

Memorandum 2005-41

Jurisdictional Limits of Small Claims and Limited Civil Cases (Staff Report)

This memorandum reports on recent developments relating to the jurisdictional limits for small claims cases. It concludes by recommending that the Commission cease work in this area.

Joint Study of the Commission and the Judicial Council

After unification of the municipal and superior courts, the Legislature directed the Commission and the Judicial Council to jointly reexamine California's three-track system of civil litigation, in which different procedural rules apply to small claims cases, limited civil cases, and unlimited civil cases. See Gov't Code § 70219; *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51 (1988). Both the Commission and the Judicial Council did extensive work on the topic.

In particular, the Judicial Council hired a consultant to conduct empirical research and prepare a report — Weller, et al., *Report on the California Three Track Civil Litigation Study* (July 31, 2002) (hereafter, "PSI Report") (available from the Commission, www.clrc.ca.gov). Following issuance of that report, the Commission prepared and circulated a tentative recommendation proposing to raise the jurisdictional limit for a small claims case from \$5,000 to \$10,000, and to raise the jurisdictional limit for a limited civil case from \$25,000 to \$50,000. The tentative recommendation also proposed various other related changes. See *Tentative Recommendation on Jurisdictional Limits of Small Claims Cases and Limited Civil Cases* (Dec. 2002) (available from the Commission, www.clrc.ca.gov).

The Commission received and analyzed extensive comments on its tentative recommendation. See Memorandum 2003-20 & First Supplement to Memorandum 2003-20 (available from the Commission, www.clrc.ca.gov). The input was both positive and negative; it was clear that changes would be needed to make the proposal politically viable. Staff from the Commission and the Administrative Office of the Courts held meetings with key stakeholders in an attempt to reach consensus.

In February 2004, the Commission put its study on hold. There did not seem to be any realistic hope of consensus on raising the jurisdictional limit of a limited civil case. Prospects for raising the jurisdictional limit of a small claims case also seemed dim, due to the state budget crisis and the unavailability of funds to make improvements to the small claims system that appeared necessary to achieve consensus on raising the limit (ensuring quality decisionmaking by temporary judges and others, improving the small claims advisory service, and increasing availability of court interpreters). The Judicial Council stopped working on the topic at about the same time.

2005 Legislation

In 2005, two bills were introduced to raise the small claims limit — SB 422 (Simitian) and AB 1459 (Canciamilla). After many amendments, both bills were enacted, with identical content. *See* 2005 Cal. Stat. chs. 600, 618. Because AB 1459 is the later-chaptered bill, it will become operative on January 1, 2006, and SB 422 will not become operative. *See* Gov't Code § 9605.

Although the bills did not have an official sponsor, Consumers Union was the most active supporter. The Judicial Council supported the bills in concept and engaged in extensive discussions with Consumers Union and the authors to work out the details of the legislation. Opposition came primarily from the insurance industry. The votes in the Senate and Assembly were significantly divided, but the Governor ultimately approved the legislation.

The work done by the Commission and the Judicial Council clearly helped lay the groundwork for the bills. Both the PSI Report and Commission materials are discussed in several of the bill analyses.

With limitations, AB 1459 raises the small claims limit to \$7,500 for a case brought by a natural person. 2005 Cal. Stat. ch. 618, § 2 (new Code Civ. Proc. § 116.221). The legislation makes clear that

it is the intent of the Legislature that jurisdictional limits shall not be raised again, particularly with respect to individuals as defendants, until services are funded at a level sufficient to provide all of the following:

- (A) In-person advice from advisers who are legal professionals.
- (B) Staffing levels that are adequate to meet the demand, and also adequate to permit the small claims court advisory service to provide services to both parties in a small claims case without conflicts of interest.

(C) Professional, well-trained, compensated decisionmakers, in small claims courts in all counties in California, who meet standards established by the Judicial Council.

2005 Cal. Stat. ch. 618, § 1 (emphasis added).

The bill also includes legislative findings that improvements are needed in the quality of decisionmaking, the small claims advisory service, and the availability of court interpreters:

(1) ... The potential knowledge gap between temporary judges and commissioners should be narrowed through increased use of commissioners and the use of well-trained, qualified temporary judges in small claims court in order to ensure an improved ability to deliver justice.

(2) For advisers, improvements need to be made in the availability of in-person assistance, in the knowledge and experience of the advisers, and in the advice being given or supervised by attorneys, so that the assistance can include advice about how to present and defend a claim.

(3) Qualified interpreters are not available in many jurisdictions in California. With the increasing linguistic diversity in California's population in recent decades, the need for interpreter services has grown proportionately.

Id. These are the same areas identified in the Commission's study. See Memorandum 2004-3, p. 8 (available from the Commission, www.clrc.ca.gov).

In addition to stating legislative findings and intent, the bill makes a number of substantive changes besides raising the small claims limit. Specifically, it

- Requires temporary judges serving in small claims court on or after July 1, 2006, to have taken a training course offered by the courts and to take further training every three years. 2005 Cal. Stat. ch. 618, § 4 (Code Civ. Proc. § 116.240).
- Specifies topics that the small claims advisory service is to cover, including in particular collection of a small claims court judgment. 2005 Cal. Stat. ch. 618, § 6 (Code Civ. Proc. § 116.940).
- Requires that in an action to enforce payment of a debt, "the statement of calculation of liability shall separately state the original debt, each payment credited to the debt, each fee and charge added to the debt, each payment credited against those fees and charges, all other debits or charges to the account, and an explanation of the nature of those fees, charges, debits, and all other credits to the debt, by source and amount." 2005 Cal. Stat. ch. 618, § 3 (new Code Civ. Proc. § 116.222).
- Makes revisions regarding the filing fee for a small claims case. See 2005 Cal. Stat. ch. 618, § 5 (Code Civ. Proc. § 116.610). Further

revisions, establishing a graduated fee structure for small claims cases, were made in another bill, the Uniform Civil Fees and Standard Fee Schedule Act of 2005. See 2005 Cal. Stat. ch. 145, § 19 (Code Civ. Proc. § 116.230).

Each of these concepts was discussed to some extent by the Commission and the Judicial Council in their joint study, but the concepts were carefully refined in the enacted legislation and other concepts were weeded out.

Further Work

The joint study by the Commission and the Judicial Council helped to point the way for the reforms reached in AB 1459. The bill makes clear that before the Legislature raises the small claims limit again, it would like to see significant improvements in the small claims advisory service and the quality of small claims decisionmaking. Improved availability of interpreters for small claims litigants is also desirable.

The Judicial Council is actively working to improve the quality of decisionmaking by temporary judges, not only in small claims cases but in other cases as well. It recently prepared a set of proposed rules on temporary judges and circulated them for comment. These are available at <www.courtinfo.ca.gov/invitationstocomment/documents/sp05-05.pdf>. The Judicial Council has not yet adopted a final proposal on this matter.

The Judicial Council has also been taking steps to address the difficulties that litigants who do not speak English encounter in legal proceedings. For instance, its Self-Help website <www.courtinfo.ca.gov/selfhelp> provides information in multiple languages. More progress is necessary, but the Judicial Council is far better-situated to deal with this problem than the Commission. The same is true with regard to improving the small claims advisory service.

The staff therefore recommends that **the Commission do no further work on the jurisdictional limits of small claims and limited civil cases**. It would be better to devote the Commission's resources to other matters.

Respectfully submitted,

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