

STATE OF MICHIGAN
COURT OF APPEALS

UNIFUND CCR PARTNERS,

Plaintiff-Appellee,

v

ROBIN H. KYLE,

Defendant-Appellant.

UNPUBLISHED

May 21, 2009

No. 285149

Wayne Circuit Court

LC No. 07-716446-CZ

Before: Fitzgerald, P.J., and Talbot and Shapiro, JJ.

MEMORANDUM.

Defendant appeals as of right from a judgment for plaintiff in the amount of \$7,359.73. Defendant contends the trial court erred in denying his motion for summary disposition by which he challenged the circuit court's jurisdiction based on the amount of damages requested in the complaint. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, a debt collector, filed a complaint seeking payment of \$6,417.74 on defendant's credit card account. Defendant moved for summary disposition, claiming that the circuit court did not have jurisdiction of the action since MCL 600.8301 provides that district courts have exclusive jurisdiction of claims where the amount in controversy is less than \$25,000. The City of Grosse Pointe does not have a district court. Rather the City of Grosse Pointe has only a municipal court and the limit on claims that may be brought in that court is \$3,000. See MCL 117.28a and MCL 730.522. Defendant contends that MCL 600.8301(1) must be strictly construed, and that only a district court would have jurisdiction of this case. He does not deny that the effect would be to deny plaintiff a forum.

In *Aetna Casualty & Surety Co v Dimitri*, 35 Mich App 473, 478; 192 NW2d 621 (1971), this Court held that MCL 600.8301 was not intended to deprive the circuit courts of original jurisdiction in civil actions where a city had retained a municipal court and the amount in controversy exceeded the municipal court's jurisdictional limit. The *Aetna* Court noted that the Legislature's intent was "to eventually create a uniform state-wide system of courts to replace the municipal and justice courts, at such time when all municipalities adopted the district courts." *Id.* at 477. The *Aetna* Court concluded:

In the meantime it is reasonable to assume that it was not the intent of the Legislature to deprive a party of his cause of action if there was no district court available.

* * *

The statutes permitting the continuance of municipal courts in certain cities with the same jurisdictional limits were not affected by the grant of certain jurisdiction to the district courts and did not alter the jurisdiction of the circuit court in actions where no district court was available and the amount in controversy was greater than the jurisdictional limit of \$ 1,500 prescribed for municipal courts. [*Id.* at 477-478 (footnotes omitted).]

Although we are not required to follow *Aetna*, as the decision predates November 1, 1990, we find the reasoning persuasive, and adopt it. See MCR 7.215(J)(1).

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot
/s/ Douglas B. Shapiro