behalf of each client?"

An issue confronted by many practitioners is what to do if you have multiple claimants with a combined total of damages in excess of \$30,000.00. This is a settled area of law and *Pollokoff v. Maryland Nat. Bank*, 288 Md. 485, 418 A.2d 1201 (1980) can be relied on to keep your case in the District Court. In *Pollokoff*, the Court held that multiple plaintiffs, whose separate and distinct claims fell within exclusive original jurisdiction of district court, could not invoke original jurisdiction of the circuit court by joining in class action and aggregating their claims. Therefore, because separate and distinct claims of the plaintiffs did not exceed the amount of a district court claim, the circuit court did not have jurisdiction over the subject matter.

A practice tip here is to make sure that you are claiming damages of \$15,000 for each Plaintiff and to indicate same on the DC/CV1 form filed with your case and to use an ad damnum clause similar to the following:

Wherefore, the Plaintiffs, John and Jane Smith, demand judgment against the Defendant, in the sum of Fifteen Thousand Dollars (\$15,000.00) as to each Plaintiff, besides costs.

This language should prevent the Clerk's office or the Court from refusing your multiple party complaint in the District Court.

UIM Claims

Situation #2 - "I settled the claim with the at-fault driver for \$30,000.00 (policy limits) and now I want to recover another \$15,000.00 of my client's underinsured motorist coverage ("UIM"). Can I keep the case in District Court even though the total amount I seek for the client (\$45,000.00) exceeds the jurisdictional limit?"

There are differing opinions on whether a case can be brought in the District Court directly against the UIM carrier for only UIM benefits as set forth in our scenario. The issue may turn on the interpretation of Section 19-511 of the Insurance Article - uninsured motorist coverage - settlement procedures. However, there are few decisions interpreting this section, and none tackle this issue head-on.

On the other hand, the issue may ultimately involve the interpretation of the phrase "debt or damages claimed" in Section 4-401(1) of the CJP Article. That statute provides as follows:

The District Court has exclusive original civil jurisdiction in:

- (1) An action in contract or tort, if the debt or damages claimed do not exceed \$30,000, exclusive of prejudgment or post judgment interest, costs and attorney's fees...

In our scenario, it seems clear that the "debt or damages claimed" are \$15,000.00 and within the District Court's jurisdiction. The "debt", the amount that the client claims that the UIM carrier owes her is \$15,000.00. As for the amount of "damages," a UIM contract is essentially a breach of contract action in which it is claimed that the insurer failed to comply with its contractual obligation to pay the UIM claim. The "damages" claimed in our situation would be only \$15,000.00. Yet, the statute only refers to what is "claimed" from the defendant before the court (in this situation, the UIM carrier). Unfortunately, the statute does not refer to the amount claimed previously from others who are not before the court (such as the at-fault party or tortfeasor in our situation that paid the \$30,000.00).



Although it is true that the plaintiff must prove the full value of her case, the "full value of the case" does not equal the "damages claimed" in the UIM action. When the UIM carrier is accused of breaching a contract to pay the difference between the full value and the tortfeasor's policy limits, arguably that amount is the "damages claimed."

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Another wrinkle with the UIM scenario is set forth in CJP § 4-402(e)(1), which allows a jury trial demand if the "amount in controversy" exceeds \$15,000. Opposing counsel may argue that the amount of damages exceeds the amount in controversy under this code provision, so the case must be transferred to Circuit Court pursuant to the jury demand. Again however, the argument is that the "debt or damages claimed" are only \$15,000.00, and that amount is still within the District Court's jurisdiction.

Practically speaking, until the Courts decide this issue, a stipulation after the case is filed may be helpful in this situation. File in District Court for \$15,000.00 and see if you can reach a stipulation that the only issue left for the Court's determination is the remaining UIM claim of \$15,000.00. In other words, how much in UIM benefits will the Court award to your client, if any? If you cannot reach a stipulation and do not wish to become a "test case" then amend your damage claim and file in the Circuit Court to be safe.

Attorney's Fees & Ad Damnum Clause Issues

Situation #3 - Your claim for damages is "in excess of \$15,000.00" and you mistakenly claim "attorney's fees" as part of your ad damnum clause.

The way you state your damages is important and if improperly phrased could be a ticket directly to the Circuit Court. In *Baltimore City Lodge No. 3 of Fraternal Order of Police, Inc. v. Mantega*, 61 Md.App. 694, 697, 487 A.2d 1252 (1985), Plaintiff's ad damnum clause was sufficient to invoke jurisdiction of circuit court by not setting an upper limit on the claim, but merely alleging that she had suffered damages "in excess of" \$2,500.00.

Another instructive case on ad damnum clauses is *Hoang v. Hewitt Ave. Assocs.*, 177 Md.App. 562, 607, 936 A.2d 915 (2007). In this case the Court held that damages for breach of contract "in excess of \$100,000" did not satisfy the plain language directive of the rule that a demand for a money judgment should include the amount sought; a demand for a money judgment "in excess of" a given number was not a demand for the amount sought in damages, but rather was a request for damages in an unstated amount that was not less than the stated amount. Therefore, any request for damages in the District Court should be limited to \$30,000.00 and should always be exclusive of attorney's fees, prejudgment, post judgment interest and costs to maintain jurisdiction.

Conclusion

District Court can be an important part of our practice and an effective weapon in any trial lawyer's arsenal to speed up the litigation process without the complexities of

the Circuit Court. Although the damages claimed may be smaller, the cases are nonetheless important to our clients who may be unaccustomed to court procedures. By following the tips in this article you should be able to keep your case in the District Court and avoid the unpleasant situation of explaining to your client why, a year later, you are in Circuit Court before a jury in her automobile case. ■

Biography

Stuart L. Lipshutz is a partner at the Rockville firm of Blank, Moorstein & Lipshutz L.L.P., where he manages the firm's personal injury practice in both federal and state-level courts across the region. A member of the Maryland, District of Columbia and Florida Bars, Mr. Lipshutz also has tried tort claims in Virginia on pro hac vice basis. Mr. Lipshutz has served as a member of the *Trial Reporter* Editorial Board since 2007 and remains active in multiple civic associations and organizations. Mr. Lipshutz graduated from Stetson University School College of Law in 1993 and continues to receive the highest peer review ratings for legal ability and ethical standards. Prior to joining his current firm, Mr. Lipshutz worked for a Florida firm, primarily as an insurance defense attorney.

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