



There are several reasons considered by the Board of Governors in support of an increase in the jurisdictional limits of the Small Claims Division. Those reasons include:

- In 1984, the jurisdictional limit for the Small Claims Court was raised from \$1,500 to \$2,500. The Supreme Court approved that change on the basis of "inflation." Since January 1, 1984, the consumer price index has increased by 51.5%. Applying that rate of inflation to the current limit of \$2,500 supports an increase to approximately \$3,800. Given that the rule will not be reviewed again by the Supreme Court until the year 2000, a change to \$5,000 is justified on the same basis as the Court has previously adopted for this rule.
- At the time the Court set \$2,500 as the limit, the jurisdiction of the County Court was \$5,000. As you know, the jurisdictional limit of the County Court has since been raised to \$15,000. There was no corresponding change to the jurisdiction limit of the Small Claims Division.
- It is clear that the cost of a Small Claims Court case is substantially less than the cost of a County Court case. Most Small Claims cases are resolved at the pre-trial stage through mediation. The only way a County Court civil case could cost less is if the defendant fails to respond to the Compliant. In the interest of judicial economy, the many innovative ways the Small Claims Divisions have found to resolve cases in the early stages of the case should be applied to more cases.
- The Supreme Court and The Florida Bar have undertaken a series of programs to improve access to the legal system for persons not represented by counsel. An increase in the jurisdictional limits of the Small Claims Court will enhance those efforts.
- The vast majority of all Small Claims Court cases involve liquidated debts arising from consumer or commercial transactions. In most cases, the issue is not whether the debt is due, but rather, how can the defendant afford to pay the amount due. Such cases are no more complex at the \$5,000 level than they are at the \$2,500 level.
- Many companies in Florida are being forced to reduce the amount of their claims to \$2,500 in order to economically prosecute those claims. This is true whether or not the plaintiff is represented by an attorney. Defendants should not be allowed to avoid legal obligations simply because the cost to enforce the claim exceeds the benefits derived from the enforcement action.

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It has been suggested by the Committee that an increase in the jurisdiction of the Small Claims Division would increase the cost of prosecuting claims between \$2500 to \$5000. **There is no evidence to support that contention.** The members of Fla. NACM are the ones who pay the bills associated with prosecuting these claims. They know that a Small Claims action is less expensive even when the plaintiff is represented by an attorney. That is why Fla. NACM supports this proposal.

This proposal has been countered on the basis that the income of attorneys who handle County Court cases will be reduced. Fortunately, the Board of Governors was not persuaded by that argument. First, the policy decision should be driven by what is in the best interest of the citizens of the state of Florida, not what is in the best interests of the lawyers of the state of Florida. Second, if attorneys' incomes should control the outcome, the jurisdictional limit of the Small Claims Division would never be changed. That is obviously an inappropriate result.

The opponents of this proposal have put forth two other arguments. They have suggested that collection agencies will flood the Small Claims Division with lawsuits filed by non-lawyers. This is not possible under the Fla. NACM proposal. The Small Claims Rules do not allow a corporation to enforce the debt of another person without the use of an attorney.

The opponents have also suggested that the due process rights of the defendant will be compromised by this proposed change. This is also not a realistic concern. A defendant has the right to hire an attorney to defend a Small Claims action. Second, a defendant has the right to initiate discovery with leave of Court. See, Rule 7.020, Fla. Small Claims Rules. There is no compromise to the due process rights of the defendant.

This is not a lawyer vs. non-lawyer issue. Many of the members of Fla. NACM use lawyers to prosecute their Small Claims cases. The issues are maximizing judicial economy and increasing affordable access to the courts for the civil actions that involve smaller amounts in dispute.

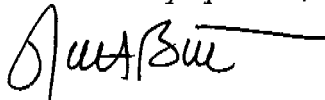
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RELIEF REQUESTED

If the Supreme Court grants oral argument on the Small Claims Court Rules, Fla. NACM requests the opportunity to participate in that proceeding.

The Florida Chapters of NACM respectfully requests that this Court adopt the position of the Board of Governors of The Florida Bar and amend Rule 7.010(b) to raise the jurisdictional limit of the Small Claims Division of the County Court from \$2500 to \$5000.

Sincerely yours,



Neil H. Butler

NHB/dm

cc: John A. DeVault III, President, The Florida Bar  
Stephen Shenkman, Chairman Small Claims Rules  
Committee  
John F. Harkness, Jr., Executive Director, The Florida Bar  
The Florida Chapters of NACM