



## *The Judiciary, State of Hawaii*

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

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

and

### **Senate Committee on Commerce, Consumer Protection, and Health**

Senator Rosalyn H. Baker, Chair  
Senator Michelle N. Kidani, Vice Chair

Friday, February 12, 2016, 9:30 a.m.  
State Capitol, Conference Room 016

By

Calvin Ching  
Deputy Chief Court Administrator, First Circuit

---

**Bill No. and Title:** Senate Bill No. 2101, Relating to District Court Small Claims.

**Purpose:** The purpose of this Act is to give to the small claims division of the district court the exclusive jurisdiction over cases in which the amount claimed is \$1,000 or less and to allow plaintiff to request removal of a small claims case to be heard in the ordinary procedures of the district court when a counterclaim is filed. Unrepresented parties would have better access to justice in the small claims division, where filing fees and costs are lower. Also, clarifying and housekeeping changes have been made.

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

The Judiciary supports Senate Bill No. 2101, which is part of the Judiciary's 2016 legislative package. Requiring litigants whose claims are \$1,000 or less to file only in the small claims division protects them from unwittingly incurring costs and fees exceeding the amount in dispute and allows the court to better serve the public with greater efficiency and cost effectiveness.

Current statutes allow District Court plaintiffs to file their claims in either the small claims division or regular claims division. However, especially when the amount in controversy is \$1,000 or less, the small claims division offers several benefits over the regular claims division:

- **Significantly reduced filing fees.** The filing fee in small claims is only \$35, compared to the regular claims filing fee of \$155.
- **More flexible service rules.** Service in small claims cases can be made by certified mail. In regular claims cases, personal service, requiring the services of a process server at additional costs, is the norm.
- **Attorneys are optional.** Small claims procedures are more accessible to self-represented parties, and include an option for mediation at the onset to encourage parties to work directly with one another to reach an agreeable resolution.
- **Faster case resolution.** Small claims trials are typically scheduled and completed in shorter time frames.
- The reduced filing fee and service fee **diminishes the financial burden on already indebted defendants** against whom a judgment is awarded.

In Fiscal Year (FY) 2013-2014, the 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 \$1,000 or less. This means that over 3,000 of the cases filed in regular claims could have been better served, for the reasons above, in small claims court. The following chart shows the numbers for all Circuits.

Circuit	Total Caseload	<= \$1,000	Total cases < \$1,000
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*

As the right to appeal is not available in small claims cases of \$1,000 or less, this bill will also protect unwary parties from unproductively exhausting their time and money on appeals where the cost of the appeal itself most likely exceeds the amount at issue. The filing fee and other fees necessary to initiate an appeal to the Intermediate Court of Appeals currently total \$285. Although these fees may be waived in cases where they are overly burdensome, costs for transcripts only add to expenses and are generally not subject to waiver. Coupled with other incidental costs, the only victory parties involved in a case of \$1,000 or less are likely to achieve on appeal is a Pyrrhic one. Limiting such cases to small claims will keep appeals from adding insult to injury.

Lastly, this bill clarifies that plaintiffs are allowed to move a small claims case to be heard under the ordinary procedures of the District Court (Regular Claims) when a counterclaim is filed. This provides plaintiffs with the option to move the case when the amounts in controversy escalate, especially if a counterclaim is for an amount up to the \$40,000 jurisdictional limit of District Court.

Thank you for the opportunity to provide testimony on this bill.