Small Claims Court: What's the Fix When Things Go Wrong?

North Carolina magistrates are not required to be lawyers, and most of them aren't. Add to that the fact that most small claims litigants are not represented by attorneys and the stage is set for a challenging (and often entertaining) series of events that may not fit neatly into those rigid categories the law is so fond of. Make no mistake: this system is deliberate in design and for the most part it works quite well. Small claims court offers citizens a quick, inexpensive way to resolve their disputes, and appeals from small claims judgments by unhappy litigants are few. Errors—by litigants and by magistrates—are an expected part of this system, and the remedies for those errors are, also, deliberate in design. This, too, works well most of the time, but sometimes things can get a little confusing. I hope this post will help sort out that confusion.

We Want Judgments to be Final

A judgment by a small claims magistrate "is a judgment of the district court," and is recorded and enforced no differently from any other civil judgment. GS 7A-224. A judgment in favor of the plaintiff is likely to impact the defendant's credit rating to the same extent as any other civil judgment, and it becomes a lien on the judgment debtor's real property. GS 7A-225. A judgment in favor of the defendant may also have significant legal consequences; in any subsequent lawsuit between these same parties, the magistrate's decisions will likely be binding on that future trial judge. In addition to these interests, one might argue that the core purpose of a court system is to offer a final resolution of disputes to those who have been unable to reach such a resolution on their own. For all of these reasons, the law strongly favors the principle that judgments should be final. Even when hindsight shows that a particular judgment was wrong, the judgment still stands, unless a court determines otherwise after conducting a formal legal procedure. There are two such procedures commonly applicable to a small claims judgment, both specifically designed to balance our preference for finality of judgments against our desire for fair, legally accurate court decisions.

Appeal for Trial *De Novo*

When a litigant loses in small claims court and believes that result was wrong, the law provides an ingenious solution: a do-over! This is the method of choice for an aggrieved litigant to challenge a small claims decision – and indeed the only method for correcting a judgment flawed by a magistrate's legal error (subject to one exception, discussed below). A party who loses in small claims court has the right to appeal to district court for an entirely new trial. The procedure is simple: the party must give notice of appeal and pay the costs (presently $150). The benefits are significant: the trial will be conducted by a district court judge formally trained in the law, and a jury trial is available upon timely request by either party. The new trial will be based entirely on the evidence presented at that trial, giving a litigant who was inadequately unprepared for the small claims trial a second chance. Often litigants hire attorneys at this point, particularly in light of the increased procedural formality in a district court setting. Regardless of whether the small claims

judgment was tainted by legal error or the party's own mistakes, an appeal for trial *de novo* is a fresh start.

There are two reasons why unhappy litigants don't appeal. Some litigants are put off by the additional delay and increased costs involved. Others simply miss the deadline; notice of appeal must be given within ten days of the small claims judgment being entered. For those in search of an alternative to appeal, Rule 60(b) is pretty much the only game in town.

Rule 60(b), or "Please Erase That Judgment"

In describing the authority to set aside a judgment under Rule 60(b), the courts sometimes refer to "a vast reservoir of equitable power." A judge's authority to modify or set aside an otherwise final judgment when justice so requires is indeed vast, and the exercise of that authority has been explored in thousands of cases. For an excellent summary and analysis of relevant North Carolina law, I recommend my colleague Ann Anderson's book, Relief from Judgment in NC Civil Cases (2015/UNC SOG). In this post space allows only a brief summary of the rules related to Rule 60(b) in the small claims context.

Rule 60(b) lists six reasons for setting aside a judgment, two of which are particularly relevant to small claims law. Rule 60(b)(4) permits a void judgment to be set aside on motion of a party or on the court's own motion, any time after the judgment is entered. A judgment is not void simply because the judicial official made a legal error—the remedy for that, as we've seen, is appeal. Only when a judgment is fundamentally flawed—for example, rendered by a court without jurisdiction – is it considered *void*. If a magistrate accidentally enters a void judgment and catches the error, Rule 60 permits the magistrate to file a motion to have the judgment set aside. In this event, the motion will be decided by a district court judge. NOTE, however, that while a magistrate may file the motion, the magistrate has no authority to rule on the motion. Magistrates are not authorized to determine whether a judgment should be set aside as void—only a district or superior court judge has that authority.

Magistrates authorized by their chief district court judges do have authority to rule on 60(b) motions based on one of the six grounds: mistake, inadvertence, surprise, or excusable neglect. GS 7A-228(a), GS 1A-1, Rule 60(b)(1). The mistake referred to in this statute is not a legal error made by a magistrate, but rather a mistake made by a party. One of the most common factual scenarios leading to a Rule 60(b)(1) motion occurs when a party fails to appear for trial. The speed with which cases are calendared, the absence of an attorney to accompany a party to trial, the unfamiliar surroundings of the courthouse (not to mention the parking), and the very brief duration of the trial itself . . . there are many reasons for litigants to miss trial, and they often do so. A magistrate tasked with ruling on a motion in such a case must determine whether, in light of the surrounding circumstances, the litigant behaved in a manner that would "be reasonably expected of a party in paying proper attention to his case." Scoggins v. Jacobs, 169 NC App 411 (2005). Our appellate courts have said repeatedly that errors arising out of a party's ignorance of the law or legal

procedures are not “excusable” so as to justify setting aside a judgment and requiring the other party to endure the inconvenience of a new trial. See, e.g., Grier *ex rel* Brown v. Guy, 224 NC App 256 (2012). In addition, when the defendant is the moving party, the defendant must show a meritorious defense to the plaintiff’s claim. It is not necessary that the magistrate be persuaded by this defense, but rather that the forecast of evidence presented by the defendant amounts to a *prima facie* showing of a defense.

In closing, I want to emphasize one of the most misunderstood aspects of this topic. Often a small claims magistrate will realize after entering judgment that he or she has made a legal error, not so severe as to make the judgment void. **The magistrate has no authority to correct this error**: the only available remedy is appeal by the aggrieved party. There is no legal basis for a Rule 60(b)(1) motion to set aside the judgment in this circumstance, and a magistrate—even if authorized to hear motions on grounds of a party’s excusable neglect – has no authority to use this means to correct a judgment based on legal error.