

**SB2023**

**LATE**



## *The Judiciary, State of Hawaii*

### **Testimony to the Senate Committee on Judiciary and Labor**

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Friday, January 24, 2014, 10:00 a.m.  
State Capitol, Conference Room 016

by

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**Bill No. and Title:** Senate Bill No. 2023, Relating to Small Claims Court.

**Purpose:** Increases the monetary jurisdictional limit of small claims court involving cases for recovery of money and cases for the return of leased or rented personal property.

### **Judiciary's Position:**

The Judiciary takes no position on the merits of Senate Bill No. 2023, but is concerned that raising the jurisdictional limit to \$10,000 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 House Bill No. 1844 proposes a constitutional amendment to change the jury demand to \$10,000. Without the constitutional amendment, Senate Bill No. 2023 may be premature.

The Judiciary would like to provide the following comments.

### **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 cannot 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.

Further, this may also impact the Circuit Court's civil caseload as a result of an increase in demands for trial by jury.

## **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 parties explore options and reach an agreement to resolve their case. These services are provided in the courthouses, whenever possible, at no additional cost to the parties.

Funding for the POS was significantly reduced during the recent budget crisis. An increase in the jurisdictional limit for small claims cases may increase the number of cases referred to mediation. With the current amount of funding for this POS, the Judiciary is concerned that the community mediation centers will not be able to provide services for the additional cases that are referred to mediation.

Thank you for the opportunity to testify on this measure.