

person wants it, can it be done in the small claims court context in connection with an appeal, that is the litigants go through the entire small claims controversy and one party loses and the other party wins. The loser then takes an appeal to the district court, right now the court says it is a Trial De Novo and the litigants can have lawyers. The question is at that time, if a litigants request a jury trial will that meet any constitutional obligation for a jury trial. I have a very thoughtful Attorney General's opinion, it is set out on page 1227 of the Legislative Journal and in the opinion the Attorney General says, (A) that the right to a jury trial in civil cases is constitutionally required and (B) given existing case law from other jurisdictions there was no reason why that right to a jury trial can not be protected by allowing the jury trial, when requested, on the appeal to the district court. So what I have done is I have prepared amendments to our small claim, to LB 892 which simply says that nobody who is in the small claims court can transfer the case out, that once it is there, it is there. However, any litigant who wants to take an appeal from a small claims judgment may do so. And, at that time, can get the jury trial if they want to do it. I further have said that the amount of the appeal bond, right now the law says that if you take an appeal you have to post a bond which is no less than \$50 or no less than the amount of the judgment. Now, if you will look at the Attorney General's opinion you will see that the Attorney General has some language saying that you can't in effect put too great a threshold or burden on when to get that jury trial so the amendment says simply that in no event shall the appeal bond be more than \$50. So, if....go through the small claims court and the defendant decides to go in the end that he wants to have the case reheard in effect but he wants a jury trial, he files a \$50 appeal bond, he takes it up in the district court and there he is entitled to a jury trial. The case is resolved either to his satisfaction or not to his satisfaction. But the one thing this does, it takes care of the real problem that arises when defendants go to lawyers after they have been sued in small claims and they get the lawyers to transfer the case right to the municipal court and the poor ole unrepresented plaintiff just lets the case die. Now I have with me, a letter which is going to be passed out from a lawyer in Omaha and this letter is what I call serendipity, a lawyer wrote it after we had had some conversations a couple of weeks ago on the small claims court, which describes what happens in one small claims case. It is a very interesting case. In that case the plaintiff, the plaintiff parked his car by a loading dock at Campbell Soup Company. While the