



## *The Judiciary, State of Hawaii*

**Testimony to the House Committee on Judiciary**  
The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair

Tuesday, February 3, 2015, 2:00 p.m.  
State Capitol, Conference Room 325

By

Calvin Ching  
Deputy Chief Court Administrator  
First Circuit

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**Bill No. and Title:** House Bill No. 291, Relating to the Small Claims Division of the District Court.

**Purpose:** To establish exclusive jurisdiction in the small claims division over cases in which the monetary amount in controversy is \$1,000 or less. Also, to make clarifying and housekeeping amendments.

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

The Judiciary supports this bill. Requiring litigants whose claims are \$1,000 or less to file only in the small claims division allows the court to better serve the public.

Currently plaintiffs are allowed to file their claim in either the small claims division or regular claims division. However, when the amount in controversy is \$1,000 or less, it is more efficient and less costly for the plaintiff to file in the small claims division. There are several benefits to filing in the small claims division:

- The filing fee is only \$35, compared to the regular claims filing fee of \$155.
- Service can be made by certified mail. In regular claims cases personal service is the norm, requiring the services of a process server at additional costs.

- An attorney is not necessary in small claims cases and in most cases attorney fees are not awardable.
- Small claims trials are typically scheduled and completed in shorter time frames.

In the Fiscal Year (FY) 2013-2014 District Court of the First Circuit had a total Regular Claims – Assumpsit: Money Owed caseload of 19,562. Of those, 17.6% were cases in which the claim was for less than \$1,000. This means over 3,000 were cases that would have been better served in small claims court. The following chart shows the numbers for all Circuits.

<b>Circuit</b>	<b>Total Caseload</b>	<b>&lt; = \$1,000</b>	<b>Total cases &lt; \$1,000</b>
First	19,562	17.6%	3,443
Second	4,804	22.5%	1,081
Third	4,414	16.0%	706
Fifth	1,913	16.4%	314

FY 2013-2014 Assumpsit – Money Owed Filings

Although the right to appeal would not be available in a small claims case of \$1,000 or less, the amount at issue likely would not justify the costs associated with an appeal. The filing fee and other fees necessary to initiate an appeal to the Intermediate Court of Appeals is currently \$285 (which may be waived). Costs for transcripts add to the expense and are generally not subject to waiver.

Thank you for your consideration of House Bill No. 291.

Lynn A.S. Araki-Regan  
Stephen E. Pike

Christopher R. Dang  
Garrick L.H. Goo  
Of Counsel

**LATE**

**ARAKI-REGAN**  
**& associates, llc**  
a limited liability law company

1823 Wells Street Suite 2A / Wailuku / Hawai'i / 96793  
tel: (808) 244-6042 fax: (808) 249-2872

February 2, 2015

The Honorable Joseph Souki, Chair

RE: H.B. 291 (Small Claims Division of District Court)

POSITION: NOT IN SUPPORT

Dear Speaker Souki:

As an attorney who handles a considerable amount of cases in the District Courts throughout Hawaii, I strongly believe that the proposed legislation should not be supported, and that the status quo should be maintained.

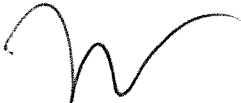
Even if the amount of the claim is \$1000 or less, the choice to file an action in Regular Claims or Small Claims should rest with the filing party.

In Small Claims Court, the filing party does not have the right to appeal the judge's decision, whereas the filing party can appeal if the case is heard in Regular Claims. Even if the filing fee is more in Regular Claims, some filing parties prefer filing all of their District Court matters in Regular Claims.

As the filing fee is considerably more in Regular Claims as compared to Small Claims Court, the judiciary would also lose considerable amount of monies if they precluded filing parties from filing certain cases in Regular Claims.

I humbly urge you to not support this legislation.

Sincerely,



Lynn A.S. Araki-Regan  
Attorney at Law