

Office of Rules and Standards  
Supreme Court of Texas  
P.O. Box 12248  
Austin, TX 78711

October 14, 2008

I am writing to the Court in order to bring to its attention a situation that may prove to be a widespread violation of both the “letter” and the “spirit” of the Law governing Small Claims Court here in the state of Texas. I believe some of the violations are due to Courts being unfamiliar with Small Claims cases while other instances are intentional violations by Attorneys for the purpose of gaining an advantage over a regular citizen unfamiliar with the Rules of Evidence and the Rules of Civil Procedures. I realize that an unsolicited letter from a citizen is likely quite unusual, I hope the Court considers the issue I am attempting to bring to light and takes whatever action is necessary to ensure the citizens of this state are afforded the rights and protection the Law seems to have been designed to ensure.

To briefly explain my experience:

- I filed a Small Claims suit in Dallas (JS-07003860-01) which was heard on March 7, 2008. The Attorney hired by the defendant argued that since I did not present my “evidence” to the Court according to the Rules of Evidence, none of it could be considered, and since no “evidence” was offered my case was frivolous and the RCP dictated they must be awarded attorney fees. The Justice bought the argument and awarded the defendant Attorney fees, stating he had no choice since I had not officially submitted any evidence. I requested a retrial afterwards, pointing out that the RCP and the Rules of Evidence did not govern Small Claims, that the trial was informal, but the request was ignored.

- I appealed the case to the County Court (CC-08-03056-D) where the Attorney again used the RCP to his advantage, filing a “Motion to Dismiss – No Evidence Summary Judgment”. The attorney professed his knowledge of Small Claims cases and convinced the Judge (who admitted being unfamiliar with Small Claims) to dismiss my case. While I believe I have convinced the Judge to re-instate my claims, the issue here is that (in theory) I had both my Small Claims trial *and* Appeal yet I have still never had the case actually heard based on the facts, it has all been about the legal tricks being used against me.

In researching the issue I have discovered that while the Rules of Evidence clearly specify that they do not apply to Small Claims cases, there does not seem to be a similar explicit disclaimer for the RCP. While the intent of the Law has been clearly identified in various Rulings and Briefs, the fact remains that some attorneys are using the Rules of Evidence and RCP against private citizens in Small Claims trials in order to deny them the Justice they are entitled to. In fact, there is even a sign posted outside one room in the Dallas County Court building that states if a Small Claims case is appealed to that Courtroom, the Rules of Civil Procedure are in full force in spite of the clear intention (and explicit statements) of the Government Code.

I would respectfully request the Court to consider that citizens in Texas are being denied their right to be heard according to the Law and take whatever actions are necessary to clarify the procedures for Texas Courts throughout the State.

Thank you for your time and consideration.

Sincerely,

Dr. Thomas J. Ellis