

1 IN THE HOUSE

BY MCKINNON AND PARKER

2 HOUSE BILL NO. 822

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to small claims procedures in the
7 district courts; and amending the rules of court."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 22.15 is amended by adding new sections to read:

10 ARTICLE 3. SMALL CLAIMS

11 Sec. 22.15.360. SMALL CLAIMS. When a claim for relief does not
12 exceed \$1,000 exclusive of costs and interest, and the request is made
13 by the plaintiff, the district judge or magistrate shall hear the action
14 as a small claim, except as provided in sec. 370 of this chapter.

15 Sec. 22.15.370. PARTIES TO THE ACTION TO REPRESENT THEMSELVES. No
16 person other than the plaintiff and defendant personally may take any
17 part in the prosecution or defense of litigation in a small claims
18 action. When a corporation is a plaintiff or defendant the corporation
19 may be represented by an officer, employee or agent. Nothing in this
20 section may be construed to prevent plaintiffs and defendants from
21 offering evidence in their behalf by witnesses.

22 Sec. 22.15.380. ASSIGNEE MAY NOT SUE. No claim may be filed by or
23 prosecuted in a small claims action by the assignee of the claim. No-
24 thing in this section prevents the filing or prosecution of a claim by a
25 trustee in bankruptcy in the exercise of his duties as trustee or by a
26 holder of a conditional sales contract who has purchased the contract
27 for his portfolio of investments and who is not an assignee for the
28 purpose of collection.

29 Sec. 22.15.390. NOTICE REQUIRED FOR ATTORNEYS. Attorneys

1 instituting or defending small claims shall be governed by the following
2 procedure:

3 (1) An attorney instituting a claim shall disclose in the
4 complaint the fact that he is an attorney.

5 (2) A corporation instituting a claim shall disclose in the
6 complaint the fact that the officer, employee, or agent representing the
7 corporation is an attorney.

8 (3) A defendant in small claims actions shall disclose in the
9 answer the fact that he is an attorney, or in the case of a corporation
10 that the officer, employee or agent representing the corporation is an
11 attorney.

12 Sec. 22.15.400. FAILURE TO GIVE NOTICE. Failure to give the no-
13 tice required by sec. 390 of this chapter will bar a party who is an
14 attorney from prosecuting or defending the claim. When the defendant is
15 an attorney, or when the officer, employee or agent representing the
16 defendant corporation is an attorney, failure to give notice will result
17 in the plaintiff receiving judgment by default. When the plaintiff is
18 an attorney, or when the officer, employee or agent representing the
19 corporation is an attorney, the action shall be dismissed with preju-
20 dice.

21 Sec. 22.15.410. PROCEDURE WHEN PARTY AN ATTORNEY. When the notice
22 required by sec. 390 of this chapter reveals that a party, or in the
23 case of a corporation that the officer, employee or agent representing
24 the corporation, is an attorney the adverse party may, in person or by
25 mail, request the court not to hear the matter as a small claim. Upon
26 receipt of the request the court shall remove the matter from its docket
27 and advise the parties that the matter cannot be heard as a small claim.

28 Sec. 22.15.420. APPEALS. Judgment of the court is conclusive upon
29 the plaintiff. If the defendant is dissatisfied he may appeal the

1 judgment or order.

2 Sec. 22.15.430. PROCEDURAL RULES AND FORMS. The supreme court
3 shall prescribe the procedural rules and standard forms to assure sim-
4 plicity and the expeditious handling of small claims.

5 * Sec. 2. AS 22.15.240(a) is amended to read:

6 (a) Except as provided by sec. 420 of this chapter either [EITHER]
7 party may appeal a judgment of the district court in a civil action to
8 the superior court when the sum in controversy is not less than \$50, or
9 for the recovery of personal property of the value of not less than \$50
10 exclusive of costs in either case, except when the sum is given by
11 confession or for want of an answer.

12 * Sec. 3. AS 22.15.040 is repealed.

13 * Sec. 4. Sec. 1 of this Act has the effect of changing rules 8, 15, 17,
14 18, 20 and 23 of the District Court Rules of Civil Procedure, rules 81 and 82
15 of the Rules of Civil Procedure, and rules 6 and 43 of the Alaska Bar Rules
16 by providing a small claims action in which attorneys are prohibited from
17 appearing unless they are a party, a procedure by which a party can prevent
18 the action from being tried as a small claim when the adverse party is an
19 attorney, and which binds the plaintiff to the judgment of the court.

20 * Sec. 5. If any provision of sec. 1 of this Act, other than AS 22.15.-
21 420, should for any reason be held unconstitutional this Act shall be void in
22 its entirety and of no effect whatsoever. If AS 22.15.420 is held unconsti-
23 tutional, the invalidity of that section does not affect the remainder of
24 this Act.