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**CALIFORNIA SMALL CLAIMS COURT-LIMITS ARE ON THE RISE**

*By Lawrence D. Esten*

In January 2012, new and higher limits will apply to certain types of Small Claims cases in California. These higher limits may prove to be efficient for insurance companies and businesses, but they might also turn out to be a fertile ground for fraudulent claims.

Small Claims Court was created to provide an accessible forum for resolving minor disputes in an expeditious, inexpensive and fair manner. The intent of the court is to provide a forum in which parties can resolve their disputes without the parties spending money on discovery and hiring attorneys to appear for them in court. While Limited Civil (former Municipal Court) has kept the maximum limit at \$25,000, the California Legislature has revisited the jurisdictional maximums for Small Claims Court, with a steady trend toward increasing the maximum thresholds.

Senate Bill 221 was signed by California Governor Jerry Brown this past July, raising the limit on Small Claims cases from the old limit of \$7,500 to the new limit of \$10,000. There is an important limitation on this change. An exception occurs for a bodily injury claim involving an automobile accident, where the defendant has insurance coverage, which includes a duty to defend. In that matter, the limit will remain at \$7,500 for the next three years. Thereafter, a sunset provision applies. In other words, after three years, the new law would also apply to such insured bodily injury lawsuits, unless the legislature acts before January 2015 to extend or delete the sunset provision.

Over the next few years, businesses should see a substantial increase in the number of premises liability personal injury lawsuits filed in Small Claims Court. There is a considerable debate in the community as to whether these increased limits will help businesses by promoting the efficient resolution of claims, or whether the enhanced thresholds will turn out to be a breeding ground for fraudulent claims. Automobile carriers will remain exempt from the increased limits for the next three years. They will undoubtedly be watching to see how the new limits impact the type and quality of such lawsuits.

In Small Claims Court, parties may not be represented by attorneys, although attorneys are permitted to assist parties outside of court in preparing the prosecution or defense of a claim. With regard to businesses, they may only appear and participate in Small Claims actions through a regular employee, who is otherwise employed for purposes other than solely representing the company in Small Claims Court. If the defendant does not like the outcome of a Small Claims trial, the defendant may file an appeal within 30 days. The appeal of a Small Claims decision is actually a whole new trial, but in the new trial, the defendant may have an attorney appear in court on their behalf to present witnesses, evidence, and argument.

*While Small Claims Court is quick and efficient, be on the lookout for abuse by plaintiffs seeking to avoid the scrutiny of civil discovery. Many plaintiffs may recognize that if their case were thoroughly challenged in Court, they would likely never recover the amount that they think they can win in a quick trial in front of a Small Claims Judge.*