

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 71 (Umberg)
Version: January 9, 2023
Hearing Date: April 11, 2023
Fiscal: Yes
Urgency: No
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SUBJECT

Jurisdiction: small claims and limited civil case

DIGEST

This bill increases the amount in controversy limits for civil cases within the jurisdiction of the small claims court, as specified. The bill increases the limit on the amount in controversy for an action or special proceeding to be treated as a limited civil case.

EXECUTIVE SUMMARY

Civil matters in California courts are broken up into three separate tiers. The jurisdiction of each is largely determined by the amount in controversy in the underlying case. The lower tiers, small claims court and limited civil cases, provide for restricted discovery and representation rights. The goal of maintaining these lower tiers is to expeditiously, inexpensively, and fairly resolve more minor civil disputes.

The current jurisdictional limits have not been updated in decades. This has prompted calls to increase those limits to reap the benefits, efficiency and greater access to justice, from the lower tiers.

This bill increases the threshold for cases within the jurisdiction of the small claims court brought by a natural defendant from \$10,000 to \$25,000, as specified. The bill also raises the current limit for small claims court jurisdiction in other specified actions, as provided. The current jurisdictional limit for most limited civil cases is \$25,000. The bill raises that to \$100,000.

The bill is author-sponsored. It is supported by the California Association of Collectors. It is opposed by Legal Aid Society of San Diego, the Consumer Attorneys of California, and a number of business groups, including the California Chamber of Commerce.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes, through the Small Claims Act, small claims divisions in each superior court and establishes procedural guidelines for minor civil disputes in order to expeditiously, inexpensively, and fairly resolve such matters (Code Civ. Proc. § 116.110 et seq.)
- 2) Provides that small claims divisions have jurisdiction over specified cases, including for recovery of money, enforcement of delinquent tax payments, if the amount demanded does not exceed specified amounts ranging from \$2,500 to \$6,500. In addition to this jurisdiction, the small claims court has jurisdiction over actions brought by a natural person that do not seek more than \$10,000. (Code Civ. Proc. §§ 116.220, 116.221.)
- 3) Requires each county to make available individual assistance to advise small claims litigants and potential litigants without charge. (Code Civ. Proc. § 116.260.)
- 4) Provides that small claims actions do not require formal pleadings outside of a simplified claim form and do not permit pretrial discovery. Plaintiffs may not be represented by an attorney and have a limited right to appeal. The hearing and disposition must be informal with the object to dispense justice promptly, fairly, and inexpensively. (Code Civ. Proc. §§ 116.310-116.330, 116.510-116.530, 116.710.)
- 5) Provides that an action or special proceeding shall be treated as a limited civil case if all of the following conditions are satisfied, and, notwithstanding any statute that classifies an action or special proceeding as a limited civil case, an action or special proceeding shall not be treated as a limited civil case unless all of the following conditions are satisfied:
 - a) the amount in controversy does not exceed \$25,000. As used herein, “amount in controversy” means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys’ fees, interest, and costs;
 - b) the relief sought is a type that may be granted in a limited civil case; and
 - c) the relief sought, whether in the complaint, a cross-complaint, or otherwise, is exclusively of a type described in one or more statutes that classify an action or special proceeding as a limited civil case or that provide that an action or special proceeding is within the original jurisdiction of the court, including 22 specified provisions. (Code Civ. Proc. § 85.)

- 6) Designates a series of specific civil cases that are to be deemed limited civil cases, including actions for dissolution of partnerships, cancellation of contracts, and enforcement of liens, where the amount in controversy is no more than \$25,000. Additional cases in equity are also identified. (Code Civ. Proc. § 86.)
- 7) Provides that a civil action or proceeding other than a limited civil case may be referred to as an unlimited civil case. (Code Civ. Proc. § 88.)
- 8) Provides that the existence of a statute relating to the authority of the court in a limited civil case does not, by itself, imply that the same authority does or does not exist in an unlimited civil case. The existence of a statute relating to the authority of the court in an unlimited civil case does not, by itself, imply that the same authority does or does not exist in a limited civil case. (Code Civ. Proc. § 89.)
- 9) Provides that any action may, upon noticed motion, be withdrawn from the provisions governing limited civil cases, upon a showing that it is impractical to prosecute or defend the action within the limitations applied thereto. (Code Civ. Proc. § 91(c).)
- 10) Provides that in limited civil cases the pleadings allowed are complaints, answers, cross-complaints, answers to cross-complaints and general demurrers. Special demurrers are not allowed, and motions to strike are only allowed on the ground that the damages or relief sought are not supported by the allegations of the complaint. (Code Civ. Proc. § 92.) A plaintiff may serve, and a defendant must then also complete, case questionnaires to elicit fundamental information regarding each party's case. (Code Civ. Proc. § 93.)
- 11) Imposes limits on discovery in limited civil cases. Parties may only use a combination of 35 of interrogatories (with no subparts), demands for document production, and requests for admission (without subparts). They are limited to one oral or written deposition. (Code Civ. Proc. § 94.) The court may, on noticed motion and subject to such terms and conditions as are just, authorize a party to conduct additional discovery, but only upon a showing that the moving party will be unable to prosecute or defend the action effectively without the additional discovery. In making a determination of whether such additional discovery is warranted, the court shall take into account whether the moving party has used all applicable discovery in good faith, and whether the party has attempted to secure the additional discovery by stipulation or by means other than formal discovery. The parties may also stipulate to additional discovery. (Code Civ. Proc. § 95.)
- 12) Provides that a judgment or final order, in respect to the matter directly adjudged, is conclusive between the parties and their successors in interest in a limited civil case, but does not operate as collateral estoppel of a party or a successor in interest to a party in other litigation with a person who was not a party or a successor in interest

to a party to the action in which the judgment or order is rendered. Any party may appeal any judgment or final order in such cases in accordance with the law governing appeals. (Code Civ. Proc. §§ 99-100.)

- 13) Provides that limited civil cases shall be conducted as mandatory expedited jury trials unless a party opts out where one of specified criteria is met. (Code Civ. Proc. § 630.20.)
- 14) Mandates that costs or any portion of claimed costs are to be as determined by the court in its discretion in a case other than a limited civil case in accordance with Section 1034 where the prevailing party recovers a judgment that could have been rendered in a limited civil case. (Code Civ. Proc. § 1033(a).)

This bill:

- 1) Increases the jurisdiction of the small claims court over actions brought by a natural person to \$25,000, as provided. It also raises the jurisdictional limit in other cases currently under the small claims court jurisdiction, as specified.
- 2) Increases the threshold for the amount in controversy in actions or proceedings to be treated as limited civil cases to \$100,000.

COMMENTS

1. Tiering of civil cases in California

In California, civil cases are divided into three separate categories roughly depending on the amount of money in controversy. Generally, cases that involve a demand of \$5,000 or less, or \$10,000 or less for natural persons, are adjudicated in small claims courts. Each county is mandated to establish such small claims divisions and to provide individual assistance to advise small claims litigants and potential litigants without charge. These cases are extremely informal, attorneys are generally not permitted to take part, and plaintiffs have a limited right to appeal. The object of such procedures is to dispense justice promptly, fairly, and inexpensively.

Limited civil cases are the next tier beyond small claims matters. The jurisdictional limit for such cases is \$25,000. Such cases have limitations on the pleadings allowed and provide for case questionnaires to be served to facilitate the exchange of fundamental information regarding each party's case. Discovery is carefully restricted in such cases, with parties only being authorized to serve a combination of 35 interrogatories (with no subparts), demands for document production, and requests for admission (without subparts). The parties are also limited to one oral or written deposition. Additional discovery may be conducted by stipulation of the parties or by authorization of the

court, but only upon a showing that the moving party will be unable to prosecute or defend the action effectively without the additional discovery. Certain limited civil cases must be conducted as expedited jury trials unless a party opts out where certain criteria are met. Expedited jury trials have smaller juries and more limited peremptory challenges. The rules of evidence and all statutes and rules governing costs and attorney's fees apply. However, the parties may agree to modify the rules and procedures and the implementing rules of court, subject to the court's approval.

Unlimited civil cases are the remainder of cases. Generally, these include cases where more than \$25,000 is demanded or in cases involving other types of claims, such as certain title disputes or cases involving civil restraining orders.

2. Stated need for the bill

According to the author:

SB 71 will increase the small claims court's amount in controversy limit from \$10,000 to \$25,000 and the amount for limited civil cases from \$25,000 to \$100,000. These courts of limited jurisdiction provide an accessible forum to resolve minor civil disputes. They are less formal and more affordable to parties than trials in other courts because they don't require a lengthy discovery, selection of witnesses, or even an attorney. All of these procedures can be major barriers to filing and are not always necessary.

The small claims jurisdictional limit has been changed 12 times since 1921, with increases made almost every decade. These types of raises are common to keep up with inflation. Recently, inflation has increased dramatically, with the Labor Department recently reporting that the consumer price index was at a 40-year high in June of 2022. However, the limit has not been increased since 2011 when it was increased to \$7,500 to \$10,000 in 2011. Therefore, the current money threshold for both small claims court and limited civil cases should be updated to recognize the effects of inflation for those wanting to use the judicial system to resolve minor disputes.

3. Expansion of jurisdictional limits

a. *Limited civil cases*

In 2017, the Commission on the Future of California's Court System issued their final report to the Chief Justice. The task placed upon the Commission was to identify practical ways to more efficiently adjudicate cases, achieve greater fiscal stability for the branch, and use technology to enhance the public's access to courts. The Futures

Commission found that litigation costs are outpacing the value of cases, causing fewer and fewer cases to be resolved on the merits. Studies show that rising litigation costs are primarily due to the longer length of time it takes to process cases through the system and the cost of discovery. This undermines the public's access to justice. The public and courts benefit when courts implement changes to decrease litigation costs and streamline processes.

One of the proposed changes was to increase the limited civil case tier to \$50,000. According to the Commission:

The Futures Commission's focus on changing the limited case jurisdictional limit takes into account the changes in the value of the dollar since jurisdictional amounts were last increased in 1986. If more cases come within the ambit of the existing economic litigation procedures, the cost of litigation could be reduced and public access increased.

Changing the jurisdictional limit can also result in efficiencies for the courts. Because more cases would be subject to these provisions, in-person case management conferences would not be required . . . and expedited jury trial rules will apply, resulting in smaller juries and less time for jury selection and deliberation.¹

In response to the Commission's report, the Chief Justice of the California Supreme Court directed the Judicial Council's Civil and Small Claims Advisory Committee to develop legislative proposals to implement the recommendations, including an increase of the limited civil case threshold. The committee put out a proposal that would increase the cap and include unlawful detainer cases and received feedback from numerous commentators, many of whom shared negative feedback. The committee decided not to proceed with the proposal.

SB 1012 (Hertzberg, Ch. 786, Stats. 2018) would have raised the jurisdictional limit on limited civil cases from \$25,000 to \$50,000.² This bill raises the jurisdictional threshold for limited civil cases to \$100,000.

As stated, the current jurisdictional amount of \$25,000 was set in 1986. With inflation, that amount would be worth more than double today. Expanding the scope of limited civil cases extends the judicial efficiencies and cost savings of the applicable procedures and restrictions to a wider cross-section of cases. However, some concerns have been raised about unintended consequences. Section 1033(a) of the Code of Civil Procedure provides that costs or any portion of claimed costs shall be as determined by the court

¹ Commission on the Future of California's Court System, *Report to the Chief Justice* (Apr. 26, 2017), available at <http://www.courts.ca.gov/documents/futures-commission-final-report.pdf>.

² This bill was later gutted and amended into a bill dealing with homeless multidisciplinary teams.

in its discretion in a case other than a limited civil case in accordance with Section 1034 where the prevailing party recovers a judgment that could have been rendered in a limited civil case. Essentially, where a prevailing plaintiff does not recover damages above the \$25,000 limit in an unlimited civil case, the court may refuse to award attorneys' fees and costs to that party. While this generally makes sense to encourage cases to be brought in the more streamlined limited civil case track when potential recovery is low, it can be problematic in certain contexts.

For instance, in cases brought under the Fair Employment and Housing Act, such as sexual harassment or racial discrimination cases, plaintiffs generally need the benefit of the expanded discovery provided by the unlimited civil case track, regardless of the amount in controversy. This is especially true for claims involving lower-wage workers, where cases are no easier to prove, but where the ultimate payout is often not going to meet the jurisdictional limit set for unlimited civil cases.

By raising the jurisdictional limit to \$100,000, this bill could inadvertently further disincentivize attorneys from taking meritorious cases, for fear of being denied fees and costs at the end of protracted litigation if the ultimate recovery by a prevailing plaintiff falls below \$100,000.

b. Small claims court

This bill similarly raises the amount in controversy threshold for cases falling within the jurisdiction of the small claims court. As stated, generally, cases that involve a demand of \$5,000 or less, or \$10,000 or less for natural persons, are adjudicated in small claims courts. There exists a narrower group of specified case types with varying limits.

This bill raises those limits. In most cases the limit rises to \$10,000 or less, and for claims brought by natural persons, to \$25,000.

The Commission's report detailed above also considered raising these limits, but ultimately decided otherwise:

The Futures Commission considered recommending an increase in the jurisdictional limit for small claims cases, but ultimately declines to do so based on comments received and input from Judicial Council advisory committees. If cases of higher value were subject to the informal and expedited procedures of small claims court, the right to jury trial and representation by counsel would be lost in a certain strata of cases where litigants currently enjoy those rights.

The Legislature has repeatedly raised the limits to keep up with inflation. However, the last increase was over a decade ago. SB 221 (Simitian, Ch. 64, Stats. 2011) raised the

jurisdictional limit for small claims court actions brought by a natural person from \$7,500 to the current limit of \$10,000.

One unintended consequence is a reduction in funding for California's County Law Libraries. Currently, they are mainly funded through case filing fees, which vary based upon county and case type. This statutorily-set funding mechanism provides County Law Libraries approximately \$20-40 per limited or unlimited civil matter and only around \$2 per case filed in small claims court. The Council of California County Law Librarians writes:

[R]e-categorizing limited or unlimited cases as small claims matters would therefore have a devastating impact on funding to County Law Libraries. In 2022, for example, the total revenue received by County Law Libraries for limited civil cases in the range of \$10,000 to \$25,000 was \$1,826,298. Nearly all of that revenue would be at risk under SB 71 because ALL of those cases would become eligible for small claims court and if these cases were filed in small claims, the resulting filing fee revenue for County Law Libraries would only be about \$94,457.

Moreover, increasing the jurisdictional limit in small claims court has another collateral effect: it would make more third-party collection cases eligible for reduced fees. Pursuant to Business & Professions Code 6322.1, there is a reduced filing fee amount for assigned claims with a demand amount less than the jurisdictional limit for small claims court. The application of a higher limit would therefore make it less expensive for collection agencies to bring cases up to \$25,000 – typically for consumer credit matters – and would reduce the revenue to County Law Libraries in every one of those cases as well.

4. Stakeholder positions

The California Association of Collectors writes in support of the bill as it would increase the jurisdiction of the small claims court and it believes this is an “important step in increasing access to the courts.”

A coalition of groups in opposition, including the California Chamber of Commerce and the American Property Casualty Insurance Association, writes:

Though SB 71 greatly raises the upper limit of what cases might be considered small claims or limited cases, it completely fails to make any corresponding adjustments to the discovery available. And while we appreciate the author's goal, justice cannot be lost in the pursuit of speed.

Put simply: SB 71 would drastically increase the value of cases that may be categorized as small claims (from a maximum of \$10,000 under present law to \$25,000) and limited civil cases (from \$25,000 to \$100,000) in an attempt to address court congestion. However, SB 71 completely fails to consider that there are non-trivial differences between cases with very different amounts at issue. A case with damages of \$90,000 is not the same as a case valued at \$20,000. The larger case requires more investigation – more documents, more witnesses – than the smaller case. Where an injury is larger, there is likely a doctor or other medical professional who provides important evidence. However, under SB 71, cases up to \$100,000 would still be limited to only one deposition – meaning defendants would need to choose between deposing the plaintiff about their injuries, or deposing their doctor, and could not do both. In other words, SB 71 raises thresholds for small claims and limited civil cases without adjusting the discovery rules to correspond to the newly-captured cases.

Moreover, it is worth noting that SB 71 raises the threshold for small claims far beyond most other states. The vast majority of states – forty-one states, including both red and blue states – have an upper limit for small claims of \$10,000 or lower.

Writing in opposition, the Legal Aid Society of San Diego also raises concerns:

Limiting discovery in an even larger number of cases will adversely affect consumers. When our clients have cross-claims against the parties suing them, such as for fraud or identity theft, it takes considerable discovery to gather the required information in order to assert their rights. Consumers already face challenges in going up against well-funded opponents with vastly better resources. Limiting their ability to gather the documents and information necessary to support their claims only puts them at a further disadvantage.

SUPPORT

California Association of Collectors

OPPOSITION

American Property Casualty Insurance Association
California Business Properties Association
California Chamber of Commerce
Civil Justice Association of California
Consumer Attorneys of California
Legal Aid Society of San Diego

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 1012 (Hertzberg, Ch. 786, Stats. 2018) *See* Comment 3.

AB 555 (Alejo, Ch. 330, Stats. 2015) extended the provisions of the Expedited Jury Trials Act indefinitely and made the Expedited Jury Trial process mandatory for certain limited civil cases.

SB 221 (Simitian, Ch. 64, Stats. 2011) *See* Comment 3.

SB 422 (Simitian, Ch. 600, Stats. 2005), among other things, raised the small claims court jurisdictional limit from \$5,000 to \$7,500.
