

RESOLUTION 9-07-2003

DIGEST

Small Claims Court: Increase Jurisdiction to \$10,000

Amends Code of Civil Procedure section 116.220 to increase the jurisdictional limit of small claims court from \$5,000 to \$10,000.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

None known.

Reasons

This proposal amends Code of Civil Procedure section 116.220 to increase the jurisdictional limit of small claims court from \$5,000 to \$10,000. This resolution should be approved in principle because the purpose of small claims court is to provide a forum for individuals to resolve small financial disputes and this proposal increases the number of such cases in this forum.

The basic purpose of small claims court is to provide a forum for litigants in cases in which the amount in controversy is so small that it cannot support normal litigation costs or a right of appeal. (See *Crouchman v. Superior Court* (1988) 45 Cal.3d 1167, 1177 [discussing the history of small claims courts].) The limit has been \$5,000 since 1990. Many attorneys are unable to represent clients in cases under \$10,000 because the cost of litigation has risen significantly since 1990. As a result, the plaintiff must choose between proceeding in pro per in superior court, often against a defendant represented by an attorney, or waive a significant portion of his or her damages claim. Many such plaintiffs choose small claims court and so the resulting spectrum of cases is broad. Small claims courts now regularly handle small professional malpractice cases, securities cases and small business disputes, many of which originally involved damages well over the \$5,000 limit but were “reduced” in value by plaintiffs seeking access to the courts.

This resolution would permit litigants with disputes in amounts up to \$10,000 to resolve their cases without having to waive a significant portion of the value of their damages. It provides an economic method of resolving disputes which will increase access to justice without allowing significant abuse. The existing statutory framework limits a plaintiff to two cases per year in which the claim exceeds \$2,500 (Code Civ. Proc., § 231), so corporate entities seeking an inexpensive forum for such things as debt collection will not be able to monopolize the small claims court system.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 116.220 to read as follows:

- 1 §116.220
- 2 (a) The small claims court shall have jurisdiction in the following actions:
- 3 (1) Except as provided in subdivisions (c), (e), and (f), for recovery of money, if the amount
- 4 of the demand does not exceed five ten thousand dollars ~~(\$5,000.00)~~ (\$10,000.00).
- 5 (2) Except as provided in subdivisions (c), (e) and (f), to enforce payment of delinquent
- 6 unsecured personal property taxes in an amount not to exceed five ten thousand dollars ~~(\$5,000.00)~~
- 7 (\$10,000.00), if the legality of the tax is not contested by the defendant.
- 8 (3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil

9 Code if the amount of the demand does not exceed five ten thousand dollars ~~(\$5,000.00)~~
10 (\$10,000.00).

11 (4) To confirm, correct, or vacate a fee arbitration award not exceeding five ten thousand
12 dollars ~~(\$5,000.00)~~ (\$10,000.00) between an attorney and client that is binding or has become
13 binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration
14 of a fee dispute involving no more than five ten thousand dollars ~~(\$5,000.00)~~ (\$10,000.00) in
15 controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of
16 the Business and Professions Code.

17 (b) In any action seeking relief authorized by subdivision (a), the court may grant equitable
18 relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in
19 addition to, money damages. The court may issue a conditional judgment. The court shall retain
20 jurisdiction until full payment and performance of any judgment or order.

21 (c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a
22 defendant guarantor who is required to respond based upon the default, actions, or omissions of
23 another, only if the demand does not exceed ~~(1) two thousand five hundred (\$2,500.00)~~ five
24 thousand dollars (\$5,000.00), ~~or (2) on and after January 1, 2000, four thousand dollars (\$4,000.00)~~,
25 if the defendant guarantor charges a fee for its guarantor or surety services or the defendant
26 guarantor is the Registrar of the Contractors' State License Board.

27 (d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of
28 the demand, the excess may be waived, but any waiver shall not become operative until judgment.

29 (e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a
30 Department of Corrections facility or a Youth Academy facility, the small claims court shall have
31 jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has
32 exhausted his or her administrative remedies against that department, including compliance with
33 Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or
34 determination of the plaintiff's administrative claim by the department may be attached to the
35 complaint at the time of filing in lieu of that allegation.

36 (f) In any action governed by subdivision (e), if the plaintiff fails to provide proof of
37 compliance, with the requirements of subdivision (e) at the time of trial, the judicial officer shall, at
38 his or her discretion, either dismiss the action or continue the action to give the plaintiff an
39 opportunity to provide such proof.

40 (g) For purposes of this section, "department" includes an employee of a department against
41 whom a claim has been filed under this chapter arising out of his or her duties as an employee of that
42 department.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Santa Barbara County Bar Association

STATEMENT OF REASONS

Existing Law: Establishes jurisdiction for Small Claims Court for most matters
at \$5,000.00.

This Resolution: Increases the jurisdictional limit from \$5,000.00 to \$10,000.00.

The Problem: It is uneconomical for a party to hire an attorney to litigate a matter when there is a
relatively low damage amount at stake. Small Claims Court, where parties can represent themselves and
have smaller disputes resolved efficiently and quickly, is a valuable part of the judicial system for dispute
resolution. Given the increasing cost of hiring an attorney, a \$5,000.00 limitation on small claims matters
is no longer realistic. The lower jurisdictional limit forces parties to waive potential awards in excess of

\$5,000.00 as a condition to filing in Small Claims Court, or requires them to retain an attorney to pursue the action in Superior Court, and incur attorneys' fees disproportionate to the potential recovery. Increasing the jurisdictional limit for Small Claims Court to \$10,000.00 will allow parties to have smaller disputes adjudicated without attorneys' fees significantly eroding any recovery.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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