

DISTRICT OF COLUMBIA BAR
DIVISION 18 (Litigation)
COMMITTEE ON DISTRICT OF COLUMBIA COURTS

Memorandum

To: Tom Patton, Esq.
From: Rufus King, III
Date: September 20, 1983
Re: H.R. 3920, A Bill to authorize the District of Columbia Council to enact any act relating to the organization, jurisdiction and rules of the Landlord Tenant Branch in the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia

I, along with the rest of the District of Columbia Bar, learned late last week that the House Judiciary and Education Subcommittee of the House District Committee would be holding hearings on a bill to increase the mandatory retirement age from 70 to 74 (H.R. 3655) and a "Staff Draft" (which now appears to be identified as H.R. 3920) which would transfer authority to change the jurisdictional limits for the Small Claims and Landlord Tenant branches of the Superior Court to the District of Columbia City Council. It was decided to present the D.C. Courts Committee's Senate testimony to the House Committee unchanged from the text which has been approved by the Steering Committee and the Board of Governors except for the formal changes necessary to make it appropriate to the House of Representatives Subcommittee instead of the Senate. This was done, and a copy of the testimony which was made a part of the record is attached.

At the hearing Messers. Pickering, Scheuermann, Mitchell and myself were called to the table at the same time, and each of us sought and were granted permission to have our statements included in the record and to summarize the contents of the statements at the hearing. Following the four summaries we responded to questions from the Subcommittee.

Congressman Fauntroy specifically requested our personal views on the extension of the age limitation and all supported or interposed no objection after disclaiming, where appropriate, authority to speak officially. I suggested that the Division 18 Committee would welcome an opportunity to comment on this or other legislation should the Subcommittee decide to extend the hearings or keep the record open.

Congressman Fauntroy pursued two lines of questioning on the Small Claims provision. First was the impact on the Superior Court, both financially and in terms of its ability to accord full protection of rights to individual litigants appearing in either the small claims or the general civil branch of the court. In response to these questions I stressed our position that changing the limit of small claims cases would probably result in a cost savings to the court, and on the question of litigant's rights, stressed our position that legal rights of civil litigants of small cases were more apt to be protected in a small claims environment than in the general civil environment. The responses of all witnesses were similar in substance.

Second was question of transferring power to govern the Courts from the Congress to the City Council. In response to these questions, I pointed out that our committee had not deliberated on the question and again emphasized that we would be happy to take up the question and assist the Subcommittee if given an opportunity to do so. Consistent with our position, I observed that in the interim, it did not seem to make sense to transfer legislative power piecemeal, and particularly on the internal question of where the Superior Court drew the line between small claims cases and general civil cases. Again, all witnesses responded similarly to this question.

At the conclusion of the hearing, Chairman Dymally solicited and obtained a vote to report out H.R. 3655, the Bill changing the mandatory retirement age to 74. On the question of small claims jurisdictional limit, the Chairman stated he would ask for further comments from the witnesses, noting that the question very evidently needed further study in view of the unanimous opposition to the current draft.

I believe that the Division 18 Committee played an important and constructive role in the hearing and in achieving the result of stopping what appeared to be an overly hasty move. Appearance also served to establish useful contacts with the Subcommittee staff for future involvement by Division 18 in Committee deliberations affecting Division 18's interests.

In preparing for the testimony I discussed the legislation with Iverson Mitchell, III, President of the Washington Bar, John Scheuermann, member of the Council for Court Excellence, John Pickering, Chairman of the Horsky Study Implementation Committee and Larry Polanski, Administrative Officer of the Superior Court, appearing for Chief Judge Moultrie. All were speaking in behalf of their committees or offices and all supported the extension of the age limit and opposed the transfer of authority to change small claims and landlord tenant jurisdiction to the City Council, preferring instead to transfer this authority to the Court itself. All supported also an increase of the small claims jurisdiction limit to \$2,000-\$2,500.

From my prehearing conversations with staff and other witnesses on the small claims portion of the bill I learned that this legislation, and the hearing on short notice, were apparently staff moves to further home rule objectives more than a reflection of serious study by the Subcommittee of the jurisdiction questions involved. In that context, it was felt that, while staying within the confines of Division 18's approved testimony, it was important to stress the internal, procedural nature of the small claims limit in contrast to the two- and sometimes three-tier court structure found in states where small claims or people's court jurisdiction is defined by legislature.

SUMMARY OF STATEMENT OF
DIVISION 18 OF THE DISTRICT OF COLUMBIA BAR
IN SUPPORT OF LEGISLATION TO AMEND THE JURISDICTIONAL
LIMIT OF THE SMALL CLAIMS BRANCH OF THE SUPERIOR
COURT OF THE DISTRICT OF COLUMBIA
PRESENTED TO THE SUBCOMMITTEE ON JUDICIARY AND EDUCATION
OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA
OF THE UNITED STATES HOUSE OF REPRESENTATIVES

The proposed testimony sets forth the position of Division 18, the Litigation Section of the District of Columbia Bar concerning legislation now being considered in this subcommittee which would grant authority to the District of Columbia City Council to change the jurisdiction limit of the Small Claims Branch of the Superior Court of the District of Columbia.

Division 18 believes change is in the interest of the litigating bar as well as the public, but believes the Small Claims jurisdiction limit should be a matter of Court Rule, subject to change by the courts, and not a matter for the legislature.

STATEMENT OF
DIVISION 18 OF
THE DISTRICT OF COLUMBIA BAR
IN SUPPORT OF LEGISLATION TO AMEND THE JURISDICTIONAL
LIMIT OF THE SMALL CLAIMS BRANCH OF THE SUPERIOR
COURT OF THE DISTRICT OF COLUMBIA
PRESENTED TO
THE SUBCOMMITTEE ON JUDICIARY AND EDUCATION
OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

This statement, prepared by Rufus King, III and Brian P. Phelan reflects the views of Division 18, Litigation, of the District of Columbia Bar and not necessarily those of the District of Columbia Bar or its Board of Governors.

MR. CHAIRMAN, my name is Rufus King, III and I appear today representing Division 18, the litigation division, of the District of Columbia Unified Bar, as chair of the Division's Committee on District of Columbia Courts. The committee has examined the legislation which you are considering today, and wishes to register its concerns about the bill and advise the Committee of the reasons for its concerns.

As the Subcommittee knows, the current jurisdictional limit for lawsuits filed in the Small Claims Branch of the Civil Division of the Superior Court is \$750. This limit was established in 1971, replacing an earlier limit of \$150. Following the establishment of that limit, the number of cases filed in the Small Claims Branch has significantly diminished. In the early to mid 1970's the annual number of filings reached approximately 30,000 cases with dispositions at almost 40,000. In the past several years, however, that level has dropped to a 1982 level of 23,000 cases with slightly more dispositions. In the same time period, the Civil Division of the Court, which handles cases in excess of the small claims limit, has experienced substantial growth in its annual filings, from approximately 4,100 cases in 1976 to more than 6,300 cases in 1982.

Raising the jurisdictional limit to \$2,500 will put the District of Columbia in line with its neighboring jurisdictions. The members of the Division feel that the increase in that limit will benefit all litigants in the District of Columbia with

claims in this range. The current system requires claims between \$750 and \$2,500 to be brought in the Civil Division of the court, under the same, formal rules of procedure as claims of unlimited amounts (other than those specially assigned to an individual judge under the Civil I docketing system). This means that every collection case, every minor traffic accident case and every minor contract dispute must go on the civil trial calendar. In the course of a recent study by the Court System Study Committee of the D.C. Bar, it was found that demands in 90% of debt collection cases and half of all civil cases were under \$2,500. (Report of the District of Columbia Court System Study Committee of the District of Columbia Bar, S.Rpt. 98-34, 98th Cong., 1st Sess. at pp. 134-5). The governing Superior Court Civil Rules are virtually identical to the Federal Rules of Civil Procedure. Thus, litigants in these relatively simple cases are afforded full rights of discovery and substantial, even excessive, amounts of time for case preparation. Unacceptable delay of all civil cases results.

The formality of the Rules of the Civil Division also places individual and especially lower income litigants at a disadvantage. In many of these cases, the opposition is a business which has retained counsel able to enjoy the costs savings of high volume. Individuals, who most often appear in only one case are required by the expenses involved to proceed without counsel, something they can do effectively in a small claims and conciliation environment, but which they are

ill-equipped to do amid the intricacies of the formal rules of procedure. Indeed the difference between the 10,000 case decline in small case filings and the 2,000 case increase in larger case filings represent, we believe, cases for which the courts simply have no cost effective remedy. With an adjustment in the jurisdictional amount, claimants with disputes involving relatively small amounts will be afforded the opportunity to pursue their rights in a less costly, speedier and less complicated forum with less disadvantage against institutional opponents.

At the same time the small claims limit does not impair the right to a jury trial for anyone who for whatever reason would wish to preserve the right in a relatively small case . On the contrary, litigants in all civil cases will be better served by a court better able to maintain a current calendar for the remaining civil cases.

The Division also supports the proposed amendment to Section 11-946 of the District of Columbia Code which would authorize the courts of the District of Columbia to adjust the jurisdictional level of the Small Claims and Conciliation Branch as they may deem appropriate. The power to do so is limited to the extent that the courts may not modify the amount more frequently than every three years and is subject to approval by the District of Columbia Court of Appeals. This type of legislation is currently in effect in six states, including Maryland.

The Division believes that placing this authority in the Court will enhance the efficiency of court administration. The judges of the court are intimately familiar with the day to day operations of the Court and are in the ideal position to observe what, and when, changes are needed and how best to allocate chronically limited judicial resources. With uncertain inflation affecting any filing limit, the courts should have the authority to adjust the small claim limit.

The members of the Bar appreciate this opportunity to address the Committee on this issue. We believe that the proposed changes in the current law will result in significant improvement in efficiency and justice in handling minor claims in the Superior Court. As a result of inflation in the last ten years, claims within this jurisdictional amount frequently arise between ordinary citizens who cannot afford legal expense and delays when pursuing their rights in the Civil Division. It is believed that placing these disputes in the Small Claims Branch, and allowing the Court keep them there through anticipated future inflation will enhance the quality of justice and redress provided to the citizens of the District of Columbia in all civil cases.