

COMMENTS OF THE CONSUMER AFFAIRS COMMITTEE OF
DIVISION 2 (ANTITRUST, TRADE REGULATION AND
CONSUMER AFFAIRS) OF THE DISTRICT OF
COLUMBIA BAR ON THE PROPOSED INCREASE IN THE
JURISDICTIONAL LIMIT OF THE SMALL CLAIMS AND
CONCILIATION BRANCH OF D.C. SUPERIOR COURT

Summary

The Consumer Affairs Committee of Division 2 of the D.C. Bar has serious reservations about the proposed increase, from \$750 to \$2500, in the jurisdictional limit of the Small Claims and Conciliation Branch of D.C. Superior Court. Although the Court is open to consumers who have claims against businesses, it is used primarily as a forum in which creditors collect debts from consumers, usually through default judgments. The reasons for the high default rate are not well understood, but increasing the jurisdictional limit without addressing the default problem could make the Small Claims and Conciliation Branch seem to be an instrument for debt collection rather than a hall of justice. The Committee suggests two avenues for possible reform: holding most court sessions in the evening, and informing consumer defendants of the grounds that could constitute a defense in court.

DIVISION 2: ANTITRUST, TRADE REGULATION
AND CONSUMER AFFAIRS



Thomas M. Susman
Chairperson
429-1600

Jeffrey Blumenfeld
724-5944

Ellen Broadman
833-2580

Barry J. Cutler
887-1400

Anita Johnson
724-6153

William B. Schultz
785-3704

Toby G. Singer
724-1087

The District of Columbia Bar

1426 H STREET, N.W., EIGHTH FLOOR WASHINGTON, D.C. 20005
(202) 638-1500

Lawyer Referral and Information Service 638-1509

STANDING COMMITTEE
Consumer Affairs

Hon. Walter Fauntroy
Delegate in Congress
House of Representatives
Washington, D.C.

Dear Delegate Fauntroy:

On behalf of the Consumer Affairs Committee of the D.C. Bar, Division 2, I am writing to comment on the proposed increase (from \$750 to \$2500) in the jurisdictional limit of the Small Claims and Conciliation Branch of D.C. Superior Court.¹

The Committee has serious reservations about this proposal. At the present time, the court is used primarily as a forum in which creditors collect debts from consumers, usually through default judgments obtained against them. More than a hundred cases a day are disposed of in summary fashion, resulting in large numbers of judgments obtained against consumers who have not appeared in court. Increasing the jurisdictional limit would have the effect of transferring to the Small Claims Branch large numbers of additional debt collection cases now disposed of in the other parts of the Superior Court, and might make that Branch seem to the public an instrument for debt collection rather than a hall of justice.

Any increase in the jurisdictional limit should therefore be accompanied by significant reforms designed to encourage consumers who are sued in that forum to appear and defend themselves. Several kinds of reforms might be appropriate.

1 The views expressed herein represent only those of the Consumer Affairs Committee of Division 2 (Antitrust, Trade Regulation and Consumer Affairs) of the District of Columbia Bar and not those of the D.C. Bar or its Board of Governors.

Hon. Walter Fauntroy

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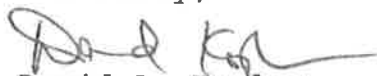
One reason for the high default rate in suits against consumers is that most sessions of the court are held during the day. Consumers cannot afford to take time off from work to attend court sessions, and they are rarely able to persuade their witnesses, who have no personal stake in the outcome, to leave work to go to court. A significant reform would therefore be to hold most court sessions during the evening, as is done in the Small Claims Court in New York City.

Another problem is that most consumers who are sued are unaware of what might constitute a legal defense to the case against them. They believe that if they bought goods or services on credit and didn't pay for them, they will inevitably have to pay the money, so there is not point in showing up in court. In making this assessment, they do not realize that if the goods or services did not conform to an advertisement on which they relied, or if the District's credit laws were violated, they may be able to be relieved by the court from the obligation to pay. Another reform, therefore, would be to attach to the summons, in cases based on consumer sales or loans, a plain language description of the kinds of facts that might constitute a complete or partial defense (such as misstatements by the seller, unconscionably high pricing of goods, or merchandise that was not of serviceable quality) together with a message encouraging defendants who could prove such facts to appear in court and present them to a judge.

These are just two examples of creative solutions to the problems posed by raising the jurisdictional amount.

Further study is needed to determine precisely which reforms would best enable consumer defendants to protect their rights when sued in the Small Claims Branch. But the already high default rate in cases brought against consumers in that court suggests that until basic reforms are made, no further increase in the volume of such cases should be encouraged.

Sincerely,



David A. Koplow
Chairperson
Consumer Affairs Committee

Philip G. Schrag
Member, Consumer Affairs Committee