

CLERK OF COURT
SUPERIOR COURT
FILED

IN THE SUPERIOR COURT *2017 DEC 14 AM 9:09*
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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GERALDINE MANABAT SABIO,

Plaintiff,

v.

**EDITA CAPILITAN CRUZ, dba WEC
MANPOWER AGENCY,**

Defendant.

EMELINDA MARCILLA JOVELO,

Plaintiff,

v.

**EDITA CAPILITAN CRUZ, dba WEC
MANPOWER AGENCY,**

Defendant.

MARIVIC SALAZAR LABRADOR,

Plaintiff,

v.

**EDITA CAPILITAN CRUZ, dba WEC
MANPOWER AGENCY,**

Defendant.

MERCEDES REAL ABUBO,

Plaintiff,

v.

**EDITA CAPILITAN CRUZ, dba WEC
MANPOWER AGENCY,**

Defendant.

) **SMALL CLAIMS CASES NO. 17-0320**
) **SMALL CLAIMS CASES NO. 17-0321**
) **SMALL CLAIMS CASES NO. 17-0322**
) **SMALL CLAIMS CASES NO. 17-0323**
) **SMALL CLAIMS CASES NO. 17-0324**
) **SMALL CLAIMS CASES NO. 17-0325**
) **SMALL CLAIMS CASES NO. 17-0326**
) **SMALL CLAIMS CASES NO. 17-0327**

) **SUA SPONTE ORDER**
) **CONSOLIDATING SMALL CLAIMS**
) **CASES FOR THE LIMITED PURPOSE**
) **OF ISSUING A GENERAL ORDER**

) **AND**

) **ORDER DISMISSING CLAIMS OF**
) **PUNITIVE AND LIQUIDATED**
) **DAMAGES, FRAUD, AND**
) **CONVERSION**

1 **JEANET MA-ANO BUCAYO,**)

2 **Plaintiff,**)

3 **v.**)

4 **EDITA CAPILITAN CRUZ, dba WEC**)
5 **MANPOWER AGENCY,**)

6 **Defendant.**)

7 **JENETA CIRUELOS ARCEO,**)

8 **Plaintiff,**)

9 **v.**)

10 **EDITA CAPILITAN CRUZ, dba WEC**)
11 **MANPOWER AGENCY,**)

12 **Defendant.**)

13 **SUSAN HABULAN,**)

14 **Plaintiff,**)

15 **v.**)

16 **EDITA CAPILITAN CRUZ, dba WEC**)
17 **MANPOWER AGENCY,**)

18 **Defendant.**)

19 **EDGARDO B. BASILIO,**)

20 **Plaintiff,**)

21 **v.**)

22 **EDITA CAPILITAN CRUZ, dba WEC**)
23 **MANPOWER AGENCY,**)

24 **Defendant.**)

I. INTRODUCTION

THESE RELATED MATTERS came before the Court on November 30, 2017 at 9:00 a.m. in Courtroom 223A. Before the Court were eight small claims cases filed by individuals who

1 had all retained the services of Edita Capilitan Cruz, dba WEC Manpower Agency to assist each of
2 them in obtaining a federal work visas. Attorney Jane Mack represented Plaintiffs and the
3 Defendant appeared *pro se*. The Court, *sua sponte*, consolidates the above small claim cases for the
4 limited purpose of issuing an order on the Small Claims Court’s jurisdictional limitations to hear
5 certain claims common to each case.

6 Plaintiffs allege Defendant agreed to process applications for CNMI Transitional Worker
7 Classification (CW Worker) VISAs for them and find them jobs on Saipan. Plaintiffs pray for
8 damages from breach of contract, fraud, conversion, and are also asking the Small Claims Court to
9 award punitive damages and liquidated damages and invoke other provisions contained in the
10 CNMI Consumer Protection Act and the Alien and Immigrant Consumer Protection Act.
11 Defendant acknowledges taking some payments from the various Plaintiffs – but disputes other
12 claims for damages – and the Court requested supplemental briefing on the issue of whether the
13 Small Claims Court could award punitive damages and apply the other provisions in the CNMI
14 Consumer Protection Act and as provided for in the Alien and Immigrant Consumer Protection Act.

15 **II. BACKGROUND**

16 In every case, the court “must first determine whether it has the power to decide the
17 questions presented.” *CNMI v. Crisostimo*, 2005 MP 18 ¶ 8. The issue is whether the limited
18 jurisdiction of the Small Claims Court encompasses Plaintiffs’ claim for fraud, conversion, and
19 punitive and liquidated damages under the CNMI Consumer Protection Act/Alien and Immigrant
20 Consumer Protection Act.

21 **III. DISCUSSION**

22 In essence, Plaintiffs argue that the CNMI Superior Court has general jurisdiction over any
23 controversy within the Commonwealth of the Northern Mariana Islands and therefore this matter is
24 jurisdictionally before the Superior Court. Plaintiffs suggest that the Small Claims Court enjoys the

1 same broad jurisdictional limits of the Superior Court with a ‘procedural’ exception of a \$5,000.00
2 value limit on claims. This Court disagrees and maintains that the Small Claims Court is an inferior
3 court of the Superior Court with its own, unique jurisdictional limitations as evidenced by the fact
4 that appeals from the Small Claims Court go directly to the Superior Court. *See Chen’s Corp. v.*
5 *Hambros*, 2007 MP 4 ¶ 7, *aff’d Chen’s Corp. v. Hambros*, 2008 MP 9 ¶ 8; NMI R. Civ. P. 83(j).

6 The CNMI Small Claims Court has limited jurisdiction over claims whose values are “five
7 thousand (\$5,000.00) dollars or less” (exclusive of interest, attorneys’ fees and costs) and such
8 claims are permitted to proceed with less formality, paperwork, and expenditure of time than are
9 commonly seen in the normal docket of the NMI Superior Court. NMI R. Civ. P. 83(a), (b). Parties
10 are encouraged to appear without counsel and are to be assisted by the clerk of court staff in
11 navigating the small claims process. NMI R. Civ. P. 83(b). The Small Claims Court hears
12 arguments from the parties and may simply require presentation of “a written list of the
13 items/claims, showing their respective dates and amounts” as evidence of damages due. NMI R.
14 Civ. P. 83(e)(1). Defendants in small claims cases are not required to file formal answers to the
15 summons and complaint, which in general civil actions are considered admissions; nor do small
16 claims trials follow the usual rules of evidence and procedure; and the court can assist in the
17 presentation of evidence in small claims trials. *See* NMI R. Civ. P. 83(e), (f). Unlike other civil
18 matters, the rules of mandatory alternative dispute resolution do not apply to small claims. NMI R.
19 ADR. § 1003.

20 All these rules taken together envision cases involving small claims for specific and
21 identifiable amounts of money related to issues that are manageable for persons who lack legal
22 training. Exact monetary amounts are generally supposed to be such that the plaintiff could itemize
23 them with specific dates and amounts. NMI R. Civ. P. 83(e)(1). Punitive damages, claims of fraud
24 and conversion et cetera cannot in this Court’s opinion be itemized or litigated in this manner.

1 Moreover, as envisioned in the CNMI Rules of Civil Procedure, small claim matters should
2 be those that can be fully and properly disposed of without counsel. *See* NMI R. Civ. P. 83(b)
3 (“Parties are to be encouraged to handle small claims personally without counsel”). Claims for
4 punitive and liquidated damages are complex matters and typically require competent or expert
5 legal knowledge and skills, which increase the need for litigants to obtain counsel instead of
6 remaining *pro se* as encouraged by NMI R. Civ. P. 83(b).¹

7 Finally, it should be noted for the record that the practice and structure of several sister
8 jurisdictions also supports the conclusion that the CNMI’s Small Claims Court is only “intended to
9 provide a forum for persons with relatively small, uncomplicated claims to seek redress without the
10 need for attorney representation.” *Klemas v. Flynn*, 66 Ohio St. 3d 249, 252 (1993). Many of our
11 sister jurisdictions explicitly do not grant small claims courts jurisdiction over claims for damages
12 that are punitive, equitable, or economic in nature and hold that liquidated (and unliquidated)
13 damages are complex concepts of law unsuited for small claims courts. *See, e.g., Klemas*, 66 Ohio
14 St. at 250 (quoting R.C. 1925.02(A)(2)(c)) (small claims courts *do not have jurisdiction* for actions
15 recovering punitive damages) (emphasis added); Idaho Code § 1-2301 (2017) (“the
16 small claims department shall not award punitive damages or damages for pain or suffering in any
17 proceeding”); Haw. Rev. Stat. § 663-27(c)(1) (2017) (small claims monetary relief cannot include
18 punitive damages and equitable relief is limited to landlord-tenant claims to repair, replace, refund,
19 reform, or rescind). *See also* John C. Rhunka & Steven Weller, Small Claims Court: A National
20 Examination, NATIONAL CENTER FOR STATE COURTS, 2 (1978) (equitable or non-monetary relief is
21 usually prohibited in small claims courts).²

22
23 ¹ Likewise, under Rule 83 the clerks of court staff, who themselves are not lawyers, are supposed to assist
24 unrepresented litigants understand what is required of them and it defies logic to believe that court staff should actively
assist parties with their efforts to capture punitive damages or other complicated forms of damages in a small claims
forum.

² Available at: <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/civil/id/0>

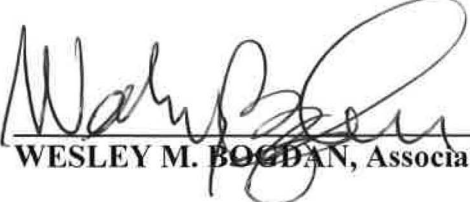
1 Those jurisdictions that permit punitive and liquidated damage claims have specific rules in
2 place permitting easy transfer of cases from small claims to the normal civil docket when it
3 becomes apparent that the claim amount will exceed the limits of the small claims court, regardless
4 of the stage of the proceedings. See, e.g., *Lettenmaier v. Lube Connection, Inc.*, 316 N.J. Super.
5 319, 320 (1998) (affirming small claims court decision to deny liquidated damages exceeding the
6 limits of the small claims court though mandated in a consumer protection claim, in part, because
7 the plaintiff was given the opportunity to remove the case to the civil docket). The Small Claims
8 Court of the CNMI does not have these procedural safeguards to resolve conflicts that arise when
9 the monetary limits of small claims collide with statutory mandates or equitable demands for
10 punitive and liquidated damages.

11 In sum, the rules and structure of the Small Claims Court establish that complex matters
12 such as Plaintiffs' claims for fraud, conversion, punitive and liquidated damages are not within the
13 jurisdiction of the Small Claims Court. Plaintiffs have an absolute right to pursue any and all
14 claims against Defendant in the Superior Court, but the decision to file these claims in the CNMI
15 Small Claims Court to take advantage of its ease of procedures and rules limits the relief available.

16 IV. CONCLUSION

17 Accordingly, Plaintiffs' claims for fraud, conversion, punitive damages, and liquidated
18 damages under the Consumer Protection Act, 4 CMC § 5101 et. seq., and the Alien and Immigrant
19 Consumer Protection Act, 4 CMC § 5181, et. seq., are hereby **DISMISSED** without prejudice.

20 **SO ORDERED** this 14th day of December, 2017.

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WESLEY M. BOGDAN, Associate Judge
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