



The Judiciary, State of Hawai'i

Testimony to the Senate Committee on Judiciary and Government Operations

The Honorable Brian T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice Chair

Friday, February 6, 2009, 9:00 a.m.
State Capitol, Conference Room 016

by
Thomas R. Keller
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 1192, Relating to District Court.

Purpose: Expands jurisdiction of small claims division of the district court.

Judiciary's Position:

The Judiciary takes no position on the merits of Senate Bill No. 1192, but is concerned that raising the jurisdictional limit to \$7,000 may place the statutory provision in conflict with the Hawaii State Constitution's right to a jury trial in matters over \$5,000. Additionally, Judiciary operations and support of mediation as an alternative method to resolve differences will be greatly impacted by increased filings by parties seeking a "quick" resolution of their claims.

The Judiciary notes that Senate Bill No. 359 would raise the jurisdictional limit to \$5,000. An increase to \$5,000 does not pose the same constitutional issues posed by Senate Bill No. 1192.

Benefits of Small Claims Court



The Hawaii State Constitution preserves the right of a party in a civil case to a jury trial if his or her claim is **more than** \$5,000 (Article I, Section 13). The right to a jury trial entitles **any** party to remove a civil case to Circuit Court.

If the jurisdictional limit is \$5,000 or less, a party is afforded the following benefits by filing in Small Claims court because there is no right to a jury trial:

1. A plaintiff is allowed to keep control of where the case is heard. If there is no right to a jury trial, a case can not be removed to Regular Claims court or to Circuit Court without the plaintiff's consent.
2. A case is generally set for trial within 30 days. Since parties represent themselves and the rules of evidence are relaxed, cases are heard more quickly than in other trial courts.
3. There is no right to appeal the judgment. The parties are able to have their case come to a final resolution. If there is a monetary award to any party, that party can timely receive his or her award.
4. Parties have an opportunity to resolve their differences with the help of a mediator. The Judiciary supports mediation because it provides useful opportunities for resolution that may help to preserve relationships and bring more satisfying results for all parties involved.

Impacts on Judiciary Operations

The Judiciary notes that if the jurisdictional limit is increased there will be an increased number of cases filed in Small Claims court. Currently, the Small Claims court has already seen an increase in the amount of filings and this increase in caseload has had a tremendous impact on the court staff and its operating costs, such as supplies, equipment and other support costs.

Impacts on Mediation

The Judiciary supports mediation because it provides useful opportunities for resolution while helping to preserve relationships and bringing satisfying results for parties. Statewide, parties in Small Claims cases are referred to mediation before the case is tried before a judge.

Mediation services are provided to parties in small claims and residential landlord-tenant cases through a Purchase of Service contract (POS) administered by the Judiciary. The contract provides trained mediators from community mediation centers statewide to help with mediation and related alternate dispute resolution. These services are provided in the courthouses, whenever possible, at no additional cost to the parties. In 2008, approximately 1,680 District



Senate Bill No. 1192, Relating to District Court
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Court cases (mostly from Small Claims court) were mediated. With these trained mediators, a 53.5% settlement rate was successfully achieved.

With the current budget crisis, POS contracts are in danger of being cut or reduced. If the jurisdictional limit in Small Claims is increased to \$7,000, and if the POS contract amount is decreased, the Judiciary and the community mediation centers will not be able to maintain their current service level.

Thank you for the opportunity to testify on this measure.

TESTIMONY IN SUPPORT OF
SB1192 - RELATING TO DISTRICT COURT

February 6, 2009 at 9:00 a.m.

The Legal Aid Society of Hawaii hereby provides testimony to the Senate Committee on Judiciary and Government Operations on SB1192 – Relating to District Court, in strong support of the bill.

In November 2007, the Access to Justice Hui released “Achieving Access to Justice for Hawai‘i’s People,” a two-part report that included The Community Wide Action Plan: Ten Action Steps to Increase Access to Justice in Hawai‘i by 2010 and The 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People in Hawai‘i. The Assessment found that one out of every five low- and moderate-income residents in Hawai‘i seeking legal services is unable to receive the assistance that they need and that one in three who seek assistance from legal service providers cannot be helped.

This bill is aimed to increase access to the courts by allowing those with claims of less than \$7,000 to utilize the small claims court. The small claims court provides a less formal court to remedy smaller controversies. In particular, the rules of evidence are suspended in the small claims except for rules of privilege. By increasing this amount, we believe more pro se litigants and others who are now required to go through the regular claim system will have a great ability to resolve their controversy more easily.

Thank you for this opportunity to testify.

Sincerely,

Nalani Fujimori
Interim Executive Director
527-8014

Access to Justice Commission
c/o Hawaii State Bar Association
1132 Bishop Street, Suite 906
Honolulu, Hawaii 96813

February 4, 2009

Attn: Senate Committee on Judiciary and Government Operations
Hearing Date: Friday, February 6, 2009
Time: 9:00 a.m.

SB 1192 – Relating to District Court

Dear Chair Taniguchi, Vice-Chair Takamine, and Members of the Senate Committee on Judiciary and Government Operations:

I am writing on behalf of the Access to Justice Commission (the “Commission”), which was created by Rule 21 of the Rules of the Supreme Court of Hawaii on May 1, 2008. The Commission was established with the purpose to substantially increase access to justice in civil legal matters for low- and moderate-income residents of Hawaii (“low income Hawaii residents”), including working to reduce barriers to the civil justice system for low-income Hawaii residents through laws or court rules, regulations, procedures, and policies, and increasing support for self-represented litigants.

The Commission was created in response to the 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People of Hawaii, which found that four out of five low-income Hawaii residents do not have their legal needs met and that legal service providers are only able to assist one in three persons who contact them for assistance.

As the economy worsens during this difficult time, there is an increased demand for legal services for low-income Hawaii residents. However, the harsh reality is that there are insufficient resources to meet the increased demand.

The Commission supports SB 1192, which amends HRS Section 633-27 to increase the jurisdictional minimum for small claims court. SB 1192 would make it easier for self-represented litigants to proceed with their claims, both as Plaintiffs and as Defendants, and as such, would increase access to justice for Hawaii’s low-income Hawaii residents.

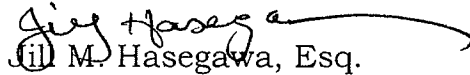
By increasing the jurisdictional maximum amount for cases in the small claims division of the district court, more self-represented litigants are allowed easier access to justice. The general rules and requirements for proceeding in small claims court are much easier and more simplistic than their district

court counterparts, which increases the accessibility and user-friendliness to self-represented litigants.

Attached is a copy of "Resolution of Support by the Hawaii Access to Justice Commission for the Proposed Amendment of the District Court Powers, H.R.S. Section 633-27, to Increase the Jurisdiction of the Small Claims Division", which was adopted by the Commission at its meeting on January 26, 2009. I am also attaching a copy of Rule 21 of the Rules of the Supreme Court of Hawaii, which established the Commission and set for the Commission's mission and composition, and a copy of the Commission's roster.

On behalf of the Commission, I urge you to support the passage of SB 1192. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Hasegawa", with a long horizontal flourish extending to the right.

Jill M. Hasegawa, Esq.

Vice-Chair

Access to Justice Commission

Enclosure(s)

RESOLUTION OF SUPPORT BY THE HAWAI'I ACCESS TO JUSTICE
COMMISSION FOR THE PROPOSED AMENDMENT OF THE DISTRICT
COURT POWERS, H.R.S. SECTION 633-27, TO INCREASE
THE JURISDICTION OF THE SMALL CLAIMS DIVISION

On January 26, 2009, the Hawai'i Access to Justice
Commission voted to support an amendment to Hawai'i Revised
Statutes Section 633-27, relating to the district court, that the
jurisdictional maximum amount for cases in the small claims
division of the district court be increased.

DATED: Honolulu, Hawai'i, January 30, 2009.

Jill Masegawa
JILL MASEGAWA, Vice Chair

ACCESS TO JUSTICE COMMISSION
(as of January 1, 2009)

	Name	Appointed By	Term Ends
1.	Hon. Simeon R. Acoba, Jr. (CHAIR)	Chief Justice	
2.	Jill M. Hasegawa, Esq. (VICE-CHAIR)	Hawaii State Bar Association	12/31/11
3.	Hon. Daniel R. Foley	Chief Justice	12/31/09
4.	Hon. Greg K. Nakamura	Chief Justice	12/31/09
5.	Hon. Simone C. Polak	Chief Justice	12/31/11
6.	Hon. Calvin K. Murashige	Chief Justice	12/31/09
7.	Rai Saint Chu, Esq.	Hawaii State Bar Association	12/31/10
8.	B. Martin Luna, Esq.	Hawaii State Bar Association	12/31/11
9.	Shannon L. Wack, Esq.	Hawaii State Bar Association	12/31/10
10.	Moya Gray, Esq. (Volunteer Legal Services of Hawaii)	Hawaii Consortium of Legal Services Providers	12/31/11
11.	Charles Greenfield (Legal Aid Society of Hawaii)	Hawaii Consortium of Legal Services Providers	12/31/09
12.	Mahealani Wendt (Native Hawaiian Legal Corporation)	Hawaii Consortium of Legal Services Providers	12/31/10
13.	Nanci Kreidman (Domestic Violence Action Center)	Hawaii Consortium of Legal Services Providers	12/31/10
14.	Patti J. Lyons	Hawaii Consortium of Legal Services Providers	12/31/09
15.	Puanani Burgess	Hawaii Consortium of Legal Services Providers	12/31/11
16.	Hon. Richard P. Guy (Ret.)	Hawaii Justice Foundation	12/31/09
17.	Dean Aviam Soifer	William S. Richardson School of Law	12/31/10
18.	R. Elton Johnson, III.	Hawaii Paralegal Association	12/31/10
19.	Lillian Koller (Department of Human Services)	Governor	n/a
20.	MaryAnne Magnier, Esq.	Governor	n/a
21.	Hon. Mike Gabbard	Senate President	n/a
22.	Hon. Blake Oshiro	House Speaker	n/a

Rules of the Supreme Court of the State of Hawaii

Rule 21. ACCESS TO JUSTICE COMMISSION.

(a) **Creation.** There shall be a commission to be known as the Hawai'i Access to Justice Commission (the "Commission").

(b) **Purpose.** The purpose of the Commission shall be to substantially increase access to justice in civil legal matters for low- and moderate-income (together "low-income") residents of Hawai'i. To accomplish this, the Commission shall, along with such other actions as in its discretion it deems appropriate, endeavor to:

- (1) Provide ongoing leadership and to oversee efforts to expand and improve delivery of high quality civil legal services to low-income people in Hawai'i.
- (2) Develop and implement initiatives designed to expand access to civil justice in Hawai'i.
- (3) Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income Hawai'i residents.
- (4) Increase and stabilize long-term public and private funding and resources for delivery of civil legal services to low-income Hawai'i residents.
- (5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among civil legal services providers.
- (6) Increase pro bono contributions by Hawai'i attorneys through such things as rule changes, recruitment campaigns, increased judicial involvement, and increased recognition for contributors.
- (7) Reduce barriers to the civil justice system by developing resources to overcome language, cultural, and other barriers and by giving input on existing and proposed laws, court rules, regulations, procedures, and policies that may affect meaningful access to justice for low-income Hawai'i residents.
- (8) Encourage lawyers, judges, government officials, and other public and private leaders in Hawai'i to take a leadership role in expanding access to civil justice.
- (9) Educate governmental leaders and the public about the importance of equal access to justice and of the problems low-income people in Hawai'i face in gaining access to the civil justice system through informational briefings, communication campaigns, statewide conferences (including an annual summit to report on and consider the progress of efforts to increase access to justice), testimony at hearings, and other means, and increase awareness of low-income people's legal rights and where they can go when legal assistance is needed.
- (10) Increase effective utilization of paralegals and other non-lawyers in the delivery of civil legal services to low-income Hawai'i residents.
- (11) Increase support for self-represented litigants, such as through self-help centers at the courts.
- (12) Develop initiatives designed to enhance recruitment and retention of attorneys who work for nonprofit civil legal services providers in Hawai'i and to encourage law students to consider, when licensed, the practice of poverty law in Hawai'i.
- (13) Encourage the formation of a broad coalition of groups and individuals to address ways to alleviate poverty in Hawai'i.
- (14) Conduct a statewide assessment of unmet civil legal needs among low-income people in Hawai'i five years after the Commission holds its first meeting to measure the progress being made to increase access to justice.

(c) **Membership.**

(1) **NUMBER OF MEMBERS AND TERMS OF OFFICE.** The Commission shall consist of 22 members, with staggered terms. The initial members (other than the chair and the four members appointed under subsection (3)(vii) below) shall draw their terms by lot so that five members shall serve a term ending on December 31 of the year of appointment, six shall serve a term ending on December 31 of the year following the year of appointment, and six shall serve a term ending on December 31 of the second year following the year of appointment. All subsequent appointments of such members (other than appointments to fill vacancies as described in subsection (2)) shall be for terms of three years or until his or her successor is appointed. Such members shall not be appointed to serve more than two successive terms, but an initial term of any member that is less than 30 months shall be disregarded for purposes of this limitation. Governmental representatives appointed under subsection (3)(vii) shall rotate by their terms of office or at the will of the appointing authority. Terms shall run on a calendar year basis, except that a member shall continue to serve until his or her successor is duly appointed.

(2) **VACANCIES.** A vacancy in the office of a member shall occur upon (i) the written resignation, death or permanent incapacity of such member, (ii) the determination by the applicable appointing authority that there has been a termination of a position held by such member that was the basis of such member's appointment to the Commission and that the appointing authority wishes to replace such member with a new appointee, or (iii) for such other cause as shall be specified in the bylaws, rules or written procedures of the Commission. Upon the occurrence of a vacancy, the appropriate appointing authority shall appoint a successor member to serve the remainder of the term of the vacating member.

(3) **APPOINTMENT OF MEMBERS.** Members of the Commission shall be appointed as follows:

(i) The Chief Justice of the Supreme Court shall appoint five members to the Commission as follows: (A) the Chief Justice or an Associate Justice of the Supreme Court and (B) four other judges who the Chief Justice shall endeavor to appoint from different judicial circuits and to include at least one circuit court judge, one family court judge, and one district court judge.

(ii) The Hawai'i State Bar Association (the "HSBA") shall appoint four members to the Commission as follows: (A) two representatives of the HSBA, who may be officers, directors or the Executive Director of the HSBA; and (B) two active HSBA

members who have demonstrated a commitment to and familiarity with access to justice issues in Hawai'i and who are not currently serving as an HSBA officer or director, one of whom shall be from a law firm of ten or more attorneys. At least one of the attorneys appointed by the HSBA shall be from an Island other than O'ahu.

(iii) The Hawai'i Consortium of Legal Services Providers (the "Consortium") shall appoint six members to the Commission as follows: (A) four representatives of Hawai'i nonprofit civil legal services providers; and (B) in consultation with the Chief Justice of the Supreme Court, two non-attorney public representatives not directly associated with any such provider who have demonstrated a commitment to and familiarity with access to justice issues in Hawai'i. The initial members of the Consortium shall be the American Civil Liberties Union Hawai'i, Domestic Violence Action Center, Hawai'i Disability Rights Center, Legal Aid Society of Hawai'i, Mediation Center of the Pacific, Na Loio, Native Hawaiian Legal Corporation, University of Hawai'i Elder Law Program of the Richardson School of Law, and Volunteer Legal Services Hawai'i. Other civil legal services providers may be added to, and members may resign or be removed from, the Consortium as determined by the vote of a majority of the then members of the Consortium.

(iv) The Hawai'i Justice Foundation (the "Foundation") shall appoint one member to the Commission, who shall be an officer, director or the Executive Director of the Foundation.

(v) The Dean of the University of Hawai'i William S. Richardson School of Law shall appoint one member to the Commission, who may be the Dean.

(vi) The Hawai'i Paralegal Association shall appoint one member to the Commission, who shall be a paralegal with a demonstrated interest in equal access to justice.

(vii) The Governor of Hawai'i, the Attorney General of Hawai'i, the President of the Hawai'i Senate, and the Speaker of the Hawai'i House of Representatives shall each be entitled to serve on the Commission or to appoint one member, provided that any appointee of the Governor shall be drawn from the Executive branch of government, any appointee of the Attorney General shall be a Deputy Attorney General, any appointee of the President of the Senate shall be a state Senator, and any appointee of the Speaker of the House shall be a state Representative.

(4) **COMMUNITY WIDE REPRESENTATION.** In making appointments, the appointing authorities shall take into account the effect of their appointments on achieving a Commission composed of members who are residents of different islands in Hawai'i and who reflect the diverse ethnic, economic, urban, and rural communities that exist in the Hawaiian Islands.

(d) Officers. The Chief Justice of the Supreme Court shall designate from among the members of the Commission a chair and a vice chair of the Commission. The chair, who shall be the Chief Justice or the Chief Justice's designee, shall serve an initial term of one year and thereafter shall be designated at such times as the Chief Justice shall determine. The vice chair shall be designated for a term of two years, provided that such term shall expire at any earlier date on which the term of the vice chair as a member of the Commission shall expire or be terminated. The Commission shall select such other officers as it deems necessary and useful. Terms of all officers shall run on a calendar year basis, except that an officer shall continue in office until his or her successor is duly designated or selected. Designations or selections to fill officer-vacancies shall be for the remainder of the term of the vacating officer.

(e) Bylaws, Rules and Procedures. The Commission may adopt bylaws, rules or operational procedures as it deems necessary for and consistent with Sections (c), (d) and (f) through (j) of this rule.

(f) Committees and Task Forces. The Commission may create such committees and task forces, and appoint such committee and task force members, as it deems necessary or desirable to facilitate the work of the Commission. The Commission shall designate a chair of the committee or task force. The Commission may appoint to the committee or task force persons who are not members of the Commission. The role of committees and task forces shall be advisory, and they shall make such recommendations to the Commission as the members of such committees and task forces deem appropriate. Meetings of committees and task forces shall be at the call of the chair or at the call of at least 20% of the members of the committee or task force. A quorum consisting of not less than one-third of the then-appointed and serving members of a committee or task force shall be necessary at a duly called meeting to adopt a recommendation to the Commission.

(g) Meetings, Quorum, and Voting. The Commission shall meet at least quarterly and shall have additional meetings at the call of either the chair or at least seven members upon at least ten days prior notice. A quorum consisting of not less than one-third of the members of the Commission then in office shall be necessary to transact business and make decisions at a meeting of the Commission. On any votes taken at a meeting of the Commission, the chair shall vote only in the event of a tie.

(h) Staff and Funding Support. It is anticipated that staff and funding support for the Commission will be provided by a combination of private and public sources of financial and in-kind support.

(i) Recommendations. Any recommendations by the Commission shall be made in the name of the Commission only, and not in the name of the individual members or the institutions or entities they represent.

(j) Reports and Review.

(1) **ANNUAL REPORTS.** The Commission shall file with the Supreme Court an annual report describing its activities during the prior 12-month period and deliver a copy of the report to the Executive Director of the HSBA.

(2) **THREE-YEAR REVIEW.** Three years after the Commission holds its first meeting, the Supreme Court shall evaluate the progress made by the Commission toward the goal of substantially increasing access to justice in civil legal matters for low-income Hawai'i residents.

(Added April 24, 2008, effective May 1, 2008.)

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Hearing Date: Friday, February 6, 2009
Time: 9:00 a.m.
Place: Conference Room 016
State Capitol

By: Tracey Wiltgen, Executive Director
The Mediation Center of the Pacific, Inc.

Bill No. and Title: SB 1192, Relating to District Court

SUBMITTED BY E-MAIL: testimony@capitol.hawaii.gov

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR, THE HONORABLE DWIGHT Y. TAKAMINE, VICE CHAIR AND MEMBERS OF THE COMMITTEE:

My name is Tracey Wiltgen, Executive Director of the Mediation Center of the Pacific (the Mediation Center) and I am writing on behalf of the Mediation Center to respectfully request the Committee on Judiciary and Government Operations to **approve SB 1192 and increase the jurisdictional limit for Small Claims Court.**

The Mediation Center is a 501(c)(3) not for profit corporation whose mission is to provide high quality mediation and dispute resolution services that are affordable and accessible. The Mediation Center is the only dispute resolution option on Oahu to assist individuals in the low-income population in resolving disputes quickly and creatively. To increase access to justice for Hawaii's people, the Mediation Center is a member of the legal services consortium and actively involved in the committees of the Access to Justice Commission. Through this work, more people in the low-income population are assisted in accessing justice including in small claims matters.

The Mediation Center supports SB 1192 because increasing the jurisdictional limit will enable more people, particularly those in the low-income population, to pursue their claims and have access to justice. The Mediation Center currently provides mediation at all of the District Courts throughout Oahu. This past fiscal year, the Mediation Center provided mediation for 488 small claims and summary possession cases at the various district courts. Through mediation, the participants were assisted in talking and negotiating solutions to resolve the matter quickly. For those who were not able to reach an agreement in mediation, they immediately returned to court to have the judge hear their case and render a decision. Thus, Small Claims Court offers two options for people to pursue their claims in an easy, inexpensive and expeditious manner.

In the current economic downturn, more people will need and should have access to the options provided by Small Claims Court. The Mediation Center encourages your approval of SB 1192 to increase the jurisdictional limit for Small Claims court and provide more people with the opportunity to resolve their disputes quickly and inexpensively.

Sincerely,

Tracey S. Wiltgen

Tracey S. Wiltgen, Executive Director
The Mediation Center of the Pacific

DEREK R. KOBAYASHI

TOPA FINANCIAL CENTER
745 FORT STREET · SUITE 1500
HONOLULU, HAWAII 96813

TELEPHONE (808) 523-6060 · FAX (808) 523-6030
INTERNET: dkobayashi@sil-law.com

February 5, 2009

Via Email: JGOTestimony@Capitol.hawaii.gov

Senator Brian T. Taniguchi and Committee Members
Committee on Judiciary and Government Operations
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: SB 1192 – Relating to District Court
Hearing Date: Friday, February 6, 2009
Time: 9:00 a.m.

The Honorable Chair Brian Taniguchi and Honorable Committee Members:

I write in support of SB 1192, which proposes to amend HRS Section 633-27 to increase the jurisdictional maximum amount for small claims court.

My name is Derek Kobayashi and I submit this letter as a litigator in private practice who has a strong interest in facilitating *pro bono* representation and access to justice. I am a Director and a past-President of the Board of Directors of Volunteer Legal Services Hawai'i; member of the Access to Justice Hui; member of several committees of the Access to Justice Commission; and a Director of the Board of Directors of the Hawai'i State Bar Association. I have handled *pro bono* cases in the small claims and regular division of the District Court.

In the small claims division, cases proceed at a relatively fast pace and are generally set for trial within one month of filing. Typically, the trial is held on the same day that the defendant appears to respond to the Statement of Claim, rather than on a later court date as would be the usual procedure in the regular division of the District Court.

The small claims court is not bound by the rules of evidence (except for provisions relating to confidential communications). Parties are thus better able to represent themselves, *pro se*, in small claims court rather than in the regular division where the litigants are bound by the evidentiary rules. In fact, under HRS Section 633-28(b), with the approval of the court, unlicensed persons may represent another person in a small claims proceeding, providing greater access to representation.

The parties are assured of finality as there is no right of appeal from a judgment of the small claims court. Moreover, mediators are typically available at return/trial dates in small

claims court, as they are already generally available in the regular division cases, to assist the parties with a resolution of the case, before proceeding with trial.

Particularly in these economic times, perhaps one of the most important considerations is that because of the efficiency of small claims proceedings, the parties generally incur much less expenses and costs, as compared to proceeding to trial in the regular division. So too I would hope that more private practitioners would be inspired to take on *pro bono* representations in more cases, if they could rely upon the efficiencies of proceeding in small claims court.

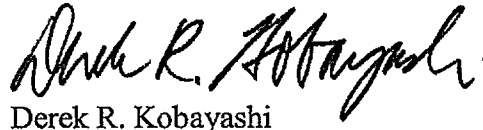
Moreover, small claims trials are handled by the District Court judges and while the number of cases in the small claims division could potentially increase, the cases would still be within in the same court. In this respect, the potential volume of small claims cases should not impose a greater burden on the court.

The right to a jury trial would not be infringed by an increase in the jurisdictional amount for small claims. Article I, Section 13 of the Constitution of the State of Hawaii provides for a jury trial in civil cases where the amount in controversy exceeds \$5,000. Under HRS Section 633-31, a party with a right to a jury trial in a case pending in the small claims division can make a demand for jury trial and the case will be transferred to circuit court for such a jury trial.

I know that the Access to Justice Commission has passed a resolution in support of an amendment to HRS Section 633-27 to increase the jurisdictional maximum amount of the small claims court. Doing so would be a step in achieving the mission of the Access to Justice Commission and another means of truly providing access to justice for the population of Hawai'i.

I respectfully urge Committee on Judiciary and Government Operations to support the passage of SB 1192.

Very truly yours,

A handwritten signature in black ink, appearing to read "Derek R. Kobayashi". The signature is fluid and cursive, with a period at the end.

Derek R. Kobayashi

DRK:bjm

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2009 1:16 PM
To: JGO Testimony
Cc: claud@hawaiiantel.net
Subject: Testimony for SB1192 on 2/6/2009 9:00:00 AM


Testimony for JGO 2/6/2009 9:00:00 AM SB1192

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Claud Sutcliffe
Organization: Individual
Address: PO Box 1708 Kaunakakai
Phone: 5533844
E-mail: claud@hawaiiantel.net
Submitted on: 2/4/2009

Comments:

Please support SB1192, which would raise the limit for Small Claims Court from \$3,500 to \$7,000. I have worked at the Mediation Center of Molokai since 1991, and have been present in the Courts all that time, and it is clear that Small Claims Court is the most user-friendly part of our Court system. So why not increase the limit, which will make it even more user-friendly?

Claud Sutcliffe, Ph.D.



From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2009 11:32 AM
To: JGO Testimony
Cc: mediationplus@gmail.com
Subject: Testimony for SB1192 on 2/6/2009 9:00:00 AM
Attachments: My_testimony.doc

Testimony for JGO 2/6/2009 9:00:00 AM SB1192

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: Giuseppe Leone
Organization: Individual
Address: 44-431 Kaneohe Bay Drive Kaneohe HI 96744
Phone: (808) 254-4115
E-mail: mediationplus@gmail.com
Submitted on: 2/4/2009

Comments:

I am a mediator for the Mediation Center of the Pacific, and I have been mediating cases in Hawaii Small Claims courts since 1997.

I am testifying in favor of Bill SB1192 to raise the maximum amount allowed in Small Claims courts from \$3,500 to \$7,000.

Our Small Claims courts already save money to thousands of people. According to the latest annual report of the Hawaii Judiciary, 3,769 cases were filed in Small Claims courts in 2008. As a result, last year more than 7,500 Hawaii residents -- tenants, landlords, consumers, and small business owners -- took the opportunity to settle their disputes in Small Claims courts -- quickly, inexpensively (the current filing fee is only \$35), and without having to hire an attorney.

It stands to reason that if the current limit of \$3,500, which was set in 1992, is raised to \$7,000, thousands more Hawaii residents will save money by settling their disputes directly in Small Claims courts.



From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2009 10:19 AM
To: JGO Testimony
Cc: martinp005@hawaii.rr.com
Subject: Testimony for SB1192 on 2/6/2009 9:00:00 AM

Testimony for JGO 2/6/2009 9:00:00 AM SB1192

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Pamela Martin
Organization: Individual
Address: Honolulu, HI
Phone:
E-mail: martinp005@hawaii.rr.com
Submitted on: 2/5/2009

Comments:

I am a long-time small claims mediator with the Mediation Center of the Pacific and see first hand how people compromise their claims to avoid having to go through a more formal environment, ie District Court. Increasing the statutory dollar amount limit will allow more people access to a manageable system of justice.