

37 U.S.F. L. Rev. 315

University of San Francisco Law Review
Winter 2003

Articles

***315** THE PEOPLE'S COURT EXAMINED:

A LEGAL AND EMPIRICAL ANALYSIS OF THE SMALL CLAIMS COURT SYSTEM

Bruce Zucker [\[FNa1\]](#)
Monica Her [\[FNaa1\]](#)

Copyright © 2003 Bruce Zucker; Monica Her

ONE OF THE most fascinating aspects of the legal system involves the small claims court process. Often referred to as the "People's Court," [\[FN1\]](#) it is a part of the court that comes most directly into contact with the citizenry of a jurisdiction. "Some cases are bizarre, most are interesting, and all are serious to the parties." [\[FN2\]](#) Provided that the dollar amount is less than or equal to the jurisdictional limit, [\[FN3\]](#) almost any type of civil action can come to small claims court, [\[FN4\]](#) irrespective of the complexity of the case.

***316** Small claims courts are a fundamental component of the American legal system, and California has one of the busiest and most regulated small claims court systems in the country. The California Legislature declared "individual minor civil disputes are of special importance to the parties and of significant social and economic consequence collectively" [\[FN5\]](#) for California's citizenry. In order to provide an expedient and efficient process for the resolution of such "minor civil disputes," the California Legislature created and passed the Small Claims Act, currently codified as [California Code of Civil Procedure Section 116](#). This article examines the small claims court process in the United States by using the California small claims court system as a ***317** prime example, from its origination in the Small Claims Act of 1913 through its subsequent interpretation. This article presents the results of the collection, compilation, and analysis of data measuring expediency and assessing outcomes obtained from the Ventura County, California Superior Court Small Claims Division in Year 2000. Finally, it argues that despite critics who claim the system needs critical changes, such as raising the court's claim limits, the system is efficient and effective at meeting the stated goals and objectives of processing minor disputes in expedient manners.

I. Small Claims Courts in the United States

Following the lead of the establishment of the initial small claims court in Kansas in 1912, [\[FN6\]](#) every state in the United States has created some form of a small claims court system. [\[FN7\]](#) Although the financial claims limits, methods of procedure, and overall structure vary from state to state, the concept is essentially the same: relatively minor disputes involving dollar amounts that are insufficient to warrant processing the case through the normal court procedure justify expedited and simplistic handling.

United States small claims courts are often considered courts of equity. [\[FN8\]](#) That is, they are not necessarily bound by the letter of the law. [\[FN9\]](#) These courts have flexibility to use more holistic approaches to problem solving and dispute resolution than what is typical. [\[FN10\]](#) "In most judges are going to do what makes sense to them, even if this means setting aside legal formalities." [\[FN11\]](#) Moreover, traditional rules of evidence and court processes do not apply.

"The rules of small claims courts emphasize conciliation and pragmatism over winning, and many rules of evidence and civil procedure have been simplified to ***318** allow maximum access to the courts by individuals unable to afford an attorney." [\[FN12\]](#)

At least one organization is critical of the efficiency of the current United States small claims court systems. [\[FN13\]](#) Americans for Legal Reform, a non-profit organization that studies various aspects of the United States legal system, recently released a "report card" on the performance of small claims courts. [\[FN14\]](#) "Not a single small claims court system anywhere in the United States deserved an 'A' ranking, and only two--California and D.C.-- received a 'B.' Arizona, Colorado, and Florida received 'C's.' Every [other state] was graded 'C-' or below." [\[FN15\]](#) This organization was primarily critical of the low dollar limits throughout the country. [\[FN16\]](#) However, it also reviewed the flexibility of courtroom hours, amounts of filing fees, and ease with which plaintiffs winning small claims court judgments were able to recover their money. [\[FN17\]](#) Throughout the United States, the limit varies: [\[FN18\]](#) Virginia has the lowest dollar limit (\$1,000) and the highest limits are in Georgia and Tennessee, with limits of \$15,000. [\[FN19\]](#) Some commentators have suggested that small claims court limits should be raised to \$20,000 on a nationwide basis. [\[FN20\]](#)

When a painter ruins a homeowner's \$1,500 antique rug, the place to go is usually small claims court. There the parties can resolve the dispute by themselves without resorting to costly litigation. But what if the rug were worth \$15,000? Or even \$20,000? Many small claims courts could not take the case because the amount in dispute exceeds their jurisdictional limit. And many lawyers wouldn't take the case because it just isn't worth their time. [\[FN21\]](#)

***319** Although there is no scientific or "statistical rationale" for raising the limit to \$20,000, critics claim there is a severe need to establish a dollar limit at which most lawyers would take on a case. [\[FN22\]](#) "For most, if not all, lawyers in private practice, a dispute where there is less than \$20,000 in issue is below their radar." [\[FN23\]](#) In fact, some surveys show that most businesses also prefer fast and simple resolutions to disputes that may be as high as \$100,000, [\[FN24\]](#) and such litigants may agree to avoid full-scale litigation by directing their disputes through alternate systems.

For example, consider Maryland's small claims court system. The jurisdictional limit for its small claims courts is \$2,500. [\[FN25\]](#) However, with the consent of both plaintiff and defendant, the small claims court may adjudicate a claim involving a disputed amount of up to \$25,000. [\[FN26\]](#) "The result: A lot of little cases are resolved promptly. A surprisingly large number of defendants--including all the major insurance carriers--routinely agree to have their cases decided using the abbreviated small claims procedures." [\[FN27\]](#)

Table 1 Current Limits of Small Claims Court Across the United States [\[FN2\]](#)

States	Rank	States	Rank
Delaware (No Limit)	1	Iowa	27
Georgia	2	North Carolina	27
Tennessee	2	Connecticut	29
South Dakota	4	Hawaii	29
Pennsylvania	4	Alabama	31
Alaska	6	Idaho	31
Minnesota	6	Indiana	31
South Carolina	6	Louisiana	31
Nevada	9	Michigan	31
Arkansas	10	Missouri	31
California	10	Montana	31
Colorado	10	New York	31
District of Columbia	10	Ohio	31
Florida	10	Wyoming	31
Illinois	10	Arizona	41
New Hampshire	10	Maryland	41
New Mexico	10	Mississippi	41
North Dakota	10	Washington	41
Oregon	10	Nebraska	45

Texas	5,000	10	Massachusetts	2,000	46
Utah	5,000	10	New Jersey	2,000	46
Vermont	5,000	10	Kansas	1,800	48
West Virginia	5,000	10	Kentucky	1,500	49
Wisconsin	5,000	10	Rhode Island	1,500	49
Maine	4,500	25	Virginia	1,000	51
Mean	4,504		Minimum	1,000	
Median	4,250		Maximum	15,000	
Mode	5,000		Range	14,000	
Stand. Deviation	2,756				

***320** II. California Small Claims Court System

A. Origin and History

The California Legislature originally established the Small Claims Court system in California in 1921. [\[FN28\]](#) In response to an increasing need for fast and simple resolutions to minor civil disputes [\[FN29\]](#) and in ***321** order to resolve "minor civil disputes" in an expedient, inexpensive, and just manner, the California Legislature established the small claims divisions in the municipal court in each of the counties in California. [\[FN30\]](#)

The courts have given notable deference to this legislative directive. "From their inception, small claims courts have been held to exist to make it possible for plaintiffs with meritorious claims for small amounts of money, to bring these claims to court without spending more money on attorney's fees and court expenses than the claims were worth." [\[FN31\]](#) For example, the Los Angeles County Superior Court issued a policy statement justifying the importance of its small claims court division:

In Los Angeles, small claims courts are especially important. It is through the windows of the small claims court that a substantial number of county residents view the justice system. Hundreds of thousands of people each year take part in small claims actions in the County of Los Angeles. Some of those individuals are parties, some are witnesses, and some are simply friends or relatives of parties ***322** or witnesses who have come to court to see for themselves what will happen in a particular case. For most of those individuals, the small claims court will be their only first-hand contact with our system of justice. For most, the only other impression they will have of "justice in action" will be as a result of information gathered from various media sources. That information is often related to the high profile cases of the day, and not necessarily reflective of the day-to-day activities of our courts. [\[FN32\]](#)

Under most circumstances, the cost of litigating suits in superior court is cost prohibitive. As such, many otherwise meritorious claims would simply go unresolved without the existence of such a system.

B. Public Perception and the Media--Judge Wapner to Judge Judy

In the early 1980s, a retired California Superior Court judge became an overnight star of one of the first nationally televised courtroom shows in the United States. Entitled The People's Court, this show was filmed in a studio in Los Angeles whereby each litigant had an actual case pending in a California small claims court. The parties agreed to dismiss their pending small claims court suits and have their claims settled in The People's Court. [\[FN33\]](#)

This television courtroom show originally debuted in 1981 on CBS during prime time [\[FN34\]](#) and soon became one of weekday afternoon television's most popular shows. [\[FN35\]](#) In fact, when The People's Court was at its prime, "more Americans recognized Judge Wapner's name than could recall the name of any Supreme Court Justice." [\[FN36\]](#)

Likewise, the television program "Judge Judy" seems to have replaced The People's Court and Judge Wapner's deliverance of justice. Although the cases are real and the litigants have actual disputes, she ***323** takes a more proactive and cynical role when dispensing justice and resolving minor civil disputes. "She is known to lecture, cajole, and ultimately rule from the bench," [\[FN37\]](#) while mocking, belittling and humiliating the parties in the process. [\[FN38\]](#) Certainly, these televised small claims court cases have greatly influenced public perception of

the court process, and probably familiarize people with small claims court. As Professor Michael Epstein noted, the People's Court and Judge Wapner have had a tremendous influence on individual's decisions to pursue a minor dispute in small claims court. [\[FN39\]](#) "[W]hile we initially joked about the 'Wapner factor,' we now suspect that the television program is a significant factor in many litigants' decisions to go to small claims courts and is an important influence on the way they prepare their cases." [\[FN40\]](#) In her recent study concerning televised live action court shows, Professor Kimberlianne Podlas found the following:

After viewing such [televised courtroom] shows, where the stories are easily digestible, the conflicts clear, and the resolutions swift, the public is mystified when it sees actual court cases taking so long to be decided. The public wonders why judges and lawyers seem to encumber the process with so many unnecessary technicalities, and criticizes them for it. Therefore, as judges fail to live up to the representation of law on television, as disputes drag on for more than twenty-two minutes, and as decisions are not contemporaneous, confidence in the justice system is eroded. [\[FN41\]](#)

Television courtroom dramas have had such an effect on the public that in some cases, winning parties in judicial actions have reported that they are actually upset with the outcome of their case because the ***324** judge "has not humiliated their opponent." [\[FN42\]](#) Such television programs are some of the best-rated daytime television shows. [\[FN43\]](#) Nevertheless, the small claims court system is a fundamental component of American jurisprudence. Regardless of the outcome of the case, litigants are given an opportunity to have a government official hear their concerns. "It has been suggested . . . that small claims courts probably work a therapeutic effect, at least when black-robed judges take the time to listen to plaintiffs and defendants explain their sides of a dispute." [\[FN44\]](#) Without such a system, it is anyone's guess as to how the civil administration of justice would be fair.

III. California Small Claims Act

A. The Act in Its Initial Form

Initially, the jurisdiction of the California small claims court system was limited to "cases for the recovery of money only where the amount claimed does not exceed fifty dollars." [\[FN45\]](#)

Plaintiffs could only sue individuals who resided in "the township or city and county in which the action is brought." [\[FN46\]](#) In order to commence a small claims court action, the plaintiff had to prepare and execute an affidavit containing certain relevant information pertaining to the case, which was then served by mail upon the defendant by the justice of the peace. [\[FN47\]](#) This affidavit notified the defendant as to the date, time, and location of the hearing. There was no filing fee for small claims court. [\[FN48\]](#)

Attorneys were not permitted to represent parties in small claims court hearings. [\[FN49\]](#)

Hearings were informal, and the justice of the peace had the authority to establish payment schedules in the event of awards of money judgments. [\[FN50\]](#)

Only defendants had appeal rights. If the defendant wished to appeal, he had to post a bond for the amount of the judgment during ***325** the pendency of the appeal and pay a fifteen-dollar attorney's fee if the plaintiff's judgment was affirmed. [\[FN51\]](#)

B. The Modern Version of the California Small Claims Act

In 1990, the California Legislature enacted major revisions to the Small Claims Act. [\[FN52\]](#) As it now stands, the small claims court system in California is statutorily driven and is primarily focused upon solving minor civil cases in the most expedient and just manner possible. "The express purpose of the act is to provide a judicial forum in which minor civil disputes can be resolved expeditiously, inexpensively, and fairly." [\[FN53\]](#)

***326** As stated above, the small claims court has extremely broad jurisdiction to hear almost any civil case where the damages sought are less than \$5,000. [\[FN54\]](#) California, at \$5,000, has the average national limit. [\[FN55\]](#) Over the years, however, various groups have sought to raise the jurisdictional limit in order to allow more disputes to channel through this system and relieve the regular courts of some of their burden. [\[FN56\]](#) "After all, it often costs more than \$5,000 nowadays just to hire a lawyer to litigate in the conventional manner." [\[FN57\]](#)

Because small claims court jurisdiction is limited only by the dollar amount of damages claimed and not by the complexity of the case, almost any type of action can be brought there. [\[FN58\]](#) As a result, more litigants are opting for the small claims court system, even if it means waiving the amount of their claims that exceeds the \$5,000 limit. [\[FN59\]](#)

Plaintiffs initiate a claim by filing and serving a one-page summons and complaint. [\[FN60\]](#) This very simple document only requires the litigant to provide the names and addresses of the defendants, the dollar amount of the claim, and a simple one to two line description of the controversy. [\[FN61\]](#)

One of the most interesting aspects of the small claims court system is the court's ability to grant equitable relief in certain circumstances. ***327** The small claims court has the power to grant equitable relief "in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages." [\[FN62\]](#)

Venue rules in small claims court mirror those of the superior court. [\[FN63\]](#) In the event a defendant wishes to contest venue, he need not file a formal motion or necessarily personally appear on the date and time of the trial. [\[FN64\]](#) "A defendant may challenge venue by writing to the court and mailing a copy of the challenge to each of the other parties to the action, without personally appearing at the hearing." [\[FN65\]](#) If the court concurs with the defendant's venue challenge, it must dismiss the matter without prejudice. [\[FN66\]](#) However, if the court determines that venue is proper, it must continue the matter at least fifteen calendar days in order to give proper notice to the defendant. [\[FN67\]](#) If all parties are present, the court may proceed to hear the case immediately. [\[FN68\]](#)

Defendants who are sued in small claims court may, but are not required to, file a cross claim for damages up to the jurisdictional limit of the court. However, once a defendant files a cross claim, he or she submits to the jurisdiction of the small claims court. If the defendant loses on his claim, he is foreclosed from appealing the loss of that claim. [\[FN69\]](#)

The method and style of the small claims court proceedings are unceremonious. [\[FN70\]](#) The litigants normally may not have attorneys represent them. [\[FN71\]](#) However, on appeal and in connection with the enforcement ***328** of the judgment, either party may have attorney representation. [\[FN72\]](#) The method of presenting evidence is also informal. "The parties have the right to offer evidence by witnesses at the hearing, or, with the permission of the court, at another time." [\[FN73\]](#) Additionally, the court is empowered to "consult witnesses informally and otherwise investigate the controversy with or without notice to the parties." [\[FN74\]](#)

Usually, only the named plaintiff and named defendant may prosecute or defend the small claims court action. [\[FN75\]](#) There are certain exceptions to this rule. Corporations may have an employee, officer, or director represent the business. [\[FN76\]](#) Likewise, an owner of rental real property may send a property manager to represent him provided the small claims court proceeding is directly related to that rental property. [\[FN77\]](#)

Only losing defendants may appeal an adverse judgment from small claims court. "The plaintiff in a small claims action shall have no right to appeal the judgment on the plaintiffs claim." [\[FN78\]](#) Appeals are heard in the superior court's general jurisdiction section. "The appeal to the superior court shall consist of a new hearing before a judicial ***329** officer other than the judicial officer who heard the action in the small claims division. The hearing on an appeal to the superior court shall be conducted informally." [\[FN79\]](#) However, unlike the initial small claims court proceeding, attorneys may represent the litigants in the small claims court appeal. [\[FN80\]](#) Usually, the judgment on the small claims court appeal is final. [\[FN81\]](#) However, a party may still seek review from the Court of Appeal under certain circumstances. [\[FN82\]](#)

IV. The Use of Temporary Judges in Small Claims Court

Given that over 100,000 small claims court cases are filed in California each year, a tremendous burden is placed on California's courts to process and hear them in as an efficient manner as possible. In order to accomplish this daunting task, the California courts rely heavily on temporary judges or "judges pro tempore" to preside over small claims calendars. [\[FN83\]](#) Full time, paid judges pro tempore are usually ***330** given the title "commissioner." Other judges pro tempore are unpaid volunteers. [\[FN84\]](#)

In order to serve as a judge pro tempore in small claims court, the individual must be a licensed

attorney in California for five years before appointment, attend requisite training, [\[FN85\]](#) and become familiar with various publications on small claims court including the Small Claims Court and Consumer Law California Judges Bench Book. [\[FN86\]](#) Of course, each party must stipulate to allow the temporary judge to hear the matter. [\[FN87\]](#) Court commissioners, full-time attorneys employed by the court and hired by the presiding judge to hear various civil and criminal matters, do not need the consent of the parties in small claims court matters. For example, over 700 attorneys are certified and trained through the Los Angeles County Superior Court and serve at least four court days per year. [\[FN88\]](#) This court heavily relies upon the assistance ***331** of these temporary judges in order to efficiently process small claims court matters on any given court day. [\[FN89\]](#)

V. Mass Filings and Other Public Policy Issues

A. Mass Filing of Small Claims Actions

One very effective technique that has been used to gain relief from public nuisance situations is the "mass filing of small claims." [\[FN90\]](#) "Mass filings" occur when several people suffering from the same harm each file separate small claims actions against the same defendant, usually in order to stop such harmful activity, without having to resort to the expense of hiring attorneys and engaging in protracted litigation. For example, in *City & County of San Francisco v. Small Claims Division*, [\[FN91\]](#) over 100 people filed separate small claims court actions against the San Francisco Airport over concerns about excessive noise causing nuisance to the residents in the surrounding neighborhood. Each claim asked for the jurisdictional limit. [\[FN92\]](#) The small claims court awarded judgment in favor of each plaintiff. [\[FN93\]](#) The city petitioned the superior court seeking the issuance of a writ of prohibition against the small claims court on the basis that such nuisance claims were too "complex" for small claims court and would have to proceed through normal court processes. [\[FN94\]](#) The superior court denied the writ and the court of appeals affirmed. [\[FN95\]](#)

In upholding the right of each of the plaintiffs to "aggregate" their claims, the Court of Appeals made some notable comments. The small claims court clearly has jurisdiction to hear such nuisance cases "even though they involve 'complex' issues and have been filed in ***332** 'waves' of 'mass claims' against a public entity." [\[FN96\]](#) The court opined, "we simply find no authority for [the city's] argument that the airport nuisance cases, which are indeed relatively complex compared to many matters heard in small claims court, should be thrown out for that reason." [\[FN97\]](#) Moreover, the court dismissed the city's assertion that airport nuisance cases have such "broad social policy impact" that they are simply "inappropriate for an initial resolution in small claims court." [\[FN98\]](#) The court responded that "in view of the Legislature's explicit recognition that small claims cases have 'significant social and economic consequence collectively' this cannot be the basis for jurisdictional challenge." [\[FN99\]](#) Clearly, the court concluded that right of access to the small claims courts and using it for suits to "draw attention to issues of broader public interest or political significance" [\[FN100\]](#) is of paramount concern.

Recently, a group of concerned neighbors in the chic area of Huntington Harbor, California successfully used the "mass filing" technique to remedy a severe nuisance issue that arose because of a homeowner who let her home fall into severe disrepair. [\[FN101\]](#) For years, Elena Zagustin's neighbors repeatedly reported various health and building code violations to authorities, to no avail. [\[FN102\]](#) Neighbors "complained of human waste dumped in Elena Zagustin's yard, six-foot weeds around the property and numerous other health and fire code violations." [\[FN103\]](#) Finally, neighbors resorted to the small claims court system. They each filed complaints for \$5,000. [\[FN104\]](#) In 1994, twenty-four neighbors collectively won \$140,000 against Zagustin. [\[FN105\]](#) She then transferred the property into trusts and filed bankruptcy in order to avoid foreclosure on the \$140,000 judgments. [\[FN106\]](#) In 1997, 33 neighbors filed another round of mass small claims court actions, seeking \$5,000 each. [\[FN107\]](#) The court awarded them over \$145,000 collectively. [\[FN108\]](#) ***333** In June 1999, the Orange County Sheriff auctioned Zagustin's home in order to satisfy the small claims court judgments. [\[FN109\]](#) She moved away. [\[FN110\]](#) Certainly, such mass filing techniques can be effective. [\[FN111\]](#)

B. Malicious Prosecution

The nature of the small claims court is such that litigants are encouraged to bring their disputes to this forum, regardless of the actual merit of the underlying claim. As stated above, the California small claims courts hear tens of thousands of such claims each year. [FN112] Many of these claims very likely would not be prosecuted in superior court, given that attorneys evaluating them may deem them to lack merit, or so seriously lack merit that they would potentially fall into the category of a malicious prosecution.

Accordingly, could a lawsuit brought in small claims court give rise to a suit against a meritorious defendant for malicious prosecution against the plaintiff?

Consider the matter of *Pace v. Hillcrest Motor Co.* [FN113] In *Pace*, an automobile repair shop filed a lawsuit in small claims court seeking approximately \$167 in an unpaid invoice. [FN114]

The automobile repair shop lost. The customer in turn sued the automobile repair shop for malicious prosecution. The defendant demurred, claiming that a cause of action for malicious prosecution cannot, as a matter of law, *334 stem from a small claims court proceeding.

[FN115] The trial and appellate courts agreed. It relied on the "nature and purpose" of the small claims court process [FN116] and opined:

A small claims process was established to provide an inexpensive and expeditious means to settle disputes over small amounts. The theory behind its organization was that ordinary litigation fails to bring practical justice when the disputed claim is small, because the time and expense required by the ordinary litigation process is so disproportionate to the amount involved that it discourages legal resolution of the dispute. As a result, the small claims process is designed to function quickly and informally. There are no attorneys, no pleadings, no legal rules of evidence, no juries, and no formal findings. [FN117]

The court further reasoned that the small claims court system is not a "typical inferior court."

[FN118] Parties are encouraged to file small claims court actions to resolve their minor disputes as opposed to resorting to self-help or forcible means to seek their remedy.

To permit an action for malicious prosecution to be grounded on a small claims proceeding would frustrate the intent of the Legislature in adopting an expeditious and informal means of resolving small disputes, would inject into a simple and accessible proceeding elements of time, expense, and complexity which the small claims process was established to avoid, and would require a prudent claimant to consult with an attorney before making use of this supposedly attorney-free method for settling disputes over small amounts. [FN119]

Regardless of whether a small claims matter ends following the trial in small claims court or after an appeal, the same rule against allowing malicious prosecutions applies. [FN120]

VI. The Ventura County Small Claims Court: An Empirical Analysis

A. Methodology

To examine the small claims court system in California, we examined data from the Ventura County Superior Court, Small Claims *335 Division. [FN121] We limited our inquiry to the small claims court cases filed in the 2000 calendar year. During 2000, the Ventura County Small Claims Court clerk's office accepted 5,063 such cases for filing. We took five percent of the total cases as our sample size. This amounted to examining 253 cases selected at random.

We followed each of these 253 cases until their final disposition or until August 2002, whichever came later. [FN122] For purposes of this study, we focused on the primary goal set forth by the Legislature; that is, to have a quick, simple and speedy system for the resolution of minor claims. To do this, we conducted an examination of the speed and the number of appeals that each litigant experienced. In addition, we gathered data on other factors, including the amount of each claim; the result of each case (e.g., judgment for plaintiff and amount, judgment for defendant, or dismissal); whether a judge, commissioner, or judge pro tem (temporary judge) heard the matter; whether a cross claim was filed; the type of each claim; and whether the defendant appeared for trial.

Table 2 Summary of Findings Ventura County Superior Court, Small Claims Division (Year 2000)

Variable	Cases	%	Total Cases, N = 253 NAa
Types of Cases			
Insufficient Fund	24	10.3	19
Breach of Contract	145	62.0	
Tort action	33	14.1	
Government Services	7	3.0	
Rent	4	1.7	
Security Deposits	3	1.3	
Others	18	7.7	
Cross Claim			
Yes	2	1.1	70
No	181	98.9	
IFPs (Fee Waivers)			
Yes	20b	7.8	34
No	199	92.2	
Types of Plaintiff			
Individual	85	36.2	18
Business	132	56.2	
Government Agency	18	7.7	
Judge			
Commissioners	72	38.1	64
Judges Pro Tempore	112	59.3	
Judges	5	2.6	
Judgments Entered			
For Plaintiff	130	86.7	104
For Defendant	19	12.7	
Dismissed			
Yes	67	37.2	73
No	113	62.8	
Default			
Yes	81	46.8	80
No	92	53.2	

a Data missing

b Only six of the twenty plaintiffs filed for Fee Waivers are individuals. The remaining fourteen are government agencies.

B. Results and Analysis of Study

1. Types of Cases

Since small claims court in California is a court of general jurisdiction, limited only by its subject matter jurisdiction limit of \$5,000, many types of cases are filed there. [\[FN123\]](#) The vast majority of cases, approximately 62%, appeared to involve breach of contract disputes. [\[FN124\]](#) Another 14.1% involved some form of tort action, usually negligence involving property damage or personal injury. Another 10.3% involved suits for non-sufficient funds checks. [\[FN125\]](#) Failure to pay government services, unpaid rent, and failure to return security deposits *336 constitute another 6%. The remaining 7.7% fall into other miscellaneous categories.

*337 Figure 1

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

2. Cross Claims

We only found two cases where a cross claim was filed by the defendant, comprising approximately 1.1% of all cases filed. The first case involved a breach of contract for \$1,200. [\[FN126\]](#) The defendant filed a counter claim for \$1,100. [\[FN127\]](#) Notably, the court entered

judgment in favor of the plaintiff for \$100, which happens to be the difference between the plaintiff's claim and the defendant's claim. [FN128]

The second case involved a cross claim in the amount of \$2,640 for the defendant's failure to return the plaintiff's security deposit. [FN129] The defendant filed a cross claim for \$300.65 in unspecified damages. [FN130] The trial court entered judgment in favor of the plaintiff for \$1,230.65 and in favor of the defendant on the cross claim for \$320.00. [FN131] On appeal, a trial de novo was held. The appellate court entered judgment in favor of the plaintiff for \$1,583 on the plaintiff's claim and in favor of plaintiff on the defendant's claim. [FN132]

3. Fee Waivers: In Forma Pauperis

The statewide filing fee for small claims actions is \$20. [FN133] However, consistent with the fundamental American tradition of guaranteeing *338 all individuals access to the courts regardless of financial status or ability to pay, [FN134] California waives court filing and service of process fees if a litigant is unable to afford them. [FN135] These individuals are usually referred to as "proceeding in forma pauperis." [FN136] This signals the observer that the particular litigant falls below certain income threshold limits and therefore should be considered low income. [FN137]

According to our study, approximately six cases, or 2.3%, of the plaintiffs filing actions in small claims court qualified for fee waivers. We found that all but one case involved contract actions. The remaining one involved security deposit issues. The claim amounts ranged from \$250 to \$1,342, with a mean amount of \$694. The judgment amounts ranged from \$0 to \$724, with a mean amount of \$293. (See Table 3.)

Table 3 Fee Waivers vs. Non Fee-waivers Ventura County Superior Court, Small Claims Division (Year 2000)

Characteristics	Yes	No	Difference ^a
Claim Amount			
Cases	6 ^b	182	
Minimum	\$ 250	\$ 63	
Median	\$ 537	\$1,015	-\$478
Maximum	\$1,342	\$5,000	
Mean	\$ 694	\$1,671	-\$977***
S.D.	\$ 479	\$1,562	
Award Amount			
Cases	4 ^c	114	
Minimum	\$ 0	\$ 0	
Median	\$ 225	\$ 705	-\$480
Maximum	\$ 724	\$5,000	
Mean	\$ 293	\$1,180	-\$985***
S.D.	\$ 322	\$1,202	
Days until Trial			
Cases	6	159	
Minimum	33	6	
Median	40	41	-1
Maximum	43	97	
Mean	36	42	-6***
S.D.	3	11	
Duration of Case			
Cases	6	147	
Minimum	33	15	
Median	36	41	-5
Maximum	150	169	
Mean	55	47	8
S.D.	46	21	

a *** significant at 1% level, ** significant at 5% level, * significant at 10% level.

b 14 government-agency plaintiffs were excluded.

c One of the six cases filed for FeeWaivers was dismissed before the trial (MS

159493) and data on the award amount is not available for one other case.

After carefully scrutinizing these six cases, [FN138] we were able to make the following observations:

(i) While each of these cases involved some form of breach of contract, the descriptions of the claims did not appear to evidence any *339 formalized or business relationships. For example, one litigant's claim involved her becoming pregnant by the defendant. He apparently promised to pay for an abortion, but failed to do so. Her claim amount was \$300. [FN139] Following a contested trial on the merits, she lost *340 her case. [FN140] In another matter, a plaintiff claimed \$1,341 in unpaid wages. [FN141] The court dismissed her action because she had already prevailed in an administrative action for the same claim before the Department of Industrial Relations. [FN142]

(ii) The average claim and judgments were substantially less than those where the plaintiffs had not requested a waiver of the filing fees. The average claim amount for fee waiver plaintiffs is \$694, while the average claim amount for non-fee waiver plaintiffs is \$1,671. This represents a difference of \$977, which is highly significant at the 1% level. With respect to judgment amounts, we found the average fee waiver plaintiff received awards of \$293, while the average non-fee waiver plaintiff received awards of \$1,180. This \$985 difference is also highly significant at the 1% level. It is a logical deduction that these claims and subsequent awards would be lower than non-fee waiver litigants, given that people of low income engage in contractual activity involving smaller amounts.

(iii) No fee waiver litigant brought a tort claim. Perhaps the reason for such lack of personal injury or property damage claims can be attributed to the availability of personal injury lawyers in the Southern California area willing to take on such cases on contingency bases. For those claims that fall below the small claims court jurisdictional limit, many such tort claims have insurance available. Insurance companies often elect to settle such diminutive amounts in lieu of defending them through the court process, even small claims court. Of course, this could be the subject of an entirely separate research project.

4. Claim Amounts and Types of Plaintiffs

We examined the "type" of plaintiff who filed each case, the amount each claimed, whether each plaintiff won or lost the case, and, if the plaintiff won, the amount of the judgment. We divided each "type" into three categories: individual plaintiff; business or corporate plaintiff; and government plaintiff. A review of the relevant literature suggests that while the small claims court was created for the primary purpose of providing access to justice for consumers with minor claims, the system has been over utilized by businesses and corporations *341 seeking payments on accounts. [FN143] As shown in Figure 2, 18 out of the 253 cases (8%) were government plaintiffs. Another 85 cases (36%) were "individual" or private party plaintiffs. The remaining 132 cases (56%) were business or corporate plaintiffs.

Figure 2: Types of Cases in Ventura County, California Small Claims Court
During 2002

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE
The average claim amount for the individual plaintiffs was \$2,219, while the average claim amount for the 132 corporate plaintiffs was \$1,405. The difference on the average claim amount between these two groups is \$814, and it is highly significant at the 1% level. The average claim amount for government plaintiffs was \$271. (See Table 4.)

We found it intriguing that such a difference existed in terms of claim amounts between the individual and corporate plaintiffs, especially considering that the claim amount was lower for corporate plaintiffs. We conjecture that perhaps businesses are more familiar with the small claims court system than the average individual and regularly pursuing unpaid accounts or other collection matters may be incorporated into the management structure of businesses. Therefore, it might not take much effort on the part of a corporation to pursue such claims.

Table 4 Types of Plaintiffs, Claim Amount, and Award Amount Ventura County
Superior Court, Small Claims Division (Year 2000)

Characteristics	Individual	Business	Government Agency	Overall Sample
Claim Amount				
Cases	85	132	18	235
Minimum	\$ 90	\$ 63	\$ 75	\$ 63
Median	\$1,351	\$ 930	\$196	\$ 943
Maximum	\$5,000	\$5,000	\$730	\$5,000
Mean	\$2,219a	\$1,405	\$271	\$1,616
S.D.	\$1,813	\$1,338	\$206	\$1,575
Award Amount				
Cases	46	83	4	133
Minimum	\$ 0	\$ 0	\$145	\$ 0
Median	\$ 706	\$ 765	\$290	\$ 679
Maximum	\$5,000	\$5,000	\$666	\$5,000
Mean	\$1,199b	\$1,288	\$345	\$1,213
S.D.	\$1,334	\$1,303	\$224	\$1,289

- a The difference between the average claim amount of individual and businesses is \$814, and is statistically different at 1% significance level. The average claim amount of government agency is statistically lower than that of the other two types of plaintiffs at the 1% level.
- b The difference between the mean award amount of individuals and businesses is \$87 and is statistically insignificant. The mean award amount of government agencies is statistically lower than that of the other two types of plaintiffs at the 1% significance level.

***342** 5. Entries of Judgments

We collected data on the judgments entered in each case and found a total of 149. Out of this figure, 130 were entered in favor of plaintiffs, 19 in favor of defendants. Sixty-seven cases were dismissed at or before trial. The remaining 37 were abandoned or otherwise unaccounted. (See Table 2.) The average judgment entered as to each plaintiff were as follows: \$1,199 for individual plaintiffs, \$1,288 for corporate plaintiffs, and \$345 for government plaintiffs. The average amount for the sample of all plaintiffs was \$1,213. (See Table 4.) Of the cases that went to trial, we observed that plaintiffs won 87% of the time, while defendants won 13%. It should be noted that 47% of the defendants defaulted or otherwise failed to defend their cases, which represented close to one-half of the total defendants who lost. (See Figure 3.)

***343** Figure 3: Entries of Judgment (Plaintiff v. Defendant) in Ventura County California Small Claims Court During 2002

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

6. Case Duration

One of the most important aspects of the small claims court system in California (as well as in the United States) is its speed. We therefore collected data on various time issues, including the number of days that elapsed between the filing of the complaint and the trial date. We found that the mean time for a case to get to trial was forty-two days. However, we found that if a plaintiff in a case filed for a fee waiver, his or her trial date was advanced by an average of six days. We theorized that this six day decrease is most likely a processing issue in the clerk's office. (See Table 3.)

7. Commissioner Versus Temporary Judge

Any trial lawyer recognizes the importance of knowing which judge will be presiding over his or her particular motion or proceeding. All else being equal, the personality, political views, temperament, and history of the particular judge plays a critical role in the outcome of a case. In California, litigants are permitted to automatically seek disqualification of a judge once in a case. [\[FN144\]](#) Thereafter, he or she must usually submit to the judge assigned to hear the given

matter.

***344** In the case of the Ventura County Superior Court's small claims division, we observed that primarily commissioners and temporary judges hear the cases. Commissioners are hired by the presiding judge and work full-time for the court, hearing cases assigned to them. The positions are not political appointments, and are subject to yearly review by the presiding judge. The presiding judge also appoints judges pro tempore. Typically, they are attorneys with five or more years of litigation experience. They usually do not receive compensation for their service. While commissioners may be assigned to a courtroom on a daily basis, temporary judges usually sit less than once per month.

***345** We decided to code our data in such a way that we kept track of cases heard by judges, commissioners, and judges pro tempore. Our study showed that 59.3% of cases were assigned to judges pro tem, while 38.1% were assigned to commissioners. Judges heard only 2.6% of the total cases. (See Table 2.)

We examined the difference in judgments entered between commissioners and judges pro tem. Commissioners ruled in favor of plaintiffs 90% of the time, while judges pro tem ruled in favor of plaintiffs 87% of the time. There is no statistically significant difference between them.

In terms of the amount of judgments entered by each in favor of plaintiff or defendant, there was a substantial difference. The average judgment amount entered by commissioners was \$987, while the average entered by judges pro tem was \$1,357, resulting in a \$370 difference between the two groups. This is significant at the 10% level. (See Table 6.)

Table 5 Judges and Types of Plaintiff--Judgments Entered in Plaintiffs' Favor
Ventura County Superior Court, Small Claims Divisions (Year 2000)

Judges Types of Plaintiff	Commissioner			Judge Pro Temp		
	Individual ^a	Business	Government ^b	Individual	Business	Government
Award Amount						
Cases	9	41	1	37	40	3
Median	\$ 500	\$460	\$145	\$ 717	\$1,118	\$291
Mean	\$1,325	\$959 ^d	\$145	\$1,242	\$1,545	\$411
S.D.	\$1,643	\$925	NA	\$1,295	\$1,466	\$220

a For individual plaintiffs, no significant difference is found for all six characteristics between cases heard by commissioners and judges pro temp.

b For government plaintiffs, no significant difference is found for all six characteristics between cases heard by commissioners and judges pro temp.

c For business plaintiffs, the difference between the mean award amount for the cases heard by commissioners and those by judges pro temp is \$586, and is statistically significant at the 5% level.

Table 6 Comparison Between Commissioners and Judges Pro Tempore Ventura County
Superior Court, Small Claims Division (Year 2000)

Characteristics	Commissioner	Judge Pro Tempore	Difference ⁵
Claim Amount			
Cases	72	112	
Minimum	\$ 63	\$ 68	
Median	\$ 720	\$1,137	-\$417
Maximum	\$5,000	\$5,000	
Mean	\$1,334	\$1,774	-\$441**
S.D.	\$1,353	\$1,610	
Award Amount			
Cases	53 ^b	78	
Minimum	\$ 0	\$ 0	
Median	\$ 460	\$ 729	-\$269
Maximum	\$5,000	\$5,000	

Mean	\$ 987	\$1,357	-\$370*
S.D.	\$1,057	\$1,370	

a *** significant at the 1% level, ** significant at the 5% level,
* significant at the 10% level.

b The number of cases varies due to missing data, e.g., we do not have data on the award amount for nineteen of the seventy-two cases that were heard by the commissioners.

From a statistical standpoint, defendants are at an advantage by having their cases heard by commissioners. Although plaintiffs and defendants have essentially an equal chance of winning before either, plaintiffs have a better chance of winning higher awards from judges pro tem than commissioners.

VII. Effectiveness of the Small Claims Court System

A. Does the Small Claims Court Provide an Effective Dispute Resolution Process?

According to our study, the small claims court system in Ventura County processes approximately 5,000 cases per calendar year using a single courtroom and primarily relying on volunteer temporary judges or court commissioners. [FN145] As such, the administrative cost of processing this number of cases is substantially less than processing "standard" civil cases. In addition, the cases moved to trial in a fairly expeditious fashion. The average time from filing of the complaint to trial was fifty-seven days. Only eight defendants appealed their cases, which usually resulted in an affirmation of the trial court decisions.

*347 B. Keep the Jurisdictional Limit at \$5,000 in California

Various commentators have suggested over the years that the small claims court limit should be raised in California. [FN146] Based upon our study and for the reasons that follow, we do not believe that the limit should be raised at this time.

First, the average claim amount is only \$1,616. The range is \$63 to \$5,000. However, less than thirty-nine cases exceed \$3,500 (15.4%), and less than twenty-six cases exceeded \$4,000 (10.48%). We found only twenty-four cases filed for \$5,000 (9.68%). Even in those cases that reached the jurisdictional maximum, only five of those were in fact awarded \$5,000 at trial.

Second, the median small claims court jurisdictional limit in the United States is \$4,500. [FN147] The most common limit is \$5,000. [FN148] Given the abbreviated nature of a small claims court case in terms of procedural due process rights of the defendant (that is, lack of opportunity to conduct discovery, no right to counsel, extremely short duration to trial, extremely short trial hearing), it seems that cases that exceed the \$5,000 limit should be directed to the regular civil track where defendants maintain their procedural due process rights. At some point, abbreviated claims and "afternoon justice" may simply fail to properly address the seriousness of concerns involving claims of a higher amount.

Third, a review of the literature shows that there has been no empirical study conducted on a statewide or nationwide basis indicating any need for raising the jurisdictional maximum. Until such a study is completed, the commentators arguing for a jurisdictional increase have no hard evidence on which to base their conjecture.

C. Suggestions for Improvement

1. Better Training and Control of Judges Pro Tem

Many small claims courts in California and in the United States rely on judges pro tem to staff them. They are inexpensive and tend to fill an assignment loathed by full-time judges. Additionally, small claims matters are considered of lesser importance than the regular civil or criminal matters handled by full-time judges.

*348 However, as the Legislature pronounced in its declaration of intent behind the Small Claims Act, such cases are of collective significance. Almost \$7 million worth of small claims court complaints are processed through Ventura County each year.

We noted that the judgment amounts differ substantially between commissioners and judges pro

tem. From the data, it appears that commissioners tend to issue lower judgment amounts than judges pro tem. [\[FN149\]](#) As such, it would behoove a small claims court defendant to refuse a judge pro tem and have his or her case heard by a commissioner. Additional training and oversight could be employed in order to even out this disproportionality. Perhaps each case should require a short statement of reasons for entering a judgment in a particular way in order to enlighten reviewing bodies as to the cause for entering a particular judgment amount. Whatever the intervention mechanism employed, it seems crucial to us in the interests of fundamental fairness that this issue be resolved such that a case not be dependent upon the type of bench officer assigned to the matter.

2. Increase Time Allotted for Hearings

Based upon our study, an average small claims court calendar can consist of forty-five cases per day. [\[FN150\]](#) Although many cases settle, default, or dismiss at trial, a large number are adjudicated. Given the volume of cases, a small claims court judge cannot allow more than a few minutes per case.

Giving such cursory attention to each case raises several concerns. Cases involving up to \$5,000 in controversy get very little attention, especially when compared to their counterparts proceeding through the regular court system. Not only does this raise due process concerns, but it also may lead to a decrease in public confidence in the court and justice system. In addition, plaintiffs waive their appeal rights in order to have their cases filed and heard in small claims court. We question how many of these litigants expect such a hasty ***349** and fleeting court hearing when they opted to file their cases in the first place.

Another concern arises from legislative mandates such as the one found in the California Small Court Act. [\[FN151\]](#) Although the Legislature sought "speedy" and "expeditious" resolutions to small claims court cases, it probably referred to the time period involved in bringing the cases to trial and final disposition, not necessarily the time involved at the trial itself. Forty-five cases on calendar in a single morning seems excessive. Certainly, doubling or tripling the number of courtrooms that would hear such cases would leave much more time to each case. Since most civil cases that are processed through the court system are of the small claims variety, it makes sense to allot enough resources to such cases in order to at least give the public a sense of due process. Until such time as the court administrators in California and the United States accept this principle, small claims actions will continue to receive low priority processing.

Conclusion

The California Small Claims Courts are a fundamental component of the California legal system. In less than the 100-year life of the small claims court, the jurisdictional limit has increased 100-fold, from \$50 to \$5,000, thus recognizing the need to not only keep up with inflating claim amounts, but also ensuring that this court system continue to draw cases involving lesser claim amounts away from the regular civil track and into its division.

The primary mission of the process is to resolve minor civil controversies in timely, orderly fashions by not having to adhere to formal court procedural and evidentiary rules. Nevertheless, there are various legal issues and concerns that still arise. This article explored the most common and controversial ones, and it has examined the types of cases and the efficiency of the Ventura County Small Claims Court system with the aim of using this model as a starting point for examining other small claims court systems in California.

As discussed above, some aspects of the system may warrant change. However, from the viewpoint of these authors, the system seems to be functioning in an expedient, fair, and judicious manner for the present time. As discussed, the Ventura County Small Claims Court system is able to process over 5,000 complaints each year, using primarily one courtroom and volunteer judges pro tem. Cases proceed ***350** to trial in less than two months and can involve disputes of up to \$5,000 in controversy. However, as we noted above, the court could stand to lengthen the amount of time allotted to each case by increasing the number of courtrooms designated to hear small claims court matters.

As the late United States Supreme Court Associate Justice Thurgood Marshall wrote, "mere access to the courthouse doors does not by itself assure a proper functioning of the adversary process." [\[FN152\]](#) Nevertheless, small claims court gives litigants the opportunity to simplify

their legal disputes into one pre-printed form, exclude lawyers from the process, and discuss their problem with a neutral fact finder, all without the burdensome process of full-blown civil litigation. Without it, the American system of civil justice and procedure would be severely hindered.

[FNa1]. Associate Professor, College of Business and Economics, California State University, Northridge. Professor Zucker received his J.D. from Loyola Law School, Los Angeles, in 1993. He regularly serves as a Judge Pro Tempore.

[FNaa1]. Assistant Professor, Department of Finance, Real Estate, and Insurance, College of Business and Economics, California State University, Northridge. Professor Her received her Ph.D. in Finance from Texas A&M University, College Station, in 1999. This article represents the research and analysis of these authors and in no way represents the opinion of any governmental entity. Research for this article was made possible by a grant from the College of Business and Economics at California State University, Northridge.

[FN1]. See infra text accompanying notes 33 through 43.

[FN2]. Robert Klepa, [Making a Case for Small Claims Court](#), 23 L. A. Law. 14 (October 2000).

[FN3]. For example, the jurisdictional limit of small claims court is currently \$5,000. See [Cal. Civ. Proc. Code § 116.220](#) (West 2002).

[FN4]. [Cal. Civ. Proc. Code § 116.220](#) provides:

(a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivisions (c), (e), and (f), for recovery of money, if the amount of the demand does not exceed five thousand dollars (\$5,000).

(2) Except as provided in subdivisions (c), (e), and (f), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars (\$5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by [Sections 1861.5](#) and [1861.10 of the Civil Code](#) if the amount of the demand does not exceed five thousand dollars (\$5,000).

(4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars (\$5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration of a fee dispute involving no more than five thousand dollars (\$5,000) in controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code.

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages. The court may issue a conditional judgment. The court shall retain jurisdiction until full payment and performance of any judgment or order.

(c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only if the demand does not exceed (1) two thousand five hundred dollars (\$2,500), or (2) on and after January 1, 2000, four thousand dollars (\$4,000), if the defendant guarantor charges a fee for its guarantor or surety services or the defendant guarantor is the Registrar of the Contractors' State License Board.

(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver shall not become operative until judgment.

(e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a Department of Corrections facility or a Youth Authority facility, the small claims court shall have jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with [Sections 905.2](#) and [905.4 of the Government Code](#). The final administrative adjudication or determination

of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation.

(f) In any action governed by subdivision (e), if the plaintiff fails to provide proof of compliance with the requirements of subdivision (e) at the time of trial, the judicial officer shall, at his or her discretion, either dismiss the action or continue the action to give the plaintiff an opportunity to provide such proof.

(g) For purposes of this section, "department" includes an employee of a department against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

[FN5]. [Cal. Civ. Proc. Code § 116.120](#) (West 2002).

[FN6]. See Samuel Schwarz, *Should a Lawyer be Allowed in Small Claims Court? Some Empirical Light*, 39 *Am. Economist* 65 (Fall 1995).

[FN7]. See *Closing Arguments*, Conn. L. Trib., April 22, 2002, at 18.

[FN8]. See [Crouchman v. Superior Court, 755 P.2d 1075 \(Cal. 1988\)](#).

The small claims court judge may permit the parties to offer evidence by witnesses outside of the hearing, and may consult witnesses informally and otherwise investigate the controversy. The judge is authorized to give judgment and make such orders as he deems to be just and equitable for disposition of the controversy.

Id. at 1078. See also [Burley v. Stein, 115 Cal. Rptr. 279 \(Ct. App. 1974\)](#).

[FN9]. See [Crouchman, 755 P.2d at 1078](#).

[FN10]. See *id.*

[FN11]. Marc Anthony Douthit, [Humbling Experiences: Trials of Small Claims. 27 Litig. 27 \(2000\)](#).

[FN12]. *Id.*

[FN13]. See *Closing Arguments*, *supra* note 7.

[FN14]. See *id.*

[FN15]. *Id.*

[FN16]. See *id.*

[FN17]. See *id.*

[FN18]. See Findlaw, *State Index*, available at [http:// consumer.pub.findlaw.com/courts/small](http://consumer.pub.findlaw.com/courts/small) (last visited February 10, 2003).

[FN19]. See *id.* The mean small claims court jurisdictional limit is \$4,504, and the median limit is \$4,250. The most common limit is \$5,000. Delaware has no jurisdictional limit. Delaware's system is a departure from the rest of the country. See Table 1.

[FN20]. HALT, a nonprofit legal research organization of Americans for Legal Reform Today, argues that a floor of \$20,000 "is more keeping with modern economics and values. It also argues that raising the floor [to \$20,000] is the only way to get lawyers out of the equation." *Closing Arguments*, *supra* note 7.

[FN21]. Jill Schachner Chanen, [Pumping Up Small Claims: Reformers Seek \\$20,000 Court Limits-With No Lawyers](#), 84 A.B.A. J. 18 (December 1998).

There have been various movements to raise the limit of small claims court in California as well as in all states in the United States. For example, in 1990, HALT-Organization of Americans for Legal Reform sought to raise to \$20,000 the limits for all small claims court in the country. See Cathy Lesser Mansfield, *American Style Justice in No Mans Land*, 29 N.M. L. Rev. 119, 140 (1999); see also Peter Allen, *Small Claims, Larger Awards: Reformers Seek a \$10,000 Limit for Small Claims Suits*, 8 Cal. Law. 22 (1988); see also Not So Small Anymore: Small Claims Cases Get Bigger and More Complex, 19 Cal. Law. at 22 (1999) [hereinafter Not So Small Anymore]. ("Still, many small claims judges favor raising the jurisdictional limit if only to more adequately cover the damage presented for a host of mundane disputes--from minor traffic accidents to home improvements--than can easily reach \$1,000 these days."); Editorial, *Trivial Small Claims Court*, Wash. Post June 2, 2002 at B8,

In 2001 the Maryland General Assembly unanimously passed legislation raising the state's small claims jurisdictional ceiling from \$2,500 to \$5,000. [Governor] Glendening not only vetoed this legislation but brazenly noted in his veto message that the veto came at the request of the Maryland Trial Lawyers Association, one of his biggest campaign contributors.

Edward Felsenthal, *Expansion of Small Claims Court Arena Debated*, Wall Street J., December 16, 1992, at 16.

[FN22]. See Chanen, *supra* note 21 at 18.

[FN23]. *Id.*

[FN24]. See Robert M. Kunstadt, *Half-hour trials, as on TV*, Nat'l L. J., March 13, 2000, at A22.

[FN25]. See Findlaw, *State Index*, *supra* note 18.

[FN26]. See Paul H. Zuckerberg, *Superior Swamp New Chief Judge Should Drain Morass of Antiquated Rules at D.C.'s Trial Court*, Legal Times, November 27, 2000, at 51.

[FN27]. *Id.*

[FN28]. The descriptive statistics provided at the bottom excludes the state of Delaware, which sets no limit for the Small Claims Court.

[FN29]. See 15 Cal. Jur. Courts § 70 (1983). In 1921, the California Legislature "created a small claims court, which is in fact a part of the jurisdiction of justices of the peace." *Id.*

[FN29]. See Arthur Best et al., [Peace, Wealth, Happiness, and Small Claims Courts: A Case Study](#), 21 Fordham Urb. L.J. 343, 343 (1994) ("Proponents of the establishment of small claims courts in the early 1900's and modern theorists of the alternative dispute resolution movement have all believed that a society ought to have accessible and effective mechanisms for asserting legal rights.")

[FN30]. See [Cal. Civ. Proc. Code § 116.210](#) (West 2002). In each county where no municipal court exists, the small claims division is located in the superior court. See *id.* The Legislative history behind the Small Claims Act is found at [Cal. Civ. Proc. Code § 116.120](#) (West 2002). It reads, in pertinent part,

The [California] Legislature hereby finds and declares as follows: (a) Individual minor civil disputes are of special importance to the parties and of significant social and economic consequence collectively; (b) In order to resolve minor civil disputes expeditiously, inexpensively, and fairly, it is essential to provide a judicial forum accessible to all parties directly involved in resolving these disputes; (c) The small claims divisions have been established to provide a forum to resolve minor civil disputes, and for that reason constitute a fundamental

element in the administration of justice and the protection of the rights and property of individuals; (d) The small claims divisions, the provisions of this chapter and the rules of the Judicial Council regarding small claims actions shall operate to ensure that the convenience of parties and witnesses who are individuals shall prevail, to the extent possible, over the convenience of any other parties or witnesses.

[Cal. Civ. Proc. Code § 116.120.](#)

[FN31]. [San Francisco v. Small Claims Division \(San Mateo\), 190 Cal. Rptr. 340 \(Ct. App. 1983\)](#); see also [Hughes v. Municipal Court, 218, 252 P. 575, 578 \(Cal. 1926\)](#) ("The small claims court was created primarily to avoid wasteful litigation and to reduce to a minimum costs of trial in cases where the demands are small."); [Pace v. Hillcrest Motor Co., 161 Cal. Rptr. 662, 664 \(Ct. App. 1980\)](#)

A small claims process was established to provide an inexpensive and expeditious means to settle disputes over small amounts. The theory behind its organization was that ordinary litigation "fails to bring practical justice" when the disputed claim is small, because the time and expense required by the ordinary litigation process is so disproportionate to the amount involved that it discourages legal resolution of the dispute.

[FN32]. Nori Anne Walla, *The Small Claims Court for Temporary Judges*, Publication of the Los Angeles County Superior Court, May 2000, at p. 2.

[FN33]. "The People's Court" had no authority at law to operate and issue binding decisions. Each party contractually submitted to the "jurisdiction" of the television program, which took on the character of a binding arbitration. Judge Joseph Wapner was a retired Los Angeles County Superior Court Judge who served as the television show's star and sole arbitrator. Unlike actual small claims court cases, no enforcement of any judgment is necessary. Monetary awards are paid from a fund maintained by the Producers. Real litigants have real risks and real expenses. Thanks to television, these contestants enjoy the possibility of a payoff with little or no risk of loss. Out of town contestants may even receive the additional benefit of an expense-paid trip to Los Angeles, Chicago, or New York. See Michael M. Epstein, [Judging Judy, Mablean and Mills: How Courtroom Programs Use Law to Parade Private Lives to Mass Audiences](#), 8 *UCLA Ent. L. Rev.* 129, 138 (Summer 2001).

[FN34]. See *id.*

[FN35]. See *id.*

[FN36]. Thom Weidlich, *A Cynical Age Sees Few Heroes in Its Lawyers*, *Nat'l L.J.*, Nov. 29, 1993, at S26.

[FN37]. Lisa Scottoline, *Law and Popular Culture: Get off the Screen* 24 *Nova L. Rev.* 655, 657 (2000).

[FN38]. See *id.*

[FN39]. See Epstein, *supra* note 33, at 138. Such reality courtroom shows are extremely popular. Like its primetime reality counterparts, judge programs are extremely cheap to produce. With the exception of a celebrity judge (Judy is reputed to earn over \$100,000 a week), the shows do not require highly paid staff such as writers and actors. The result is a much higher profit margin than a scripted program with special effects, actors or animation. But economics is not the main reason for the genre's recent surge. In a culture that places great value on voyeurism and sports, shows that present litigation as entertainment have dual appeal. Like MTV's *Real World* or CBS's *Big Brother*, judge shows purport to offer viewers a window into the private, often turbulent lives of ordinary people. At the same time, the programs play like sporting events: an unrehearsed competition between litigants refereed and ultimately decided

before the closing credits by the judge.

[FN40]. William M. O'Barr & John M. Conley, [Lay Expectations of the Civil Justice System](#), 22 *Law & Soc'y Rev.* 137, 152 n.11 (1988).

[FN41]. Kimberlianne Podlas, [Please Adjust Your Signal: How Television's Syndicated Courtrooms Bias Our Juror Citizenry](#). 39 *Am. Bus. L.J.* 1, 21 (2001).

[FN42]. *Id.*

[FN43]. See *id.* at 7. (Judge Judy overrules daytime chat and tops the Nielsen race for all syndicated shows.)

[FN44]. David B. Rottman, Does Effective Therapeutic Jurisprudence Require Specialized Court and do Specialized Courts Imply Specialist Judges? 37 *Ct. Rev.* 22, 27 (Spring 2000).

[FN45]. 15 *Cal. Jur.* § 70 (2002).

[FN46]. *Id.*

[FN47]. See *id.*

[FN48]. See *id.*

[FN49]. See *id.*

[FN50]. See *id.*

[FN51]. See *id.*

[FN52]. 1990 *Cal. Stat.* 1305.

[FN53]. [Acuna v. Gunderson](#), 24 *Cal. Rptr. 2d* 62 (Ct. App. 1993). In *Acuna*, plaintiff filed a small claims action against the defendant for breach of contract for \$5,000. The small claims court entered judgment for \$3,500. The defendant appealed. Soon thereafter, the defendant initiated a new and different action in superior court seeking rescission of the contract at issue in the small claims matter. The defendant requested the entire matter transferred from small claims court to superior court, even though judgment had already been entered in small claims court. The superior court denied *Acuna's* motion.

Against this background, we turn to the propriety of the superior court's denial of the defendant's request for transfer and consolidation of this small claims matter with another matter pending in the superior court. If the request had been granted, several of the statutory limitations would have been violated including the prohibitions against pretrial discovery, jury trial and a plaintiff's appeal. Such an order would also have violated the requirement that the matter be transferred back to small claims court upon termination of the appellate proceedings. Most importantly, the effect of an order granting consolidation would have been to thrust this action into the morass of superior court litigation, with its attendant delays and complexities, in direct contravention of the Legislature's intent that small claims cases be resolved expeditiously and inexpensively.

Additionally, allowing such transfer and consolidation would create a risk of impermissible forum shopping by a plaintiff dissatisfied with the result obtained in the small claims court. We note, in this regard, that the only circumstances under which a small claims case may be transferred to another court are set forth in [Code of Civil Procedure section 116.390](#) as follows: "If a defendant has a claim against a plaintiff that exceeds the jurisdictional limits [of small claims court] ... and the claim relates to the contract, transaction, matter, or event which is the subject of the plaintiff's claim, the defendant may commence an action against the plaintiff in a court of

competent jurisdiction and request the small claims court to transfer the small claims action to that court." The defendant's request must be filed "at or before the time set for the hearing of [the small claims] action" (see [Cal. Civ. Proc. Code § 116.390\(b\)](#)[West 2002]), but the transfer shall not be made "until after a judgment is rendered unless the ends of justice would be served." (see [Cal. Code Civ. Proc. § 116.390\(c\)](#)[West 2002]). This grant to a small claims defendant of the right to request transfer, and the absence of any similar provision for a small claims plaintiff, demonstrates that the Legislature did not intend the plaintiff to have such a privilege. For all of these reasons the trial court would have acted in excess of its jurisdiction if it had granted [defendant's] request for transfer and consolidation. [Acuna, 24 Cal. Rptr. 2d at 65](#); see also [Houghtaling v. Superior Court, 21 Cal. Rptr. 2d 855, 859 \(Ct. App. 1993\)](#) ("It is repeatedly stated that small claims courts are designed for the unsophisticated petty litigant.")

[FN54]. See [Cal. Civ. Proc. Code § 116.220\(a\)](#) (West 2002).

[FN55]. See discussion supra part II. In 1997, California Governor Pete Wilson "caved in to the insurance industry and vetoed an increase to \$7,500." Ralph Warner, *Everybody's Guide to Small Claims Court in California* 1 (13th ed. 2000).

[FN56]. See Warner, supra note 55 at 1.

[FN57]. Not So Small Anymore, supra note 21 at 22.

[FN58]. See Juli E. Farris & Andrew D. Freeman, [Grassroots Impact Litigation: Mass Filing of Small Claims, 26 U.S.F. L. Rev. 261, 280 \(1992\)](#). For further discussion of the types of cases typically filed in and processed through this system, see infra Section VII.B.

[FN59]. See, e.g., Not So Small Anymore, supra note 21 at 22. Five thousand dollars is all that a plaintiff can hope to get when taking a case to small claims court. But to avoid the hassles of traditional litigation--not to mention the expense--a growing number of litigants are willing to settle for that meager a sum, even when their claim damages are worth three times as much.

[FN60]. See [Cal. Civ. Proc. Code § 116.320](#) (West 2002).

[FN61]. See id.

It is not uncommon to see a complaint on a one-page form that says nothing more than "I took my TV to the defendant to fix it and paid him for it. It still doesn't work, and I want my money back." That may be the sum and substance of the case. Douthit, supra note 11 at 27.

[FN62]. [Cal. Civ. Proc. Code § 116.220\(b\)](#) (West 2002).

[FN63]. See [Cal. Civ. Proc. Code § 116.370\(a\)](#) (West 2002).

[FN64]. See [Cal. Civ. Proc. Code § 116.370\(b\)](#).

[FN65]. Id.

[FN66]. See [§ 116.370\(c\)\(1\)](#).

[FN67]. See [§ 116.370\(c\)\(2\)](#).

[FN68]. See id.

[FN69]. See [Anderson v. Superior Court, 226 Cal. App. 3d 698 \(Ct. App. 1990\)](#).

Upon the commencement of a small claims action by a plaintiff, the defendant may file a claim in the same proceeding but need not do so to preserve the claim. Stated otherwise, there is no such thing as a mandatory cross-claim in small claims court. If the defendant does file a claim in the same proceeding, the parties' rights to appeal are equal: The defendant with respect to the plaintiff's claim, or the plaintiff with respect to a claim of defendant, may appeal the judgment to the superior court.

[FN70]. See [Cal. Civ. Proc. Code § 116.510](#) (West 2002). ("The hearing and disposition of the small claims action shall be informal, the object being to dispense justice promptly, fairly, and inexpensively.")

[FN71]. See [Cal. Civ. Proc. Code § 116.530](#) (West 2002). However, an attorney may represent himself or herself in small claims court. Additionally, an attorney may appear for a partnership if the action is "by or against a partnership in which he or she is a general partner and in which all the partners are attorneys" and may appear for a professional corporation "of which he or she is an officer or director and of which all other officers and directors are attorneys." *Id.* Attorneys are permitted to advise litigants outside of court.

[FN72]. See *id.*

[FN73]. [Cal. Civ. Proc. Code § 116.520](#) (West 2002).

[FN74]. *Id.* The hearsay rule does not apply in small claims court. See generally [Houghtaling v. Superior Court, 21 Cal. Rptr. 2d 855 \(Ct. App. 1993\)](#). According to [Cal. Evid. Code § 300](#) (West 2002), "Except as otherwise provided by statute, this code applies in every action before the Supreme Court or a court of appeal, superior court, or municipal court, including proceedings in such actions conducted by a referee, court commissioner, or similar officer, but does not apply in grand jury proceedings." However, Cal. Civ. Proc. Code § 520(c) (West 2002) provides that a small claims court judge may make informal investigation either in or out of court seems to supercede this Evidence Code section.

[FN75]. See [Cal. Civ. Proc. Code § 116.540](#) (West 2002).

[FN76]. See *id.* However, a corporation may not hire or appoint an individual who is not regularly employed or already an officer or director of the corporation if the sole reason for doing so is to represent the corporation at the small claims court hearing.

[FN77]. See *id.*

A party who is an owner of rental real property may appear and participate in a small claims action through a property agent under contract with the owner to manage the rental of that property, if (1) the owner has retained the property agent principally to manage the rental of that property and not principally to represent the owner in small claims court, and (2) the claim relates to the rental property.

[FN78]. [Cal. Civ. Proc. Code § 116.710](#) (West 2002). ("The defendant with respect to the plaintiff's claim, and a plaintiff with respect to a claim of the defendant, may appeal the judgment to the superior court in the county in which the action was heard.") A plaintiff or defendant who failed to appear in small claims court may file a motion to vacate the judgment.

[FN79]. *Id.*

[FN80]. See *id.*

[FN81]. See [Cal. Civ. Proc. Code § 116.480](#) (West 2002). ("The judgment of the superior court

after a hearing on appeal is final and not appealable."); see [Eloby v. Superior Court, 144 Cal. Rptr. 597 \(Ct. App. 1978\)](#).

The legislative purpose in using the word 'final' in [Code Civ. Proc., § 118.1](#), providing that the judgment of the superior court in a small claims action shall be final and not appealable, was to preclude not only further appeal but also motions for new trial and motions to vacate the judgment. Thus, the superior court did not err in refusing to entertain, on the grounds that it lacked jurisdiction by reason of the provisions of [§ 118.1](#), plaintiff's motion for a new trial after judgment on appeal in plaintiff's small claims action. To grant such a motion would also have defeated the purpose of the small claims law, which is to make quick, speedy and inexpensive settlement of small disputes.

[Cal. Civ. Proc. Code § 116.780](#) Notes of Decisions (Deering 2002).

[FN82]. See [Davis v. Superior Court, 162 Cal. Rptr. 167 \(Ct. App. 1980\)](#).

Since statewide precedents can only be created by appellate courts, jurisdiction to decide appropriate small claims court issues must be retained by appellate courts in order to secure uniformity in the operation of the small claims courts and uniform interpretation of the statutes governing them. The Legislature did not intend to make all actions of the superior courts in such cases totally unreviewable or reviewable only on certification.

[Cal. Civ. Proc. Code § 116.780](#) Notes of Decisions (Deering 2002). Moreover, in some situations, the court may have to reexamine a "final" small claims court judgment. "We assume without deciding that the judge could entertain a motion to vacate or reconsider the judgment based not on mere error but on the fundamental questions of fraud upon the court or the court's action in excess of its jurisdiction." [Era-Trotter Girouard Assoc. v. Superior Court, 58 Cal. Rptr. 2d 381, 384 \(Ct. App. 1996\)](#).

[FN83]. California originally authorized the use of judges pro tempore in 1910. See [Graziani v. Denny, 162 P. 397 \(Cal. 1917\)](#).

[FN84]. One of the first instances of a court assignment of tedious and mundane work occurred in the United States Supreme Court in 1909. In the [matter of United States v. Shipp, 214 U.S. 386 \(1909\)](#), Hamilton County, Tennessee Sheriff John Shipp ignored a stay of execution order of the United States Supreme Court by allowing a prisoner to be taken from the county jail by an unruly mob and lynched. For the first time in the history of the Supreme Court, it issued a contempt order and sought a contempt trial before it. Because the Supreme Court is not a trial court and therefore not equipped to take live testimony, it remanded the evidence gathering function to a commissioner appointed by the court. Once the commissioner created the record, the justices of the Court reviewed the record and issued the decision on the contempt of court issue. See Mark Curriden & LeRoy Phillips, Jr., *Contempt of Court: The turn-of-the-Century Lynching that Launched a Hundred Years of Federalism* 29 (1999). This started a trend in American jurisprudence of permitting judges to delegate such tasks out to non-appointed bench officers.

[FN85]. See Cal. Court 1726(b) (West 2002):

The training program shall cover judicial ethics, substantive law, small claims procedures (including the wording of judgments), and the conduct of small claims hearings. Judicial ethics and the conduct of small claims hearings should be taught by a judge, if possible; substantive law and procedure shall be taught by any bench officer or other person experienced in small claims law and procedure. Substantive areas of law are intended to include the following: consumer sales; vehicular sales, leasing and repairs; credit and financing transactions; professional and occupational licensing; landlord-tenant law; contract, warranty tort, and negotiable instruments law; and other subject areas deemed appropriate by the presiding judge, given local needs and conditions.

[FN86]. See Cal. Court 1726(a) (West 2002); see also [Cal. Const. art. VI, § 21](#).

[FN87]. "With the consent of the parties who appear at the [small claims court] hearing, the court may order a case to be heard by a temporary judge who is a member of the State Bar, and who has been sworn and empowered to act until final determination of the case." [Cal. Civ. Proc. Code § 116.240 \(West 1982 & Supp. 2000\)](#); see also [Cal. Const. art. VI, § 21](#).

[FN88]. See Kimberly Edds, Superior Court Honors Temporary Judges for Service, Metropolitan News (Los Angeles), June 6, 2002, at 3.

[FN89]. See *id.*

In order to qualify to become a temporary judge, an attorney must have been a member of the State Bar for at least five years and attend a two-part training session, beginning with the three-hour 'Fairness in the Courts,' which gives attorneys a crash course in ethical issues, demeanor, accessibility and fairness." "After completing the introductory class, temporary judges are given an hour-and-15-minute briefing on the specific area of law where they will be assigned. Temporary judges are used to handle matters in small claims, traffic infractions, unlawful detainers, and civil non-jury trials.

[FN90]. See Farris & Freeman, *supra* note 58 at 261.

[FN91]. [190 Cal. Rptr. 340 \(Ct. App. 1983\)](#).

[FN92]. See [id. at 342](#). At the time this action occurred, the small claims court jurisdictional limit was \$750.

[FN93]. See *id.*

[FN94]. See *id.*

[FN95]. See *id.*

[FN96]. *Id.*

[FN97]. *Id.* at 343.

[FN98]. *Id.*

[FN99]. *Id.* at 344.

[FN100]. *Id.*

[FN101]. See Julio Cano, Neighbors of Filthy Home Win New Damages, L.A. Times, November 25, 1997, at B4.

[FN102]. See *id.*

[FN103]. See *id.*

[FN104]. See *id.*

[FN105]. See *id.*

[FN106]. See *id.*

[FN107]. See *id.*

[FN108]. See *id.*

[FN109]. See H.G. Reza, *Filthy House to be Auctioned*, L.A. Times, June 15, 1999, at B2.

[FN110]. See *id.*

[FN111]. A Los Angeles city councilman called for citizens to use the small claims court system to chase away drug infested homes on similar nuisance theories. "A city councilman yesterday asked his colleagues to support a program to encourage neighbors to sue house and apartment owners in small claims court to force them to kick out drug dealers and gang members." The councilman proposed a formal program that "trains residents how to document neighborhood nuisance activity, notify property owners of their complaints, and if the nuisance does not cease sue them in small claims court." *Wachs Urges Council to Back Small Claims Suits Against Landlords*, Metropolitan News (Los Angeles), May 1, 1997, at Section 9. In another case, a retired Alameda County, California, small claims court judge, joined by 22 of his Berkeley neighbors, sued an owner of a neighborhood property "that has been a haven for the homeless and a graffiti canvas for years." Each of the neighbors filed \$5,000 claims, seeking a total of over \$100,000 in damages. See Judge, *Neighbors Unite to Fight Neighborhood Blight*, The Recorder, October 5, 2001, at 6; see also Diane Keaton, *Dealing with Drugs: Neighbors Fight Crack by Taking Their Complaints to Small Claims Court*, 9 Cal. Law. 33 (1989).

[FN112]. Our study revealed approximately 5,000 claims in Ventura County, California alone. Ventura is the twelfth largest county in California. See *infra* Section VII.

[FN113]. [161 Cal. Rptr. 662 \(Ct. App. 1980\)](#).

[FN114]. See [id. at 663](#).

[FN115]. See *id.*

[FN116]. See *id.*

[FN117]. *Id.* (Citations omitted).

[FN118]. *Id.*

[FN119]. *Id.*

[FN120]. See [Cooper v. Perelli Cable, 206 Cal. Rptr. 581, 583 \(Ct. App. 1984\)](#). ("Under Pace, a small claims plaintiff who lost on a small claim would be immunized from a subsequent action for malicious prosecution," even if the case advanced to the appellate stages.); see also David Hazelkorn, *Comment, Malicious Prosecution in Small Claims Court: Why is This Tort Different From all Other Torts?* 23 W. St. U. L. Rev. 457 (1996).

[FN121]. The population of Ventura County is 742,000, ranking it 12th in California. The median family income is \$61,944 (1999) and 63.8% of Ventura County households' income exceed \$35,000 per year. See County of Ventura, *Visitor Center*, available at <http://www.countyofventura.org/visitor/visitor.asp> (last visited February 10, 2003).

[FN122]. It appeared to the authors that all of the cases we collected had reached some form of resolution, either satisfaction of judgment, settlement, or abandonment by August 2002. However, since there is no requirement that litigants report the status of the final outcome to the court, we are unable to conclusively determine the final outcomes for each of the cases studied.

[FN123]. See [Cal. Civ. Proc. Code § 116.220](#) (West 2002); see also discussion *supra* notes 3 & 4.

[FN124]. Most of these cases involved defaults on personal or commercial loans.

[FN125]. Any person who passes a check for insufficient funds becomes liable for the face amount of the check plus statutory penalties. See [Cal. Civ. Code § 1719](#) (West 2002).

[FN126]. Ventura County Superior Court Case No. MS 159468 (2000).

[FN127]. See id.

[FN128]. See id.

[FN129]. See Ventura County Superior Court Case No. MS 159853 (2000).

[FN130]. See id.

[FN131]. See id. The court must have erred. It cannot enter judgment for an amount higher than prayed for in the complaint, even though it may be within the court's subject matter jurisdiction.

[FN132]. See id.

[FN133]. See [Cal. Civ. Proc. Code § 116.230](#) (West 2002):

(a) A fee of twenty dollars (\$ 20) shall be charged and collected for the filing of a claim if the number of claims previously filed by the party in each court within the previous 12 months is 12 or less; and a fee of thirty-five dollars (\$ 35) shall be collected for the filing of any additional claims.

[FN134]. See, e.g., Raul V. Esquivel, III, Comment, *The Ability of the Indigent to Access the Legal Process in Family Law Matters*, 1 Loy. J. Pub. Int. L. 79 (2000); Julia A. Scarpino, Comment, [Mandatory Arbitration of Consumer Disputes: A Proposal to Ease the Financial Burden of Low-Income Consumers](#), 10 Am. U. J. Gender Soc. Pol'y & L. 679 (2002); Sundeep Kothari, Comment, *And Justice For All: The Role Equal Protection and Due Process Principles Have Played in Providing Indigents with Meaningful Access to the Courts*, 72 Tul. L. Rev. 2159 (1998); Justin D. Cummins, *Improving Access to Justice: Housing Matters, Why Our Communities Must Have Affordable Housing*, 28 Wm. Mitchell L. Rev. 197 (2001).

[FN135]. Cal. Court 985. This section provides, in pertinent part:

Rule 985. Permission to proceed without paying court fees and costs (in forma pauperis)

(a). An application to proceed in forma pauperis shall be made on Judicial Council form 982(a)(17). An application for waiver of additional court fees and costs under subdivision (j) shall be made on form 982(a)(20). The clerk shall provide the form without charge to any person who requests it or indicates that he or she is unable to pay any court fee or cost. No applicant shall be required to complete any form as part of his or her application under this rule other than forms adopted by the Judicial Council, except as authorized by subdivision (e)(1) of [Government Code section 68511.3](#). Upon the receipt of an application, the clerk shall immediately file the application and any pleading or other paper presented by the applicant. (Subd (a) as amended effective January 1, 1983; previously amended effective July 1, 1982.) (Subd (a) as amended effective January 1, 2001.)

[FN136]. Esquivel, III, *supra* note 134, at 79.

[FN137]. See Bruce Zucker, [California Pretrial Rent Deposit Pilot Project: A Legal and Empirical Analysis of the System in Action in the Los Angeles Municipal Court \(Central Division\)](#), 35 Cal. W. L. Rev. 159, 184-85 (1998).

[FN138]. See Ventura County Superior Court Case Numbers MS 158820; MS 159468; MS 159493; MS 159658; MS 159910; MS 160805.

[FN139]. See Villanueva v. Ostrom, Ventura County Superior Court Case No. MS 158820 (2000).

[FN140]. See id.

[FN141]. See Gilmore v. Parong, Ventura County Superior Court Case No. MS 159493 (2000).

[FN142]. See id. Both the California courts and the Department of Industrial Relations, Division of Labor Standards Enforcement have concurrent jurisdiction to enforce violations of the California wage and hour laws. See, e.g., [Cal. Lab. Code § 210](#) (West 2002).

[FN143]. See Jona Goldschmidt, The Pro Se Litigant's Struggle for Access to Justice: Meeting the Challenge of Bench and Bar Resistance, 40 Fam. Ct. Rev. 36, 42 (2002):
The establishment in the Progressive Era of small claims court jurisdiction did much to alleviate the barrier of the high cost of litigation by eliminating the necessity of attorneys and applying relaxed rules of procedure and evidence. The public continues to benefit from small claims courts, although there is some evidence they are largely utilized by corporate creditors rather than individual litigants.

[FN144]. See [Cal. Civ. Proc. Code § 170.6](#) (West 2002). [Section 170.6](#) provides:

(1) No judge, court commissioner, or referee of any superior or municipal court of the State of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein that involves a contested issue of law or fact when it shall be established as hereinafter provided that the judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in the action or proceeding. (2) Any party to or any attorney appearing in any such action or proceeding may establish this prejudice by an oral or written motion without notice supported by affidavit or declaration under penalty of perjury or an oral statement under oath that the judge, court commissioner, or referee before whom the action or proceeding is pending or to whom it is assigned is prejudiced against any such party or attorney or the interest of the party or attorney so that the party or attorney cannot or believes that he or she cannot have a fair and impartial trial or hearing before the judge, court commissioner, or referee. Where the judge, other than a judge assigned to the case for all purposes, court commissioner, or referee assigned to or who is scheduled to try the cause or hear the matter is known at least 10 days before the date set for trial or hearing, the motion shall be made at least five days before that date. If directed to the trial of a cause where there is a master calendar, the motion shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial. If directed to the trial of a cause that has been assigned to a judge for all purposes, the motion shall be made to the assigned judge or to the presiding judge by a party within 10 days after notice of the all purpose assignment, or if the party has not yet appeared in the action, then within 10 days after the appearance. If the court in which the action is pending is authorized to have no more than one judge and the motion claims that the duly elected or appointed judge of that court is prejudiced, the motion shall be made before the expiration of 30 days from the date of the first appearance in the action of the party who is making the motion or whose attorney is making the motion. In no event shall any judge, court commissioner, or referee entertain the motion if it be made after the drawing of the name of the first juror, or if there be no jury, after the making of an opening statement by counsel for plaintiff, or if there is no such statement, then after swearing in the first witness or the giving of any evidence or after trial of the cause has otherwise commenced. If the motion is directed to a hearing (other than the trial of a cause), the motion shall be made not later than the commencement of the hearing. In the case of trials or hearings not herein specifically provided for, the procedure herein specified shall be followed as nearly as may be. The fact that a judge, court commissioner, or referee has presided at or acted in connection with a pretrial conference or other hearing, proceeding or motion prior to trial and not involving a determination

of contested fact issues relating to the merits shall not preclude the later making of the motion provided for herein at the time and in the manner hereinbefore provided.

[FN145]. According to our study, judges pro tempore heard 59.3% of cases, while court commissioners heard 38.1%. Judges only heard 2.6%.

[FN146]. See supra notes 18-27 and accompanying text.

[FN147]. See supra Table 1. According to Table 1, the mean limit in the United States is \$4,729.

[FN148]. See id. According to Table 1, the mode is \$5,000.

[FN149]. As noted above, such a difference is highly significant at the 1%. See supra note 145.

[FN150]. We selected four dates at random during the 2000 calendar year and counted the number of cases heard in Department 21 of the Ventura County Superior Court (Small Claims Division). The results were as follows: April 26, 2000, sixty-seven; August 15, 2000, twenty-five; November 22, 2000, fifty-two; February 22, 2000, forty-two. The average of these four calendars is forty-seven cases per day.

[FN151]. See [Cal. Civ. Proc. Code § 116.120](#) (West 2002).

[FN152]. [Ake v. Oklahoma, 470 U.S. 68, 77 \(1985\)](#).

END OF DOCUMENT