HOUSE DOCKET, NO. FILED ON: 1/13/2009

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

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Thomas A. Golden, Jr.**

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*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: | District/Address: |
| Thomas A. Golden, Jr. | 16th Middlesex |

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:*

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

“At the commencement of an action under the procedure, and before the scheduling of any matter for trial before a magistrate or judge, the matter shall be referred for mediation before a person certified in Small Claims Mediation by the Chief Justice for Administration and Management.  Said mediation may take place at a division of the District Court Department in suitable space having due regard for need for mediation privacy, or in the office of an attorney admitted to the practice of law in the Commonwealth, or in suitable space at a college, university or law school licensed under the laws of the Commonwealth.  The Chief Justice for Administration and Management shall promulgate fair, simple and efficient standards for Small Claims Mediation and Small Claims Mediation, provided however that the said Small Claims Mediation Standards and Small Claims Mediators shall not be subject to the provisions of Supreme Judicial Court Rule 1:18 (“The Uniform Rules on Dispute Resolution”).   The plaintiff shall pay into the Clerk of the Court the nonrefundable sum of $40, which fee shall by paid by the court to the mediator for his/her mediation services as to the action, provided that the payment of this fee shall not act to preclude the underwriting of Small Claims mediation service expenses by grant of or thorough the Office of the Attorney General or the Trial Court, or by appropriation.  No matter shall be scheduled for trial before a magistrate or judge until the assigned mediator shall report in writing to the clerk/magistrate that the parties have met and attempts at mediation have failed.  Parties unreasonably refusing to appear for and in good faith to cooperate with said mediation shall suffer dismissal or default of their action.  At the conclusion of mediation, the mediator shall report in writing to the clerk/magistrate whether or not agreements have been reached.  The clerk/magistrate shall make appropriate note of any agreement so reached, and entry of judgment shall be made by the court.  Any action which is not resolved by agreement shall, at the request of any party, be heard by a clerk/magistrate under the provisions of sections twenty one to twenty five, inclusive; provided however that when acting in this capacity the clerk/magistrate shall be referred to as the magistrate; and further provided that cases heard before a jury of six must be heard by a justice.