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Cheung v. Dist. Ct., 121 Nev. Adv. Op. 83, 124 P.3d 550 (Nev. 2005)¹

CONSTITUTIONAL LAW – RIGHT TO A JURY TRIAL

Summary

Plaintiff Amy Cheung was involved in a two-car accident with defendant Amber Schlauder. Cheung retained an attorney and sued Schlauder in the Las Vegas Township Justice Court, seeking \$5,000 for medical expenses.

Schlauder also retained an attorney and filed a motion to move the case from “small claims court to justice’s court” in order for Schlauder to receive a jury trial.² The motion was denied by the small claims referee on the grounds that small claims court and justice court are one in the same. The referee also found Schlauder liable in the amount of \$5,000.

Schlauder then filed a jury trial demand. She argued to the justice of the peace that the Nevada constitution provided her with the right to a jury trial before she was found liable for Cheung’s medical expenses. The justice of the peace rejected the jury trial demand and reaffirmed Schlauder’s liability to Cheung in the amount of \$5,000 after Schlauder admitted her liability.

Schlauder filed an appeal with the district court. The court reversed, holding that the Nevada Constitution provided Schlauder with the right to a jury trial. Cheung then filed her appeal with the Nevada Supreme Court seeking a writ of mandamus or prohibition. Cheung argues that the constitutional right to a jury trial does not extend to small claims actions. The Nevada Supreme Court agreed with Cheung’s argument and reversed the decision of the district court.

Issue and Disposition

Issue

Does Nevada’s Constitution include a right to a jury trial in small claims court proceedings?

Disposition

No. There are clear differences between justice court and small claims court. The difference is the explanation for the existence of the small claims court. Small claims court exists to provide speedy and effective resolutions of disputes where the sum in controversy is minimal. The history of the common law also illustrates that small claims court exists to allow plaintiffs to bring actions quickly and with relatively little expense in comparison to other possible venues. Therefore, Nevada’s Constitution does not include a right to a jury trial in small claims court proceedings.

¹ By Richard D. Chatwin

² *Cheung v. Dist. Ct.*, 124 P.3d 550, 551 (Nev. 2005).

Commentary

State of the Law Before *Cheung*

The issue in this case is one of first impression in Nevada. Prior to *Cheung*, the most related controversy that the Nevada Supreme Court had examined was *Aftercare of Clark County v. Justice Court of Las Vegas*.³ There the court examined whether a justice court violates the Nevada Constitution's right to a jury trial by denying a jury trial to parties that bring a cause of action for less than \$5,000.⁴ No statute or court rule exists to provide for a jury trial in a small claims action and there are no "formal pleadings or discovery mechanisms" in small claims court.⁵ Finally, Nevada's Justice Court Rules of Civil Procedure state that small claims trials should be "informal, with the sole object of dispensing fair and speedy justice between the parties."⁶

Other Jurisdictions

In federal cases, a litigant has no right to a jury where the remedy sought is purely equitable.⁷ In California, there is no right to a jury trial in small claims court, nor is there a right to appeal.⁸ California's decision to reject jury trial rights in small claims court was influenced by the Iowa Supreme Court, which held that no right to a jury trial exists in small claims court.⁹ Washington has also followed Iowa and California, holding that a plaintiff waives the right to a jury trial by filing a lawsuit in small claims court.¹⁰

Effect of *Cheung* on Current Law

There is no right to a jury trial in small claims court in Nevada. The *Cheung* decision emphasizes the purpose for which small claims court was created: speed, efficiency, and as little expense as possible to litigants. As the *Cheung* majority opinion points out, plaintiffs have the option to sue in justice court instead of small claims court when initiating a lawsuit in Nevada. Thus, the plaintiff effectively waives the right to a jury trial when initiating the lawsuit in small claims court.

Cheung also follows the pattern set forth in *Aftercare* by interpreting the right to a jury trial by examining the common law as it was altered at the time of the adoption of the Nevada Constitution.¹¹ As the Nevada Supreme Court notes, "the right to a jury trial

³ *Aftercare of Clark County v. Justice Court of Las Vegas*, 82 P.3d 931 (Nev. 2004).

⁴ *Id.* at 932. The court answered the question in the affirmative, holding that the Nevada Constitution's right to a jury trial extends to parties who bring a cause of action for less than \$5,000 in justice court.

⁵ *Cheung*, 124 P.3d at 552.

⁶ JUD. CT. R. CIV. P. 96.

⁷ See *Smith v. World Ins. Co.*, 38 F.3d 1456, 1462 (8th Cir. 1994); see also *Wigg v. Sioux Falls School Dist.* 49-5, 274 F.Supp.2d 1084 (D.S.D. 2003).

⁸ See *Cook v. Superior Court*, 79 Cal. Rptr. 285 (1969); see also *Crouchman v. Superior Court*, 755 P.2d 1075 (Cal. 1988).

⁹ *Iowa Nat. Mut. Ins. Co. v. Mitchell*, 305 N.W.2d 724, 727 (Iowa 1981), cited with approval in *Crouchman*, 755 P.2d at 1080.

¹⁰ *State ex rel. McCool v. Small Claims Court*, 532 P.2d 1191, 1194 (Wash. Ct. App. 1975).

¹¹ *Aftercare*, 82 P.3d at 932.

is a purely historical question, to be determined like any other social, political, or legal fact.”¹²

Unanswered Questions

Justice Maupin noted one unclear aspect of this case in his dissent of the *Cheung* majority. The *Aftercare* decision states that the framers of the Nevada Constitution intended to grant the right to a jury trial in justice courts for disputes concerning money damages. It is also clear that justice courts are small claims courts. This is explicitly stated by the majority in reviewing the facts of *Cheung*. Therefore, even with the rationale offered by the majority in coming to its conclusion, what distinction can be offered to grant the right to a jury trial in justice courts according to *Aftercare*, but to deny that same right to small claims court litigants? This is a question that the Nevada Supreme Court will hopefully address in the future.

Conclusion

The Nevada Supreme Court has determined that the right to a jury trial does not extend to litigants in small claims court. To allow otherwise would defeat the purpose for which the small claims courts were created. Plaintiffs who seek to receive a trial by jury are free to sue in justice court, where the right to a jury trial will be extended.

¹² *Cheung*, 124 P.3d at 553.