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DAVIS v. SLATER:

Maryland Statutory Law Does Not Divest Parties in Civil Cases of Their Common Law Entitlement to Jury Trial Where the Amount in Controversy Fails to Exceed Ten Thousand Dollars

By: Nathaniel Kenneth Risch

The Court of Appeals of Maryland held that Maryland statutory law does not divest parties in civil cases of their common law entitlement to jury trial where the amount in controversy fails to exceed ten thousand dollars. *Davis v. Slater*, 383 Md. 599, 602, 861 A.2d 78, 79 (2004). Because the General Assembly failed to expressly limit the entitlement to a trial by jury in regard to the amount in controversy, the common law rule dictates that any party with a proper civil claim in the circuit court is entitled to a jury trial. *Id.* at 621-22, 861 A.2d at 91.

On July 26, 1999, Patricia Ann Slater (“Slater”) collided with Jimmy L. Davis (“Davis”) while driving in Baltimore County. Davis suffered injuries and an ambulance transported him to Bay View Hospital.

On May 29, 2001, Davis filed a Complaint in the District Court of Maryland for Baltimore County requesting twenty-five thousand dollars in damages and expenses. Slater filed a timely answer and requested a jury trial pursuant to § 4-402(e)(1) of the Courts and Judicial Proceedings Article (§ 4-402(e)(1)). The district court subsequently transferred the action to the Circuit Court for Baltimore County.

On February 11, 2003, following eighteen months of discovery, Davis filed an amended complaint in which he reduced his *ad damnum* demand to ten thousand dollars. Davis filed a Motion to Strike Jury Demand and a Request for Hearing, relying again on § 4-402(e)(1) and Article 23 of the Maryland Declaration of Rights. The circuit court denied Davis’s Motion to Strike Jury Demand on three occasions and the jury awarded Davis only \$727.03. Davis appealed to the Court of Special Appeals of Maryland, but Court of Appeals issued a writ of certiorari on its own motion to address whether the circuit court erred in allowing Davis’s claim for ten thousand dollars to be heard by a jury.

Davis contended that the right to jury trial is triggered by an amount in controversy exceeding ten thousand dollars. *Id.* at 81, 861 A.2d at 605. He argued that the language of Article 23 of the Maryland Declaration of Rights divested Slater of her right to jury trial when Davis reduced his *ad damnum* clause to that amount. *Id.* at 617-18, 861 A.2d at 89. Article 23 provides that the right to jury trial, “where the amount in controversy exceeds \$10,000, shall be inviolably preserved.” *Id.* at 603, 861 A.2d at 80. Davis also posited that the General Assembly acted to annul the common law entitlement to trial by jury by enacting § 4-402(e)(1), which states that a party may demand a jury trial when the amount in controversy exceeds ten thousand dollars. *Id.* at 615, 861 A.2d at 87.

Slater countered by stating that Articles 5 and 23 of the Maryland Declaration of Rights, when read in tandem, guarantee the right to jury trial in civil cases where the amount in controversy exceeds ten thousand dollars without abrogating the entitlement for suits worth ten thousand dollars or less. *Id.* at 606, 861 A.2d at 82. More specifically, Article 5(a) provides that residents of Maryland “are entitled to the Common Law of England, and trial by Jury, according to the course of that law.” *Id.* at 606, 861 A.2d at 82. Slater also asserted that Maryland Rule 2-325(f) prohibits one party from unilaterally divesting another party of the right to jury trial where the election was proper. *Id.* at 607, 861 A.2d at 82-83.

The Court of Appeals began its analysis by reviewing the histories of Articles 5(a) and 23, noting while the Constitutional provisions guaranteeing a trial by jury are unassailable by acts of the legislature, common law rights may be modified by legislative fiat. *Id.* at 609-14, 861 A.2d at 83-87. The Court of Appeals previously held that the General Assembly may exercise its ability to alter common law restrictions, though “statutes are not presumed to make any alterations in the common law further than is expressly declared’.” *Id.* at 615-16, 861 A.2d at 87 (quoting *Lutz v. State*, 167 Md. 12, 15, 172 A. 354, 356 (1934)). The court reasoned, contrary to Davis’s assertion, that § 4-402(e)(1) of the Courts and Judicial Proceedings Article does not contain evidence in its language or legislative history indicating support for the abrogation of the common law right to jury. *Id.* at 616, 861 A.2d at 88.

In addition, Davis contended that the General Assembly changed the common law by repeatedly raising the minimum amount in controversy in Article 23 from five dollars in 1850 to the current minimum of ten thousand dollars. *Id.* at 616-18, 861 A.2d at 88-89.

The Court of Appeals interpreted that the intent of raising the jurisdictional minimum was not to limit the right to trial by jury but to ensure that the right will be “inviolably preserved” when the amount in controversy is met. *Id.* at 618, 861 A.2d at 89 (quoting MD. DECL. OF RIGHTS, Art. 23). Thus, the Court of Appeals determined that the General Assembly failed to limit the right to jury trial to those cases where the amount in controversy exceeds ten thousand dollars. *Id.* at 620, 861 A.2d at 90.

Because Davis’s amendment of the *ad damnum* clause to ten thousand dollars failed to divest Slater of her right to a jury trial, Davis’s Motion to Strike Jury Demand was subject to Maryland Rule 2-325(f). *Id.* at 620, 861 A.2d at 90. Maryland Rule 2-325(f) provides that an election for trial by jury may only be withdrawn with the consent of *all parties* not in default. *Id.* at 603, 861 A.2d at 80 n. 3 (emphasis added). Furthermore, as a result of Davis’s failure to garner the required consent of Slater when submitting the Motion to Strike Demand, the Court of Appeals held the circuit court properly denied the motion. *Id.* at 620, 861 A.2d at 90.

The Court of Appeals declined to address whether the right to demand a jury trial exists in small claims cases because small claims court has limited discovery, informal proceedings, and the amount in controversy in this case exceeded the jurisdictional limit of small claims court. *Id.* at 614, 861 A.2d at 87 n. 10. Though not an issue presented by the parties, the Court of Appeals discussed why jurisdiction remained with the circuit court. *Id.* at 620, 861 A.2d at 90 n. 15. It explained that the district court divested jurisdiction to the circuit court upon Slater’s successful demand for a jury trial and jurisdiction remained with the circuit court when the court affirmed the entitlement to a jury trial. *Id.* at 620, 861 A.2d at 90 n. 15. Under Maryland Rule 2-327(2), Davis needed consent and a waiver of any entitlement to a jury trial to transfer the case back to district court. *Id.* at 620, 861 A.2d at 90 n. 15.

While balancing the preservation of the constitutional right to jury trial and the need to regulate that entitlement in order to administer justice, the Court of Appeals reinforced the importance of the entitlement. Without opening the floodgates to potential requests for jury trials in courts of limited jurisdiction, any party in a case heard before a court of general jurisdiction may now request a trial before a jury of the party’s peers.

Thus, if a party in a civil suit desires a jury trial and can have the case heard in a court of general jurisdiction under the Maryland

Rules, the court must grant her the jury trial and the requesting party will retain the entitlement regardless of the amount in controversy. Any party in a civil suit brought before a Maryland circuit court may claim that the right to jury trial is unhindered by the Maryland Legislature.