

**HOUSE . . . . . No. 1411**

By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 1411) of Thomas A. Golden, Jr., and Paul McMurtry for legislation to make certain changes in the mediation procedures relative to small claims in the district courts. The Judiciary.

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Thomas A. Golden, Jr.**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to small claims court .

PETITION OF:

NAME:

Thomas A. Golden, Jr.

Paul McMurtry

DISTRICT/ADDRESS:

16th Middlesex

11th Norfolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO SMALL CLAIMS COURT .

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section 22 of Ch. 218 is hereby amended as follows: By striking out the second paragraph, and  
2 inserting in place thereof the following:

3 "At the commencement of an action under the procedure, and before the scheduling of any  
4 matter for trial before a magistrate or judge, the matter shall be referred for mediation before a  
5 person certified in Small Claims Mediation by the Chief Justice for Administration and  
6 Management. Said mediation may take place at a division of the District Court Department in  
7 suitable space having due regard for need for mediation privacy, or in the office of an attorney  
8 admitted to the practice of law in the Commonwealth, or in suitable space at a college, university  
9 or law school licensed under the laws of the Commonwealth. The Chief Justice for  
10 Administration and Management shall promulgate fair, simple and efficient standards for Small  
11 Claims Mediation and Small Claims Mediation, provided however that the said Small Claims  
12 Mediation Standards and Small Claims Mediators shall not be subject to the provisions of  
13 Supreme Judicial Court Rule 1:18 ("The Uniform Rules on Dispute Resolution"). The plaintiff  
14 shall pay into the Clerk of the Court the nonrefundable sum of \$40, which fee shall be paid by  
15 the court to the mediator for his/her mediation services as to the action, provided that the  
16 payment of this fee shall not act to preclude the underwriting of Small Claims mediation service  
17 expenses by grant of or through the Office of the Attorney General or the Trial Court, or by  
18 appropriation. No matter shall be scheduled for trial before a magistrate or judge until the  
19 assigned mediator shall report in writing to the clerk/magistrate that the parties have met and

20 attempts at mediation have failed. Parties unreasonably refusing to appear for and in good faith  
21 to cooperate with said mediation shall suffer dismissal or default of their action. At the  
22 conclusion of mediation, the mediator shall report in writing to the clerk/magistrate whether or  
23 not agreements have been reached. The clerk/magistrate shall make appropriate note of any  
24 agreement so reached, and entry of judgment shall be made by the court. Any action which is  
25 not resolved by agreement shall, at the request of any party, be heard by a clerk/magistrate under  
26 the provisions of sections twenty one to twenty five, inclusive; provided however that when  
27 acting in this capacity the clerk/magistrate shall be referred to as the magistrate; and further  
28 provided that cases heard before a jury of six must be heard by a justice.