

RALPH WARNER: Blamed "watered-down" version of bill on lobbyists for bill collectors.

Small Claims Increase Ekes Past Lobbyists

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SACRAMENTO — Legislation to raise the small claims court limit in California to \$2,500 by 1991 is expected to win approval in the state Senate next month after being heavily amended to satisfy the measure's only opponents — collection agencies and insurance companies, which contribute heavily to legislative campaigns.

Widely supported in its original form by major state and national consumer and legal organizations — including groups on opposite sides of many other issues — the amended bill, AB 1913, by Assembly Judiciary Committee chairman Elihu Harris, D-Oakland, raises the current \$1,500 limit to \$2,000 in 1989 and ex-

empts certain insurance companies from the new limits.

The measure originally contained a provision to raise the limit to \$10,000 in personal injury and property damage disputes involving money, but that provision was excised in the state Assembly, which passed the bill by a wide margin and sent it to the Senate Judiciary Committee — the traditional burying ground for legislation aimed at raising the small claims limit to \$2,500.

"Some improvement is better than none," said Deborah Chalfie, legislative director for HALT [Help Abolish Legal Tyranny], a consumer/legal reform organization in Washington, D.C. "But the minimal amount that they've raised the limit to just barely keeps up with in-

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Lobbyists Stifle Large Small Claims Increase

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flation. It is by no means an expansion of small claims court access."

Consumer legal organizations maintain that the higher limits would increase access to civil justice without forcing parties to hire lawyers or follow the strict rules of evidence. Although they turned out in force to support the bill before the Senate Judiciary Committee last month, lobbyists for collection agencies and surety companies [which write performance bonds for construction projects, among other things, and are generally owned by insurance companies] were able to convince legislators to accept substantial amendments.

Attorney Ralph "Jake" Warner, founder of Berkeley's Nolo Press — a company that publishes legal self-help books and pamphlets — and backer of an initiative drive to raise the limit to \$10,000, said the measure that emerged from the Judiciary Committee was a considerably "watered-down version" of the original bill. He blamed it on the clout of lawyer/lobbyists Clayton Jackson, who represents the enormously powerful insurance industry in Sacramento, and Bob Wilson, a former legislator who represents bill collectors.

"The committee barely tolerated the testimony of [consumer and legal groups]," Warner said, "and then up hunters Clay and Bob who start talking with [legislators] on a first-name basis."

Chalfie reached the same conclusion. "This was a prime example of how a small special interest group can control legislation, practically sitting up there with them [legislators]," she said. "It was a compromise bill when it got to the Senate, and they succeeded in watering it down further."

"Frankly, I think we were lucky to get it out at all," said Barbara Kaufman, a San Francisco consumer advocate, who four years ago started KCBS Radio's "Call for Action" consumer program. "It was very apparent that narrow special interests had already lobbied successfully before the hearing with the senators sitting on the committee."

Legislative sources, who asked not to be identified, confirmed that view. One legislative source familiar with the legislation said amendments were adopted because of lobbyists' "influence on members in matters unrelated to the content of the bill" — an oblique reference to the overriding importance of campaign contributions.

Kaufman, Chalfie and other consumer activists are backing an initiative proposal by Warner and Alameda County Superior Court Judge Roderic Duncan to raise the small claims limit to \$10,000. Although the initiative drive, begun last spring, is limited by lack of funding to gather needed signatures, supporters say its mere existence may have spurred legislative

of the [Senate Judiciary] committee told me the merits were irrelevant."

Jackson, senior partner in the San Francisco law firm of Jackson & Abrams, has been for three years the highest paid lobbyist in California, representing the insurance industry and other interests that contribute heavily to legislative campaigns.

According to the California Fair Political Practices Commission, Jackson's lobbying firm, Jackson Barish & Associates of Sacramento, earned more than \$1.7 million in 1987 alone. The Insurance Consumer Action Network reports that campaign contributions by the insurance industry during the 1985-86 elections totaled about \$2.5 million, a figure industry officials dispute.

Wilson represents 17 clients, including the California Association of Collectors, which contributes much less than the insurance industry, but still manages a healthy show of financial support in legislative campaigns.

Wilson could not be reached for comment.

In a telephone interview from his San Francisco law office, Jackson discounted his clout with the committee on the small claims bill. "The idea that two representatives of business groups can knit [together] the membership of a committee with that disparate a membership is absurd," he said. "It would be one thing if the committee were comprised [entirely] of conservatives, but it represents almost every constituency under the sun and has one of the most broad-ranging political philosophies of any committee." And the vote, he noted, was unanimous.

Jackson said automobile insurance companies are not opposed to an increase to \$2,000 or even \$2,500, but that the surety companies are in a unique position and should be exempt from the increase.

"The problem is that all a surety bond does is guarantee the behavior of the person to whom it was sold," Jackson said. "That person has an arrangement, a contract, with a plaintiff, who turns around and sues the surety bond company which knows nothing about the transaction. They have 30 days to go to trial and the person who caused the problem is not there at all."

Warner calls the insurance companies' opposition to the bill "hypocritical."

"We find it particularly hard to take that insurance companies which regularly lobby the Legislature, claiming that the legal system generally and the tort system in particular are unfair to the average Californian, also lead the fight against a modest expansion of the People's Court," Warner said.

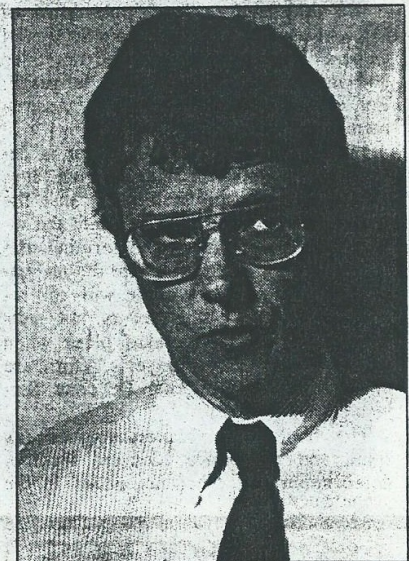
"These cases are small potatoes to the legal system," said HALT's Chalfie, "but they're not to the consumers."

Advocates of higher small claims limits



RUSS CURTIS / THE RECORDER

CLAY JACKSON: "The idea that two representatives of business groups can knit [together] the membership of a committee with that disparate a membership is absurd."



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JUDGE RODERIC DUNCAN: Efforts to raise the limit have been "an exercise in frustration" because of the financial clout of collectors and insurers.

\$2,000," he said, "and most are not industrial states. If you look at it in context, what it tells you is that California is about where the other industrial states are. We seem to be in keeping with the drift in other states and clearly other industrial states."

According to statistics compiled by the National Center for State Courts, California's new limit will place it in the median range of small claims courts nationwide, and slightly above other populous, industrialized states. New York, Massachusetts and Michigan have \$1,500 limits, while New Jersey, Ohio and Washington have \$1,000 limits.

Alaska is the highest at \$5,000; Hawaii, Florida, Oregon and Illinois have \$2,500 limits and North Dakota has a \$2,000 limit.