The Judiciary, State of Hawaii

Testimony to the Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Wednesday, February 24, 2016, 1:00 p.m.
State Capitol, Conference Room 211

By

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WRITTEN COMMENTS ONLY

Bill No. and Title: Senate Bill No. 2101, S.D. 1, Relating to District Court Small Claims.

Purpose: Establishes small claims division's exclusive jurisdiction of cases for amounts of $1,000 or less. Allows plaintiff to request removal of small claims cases to be heard in ordinary procedures of the district court when counterclaim is filed. Allows a plaintiff to file cases in either the small claims division or regular claims division of district court if the plaintiff is represented by an attorney. Prohibits the award of attorney's fees in cases for amounts of $1,000 or less exclusive of interests and costs if the plaintiff is represented by an attorney and the district court has concurrent jurisdiction with the small claims division of district court.

Judiciary's Position:

The Judiciary respectfully requests that the content of the SD1 be removed and replaced with the original measure. As currently written, the Judiciary would be unable to support this bill.

The Judiciary cannot support a system that treats parties represented by an attorney differently from self-represented parties. An "opt out" option for plaintiffs represented by an attorney would give the public the impression that attorney-represented plaintiffs are being given an advantage. This "opt out" would also defeat the intent of the original measure: to make the small claims division the exclusive

venue for claims of $1000 or less. It is the Judiciary's belief that, if given the option, most attorney-represented plaintiffs would opt out and continue to file claims as they have.

Thank you for the opportunity to provide comments on this measure.