

DIVISION 6: DISTRICT OF COLUMBIA AFFAIRS

Patricia McGuire
Co-Chairperson
624-8268

Anne Meister
Co-Chairperson
724-8093

Montague A. Buck
727-9813



Cynthia A. Giordano
872-9080

Jacquelyn V. Helm
724-8084

James C. McKay, Jr.
724-8188

Polly A. Rich
727-6245

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

July 26, 1984

Ms. Lynne M. Lester
Administrative Assistant for Divisions
District of Columbia Bar
1426 H Street, N.W. - 8th Floor
Washington, D.C. 20005

Re: Comments by Division VI (D.C. Affairs) on H.R. 5951, the
D.C. Judicial Appointment Authority Act of 1984

Dear Lynne:

Pursuant to Section 13(a) of the Division Guidelines, I am enclosing the proposed comments unanimously adopted by the members of the Steering Committee of Division VI on July 25, 1984. Also enclosed is the required one-page summary of our proposed comments and the standard disclaimer required by the Guidelines.

Division VI favors that portion of H.R. 5951 which would increase the jurisdictional limit of the small claims and conciliation branch of the D.C. Superior Court from \$750 to \$2,000. We also favor the concept of increased local participation in the selection of judges to both the D.C. Superior Court and the D.C. Court of Appeals. However, we reserve comment at this time on that portion of H.R. 5951 which would change the appointment process for judges to the District of Columbia courts, and limit our comments to the proposed increase in the jurisdictional amount for small claims cases.

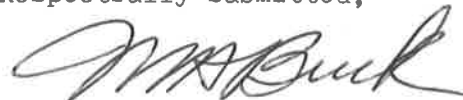
We are asking for your review on an emergency basis because we learned only yesterday, July 25, 1984, that we would be afforded the opportunity of having our comments on H.R. 5951 included in the official record if they are submitted immediately to the Subcommittee on the Judiciary and Education of the House District Committee. Accordingly, we must submit our comments no later than July 30, 1984.

STANDING COMMITTEES

Issues • Membership • Programs • Publications

Unless there is an objection to our submission in accordance with the Guidelines, Division VI intends to submit the enclosed comments to the Subcommittee on the Judiciary and Education of the House District Committee on July 30, 1984 in the form attached.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'M. A. Buck', written in dark ink.

Montague A. Buck
Co-Chairperson
Division VI (D.C. Affairs)

Enclosure

DIVISION 6: DISTRICT OF COLUMBIA AFFAIRS

Patricia McGuire
Co-Chairperson
624-8268

Anne Meister
Co-Chairperson
724-8093

Montague A. Buck
727-9813



Cynthia A. Giordano
872-9080

Jacquelyn V. Helm
724-8084

James C. McKay, Jr.
724-8188

Polly A. Rich
727-6245

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

July 30, 1984

The Honorable Mervyn Dymally
Chairman, Subcommittee on the Judiciary and Education
House District Committee
U.S. House of Representatives - 1310 Longworth Building
Washington, D.C. 20515

Dear Congressman Dymally:

On behalf of Division VI (D.C. Affairs) of the District of Columbia Bar*, we submit for the official record the enclosed comments on H.R. 5951, the D.C. Judicial Appointment Authority Act of 1984. Division VI favors that portion of H.R. 5951 which would increase the jurisdictional limit of the small claims and conciliation branch of the D.C. Superior Court from \$750 to \$2,000. We also favor the concept of increased local participation in the selection of judges to both the D.C. Superior Court and the D.C. Court of Appeals. However, we reserve comment at this time on that portion of H.R. 5951 which would change the appointment process for judges to the District of Columbia courts, and limit our comments to the proposed increase in the jurisdictional amount for small claims cases. We believe that the civil division of the D.C. Superior Court is badly backlogged and that the Congress should give consideration to H.R. 5951 during this session.

Very truly yours,

Montague A. Buck
Co-Chairperson
Division VI (D.C. Affairs)

Enclosure

STANDING COMMITTEES

Issues • Membership • Programs • Publications

To the Board of Governors and Division Chairpersons:

**SUMMARY OF THE COMMENTS
OF DIVISION 6: DISTRICT OF
COLUMBIA AFFAIRS ON H.R. 5951,
the D. C. Judicial Appointment
Authority Act of 1984**

Attached hereto are comments of Division VI (D.C. Affairs) favoring that portion of H.R. 5951 which would increase the jurisdictional limit of the small claims and conciliation branch of the D.C. Superior Court from \$750 to \$2,000. Division VI also favors the concept of increased local participation in the selection of judges to both the D.C. Superior Court and the D.C. Court of Appeals. However, we reserve comment at this time on that portion of H.R. 5951 which would change the appointment process for judges to the District of Columbia courts, and limit our comments to the proposed increase in the jurisdictional amount for small claims cases.

We are asking for your review on an emergency basis because we learned only yesterday, July 25, 1984, that we would be afforded the opportunity of having our comments on H.R. 5951 included in the official record if they are submitted immediately to the Subcommittee on the Judiciary and Education of the House District Committee. Accordingly, we must submit our comments no later than July 30, 1984.

Our comments, reflecting a position already adopted by

Division IV (Courts, Lawyers, and the Administration of Justice) and approved by the Board of Governors, were approved by the Division VI Steering Committee on July 25, 1984.

Comments of Division VI (D.C. Affairs) of the District of
Columbia Bar*

Submitted to the

Judiciary and Education Subcommittee of the Committee on the
District of Columbia
U.S. House of Representatives

on

H.R. 5951

July 26, 1984

Division VI Steering Committee

Montague A. Buck, Co-Chairperson
Jacquelyn V. Helm, Co-Chairperson
Cynthia A. Giordano
James C. McKay, Jr.
Anne Meister
Charles Reischel
Phyllis D. Thompson

STANDARD DISCLAIMER

*The views expressed herein represent only those of Division VI (District of Columbia Affairs) of the District of Columbia Bar and not those of the D.C. Bar or its Board of Governors.

COMMENTS BY DIVISION VI (DISTRICT OF COLUMBIA AFFAIRS) OF THE
DISTRICT OF COLUMBIA BAR ON H.R. 5951, THE DISTRICT OF
COLUMBIA JUDICIAL APPOINTMENT AUTHORITY ACT OF 1984

I. Introduction and Summary

The Steering Committee of Division VI (D.C. Affairs) of the District of Columbia Bar endorses that portion of H.R. 5951 that raises the jurisdictional limit for the small claims and conciliation branch of the District of Columbia Superior Court from \$750 to \$2,000. In addition, Division VI also supports the concept of increased local participation in the selection of judges to both the D.C. Superior Court and the D.C. Court of Appeals. However, we will not comment at this time on the manner in which judges of the District of Columbia courts are appointed. Therefore, our comments will be restricted to the proposed increase in the jurisdictional limit for the small claims and conciliation branch of the District of Columbia Superior Court.

II. Analysis in Favor of the Proposed Increase in the
Jurisdictional Limit for the Small Claims and Conciliation
Branch of the District of Columbia Superior Court

The Steering Committee of Division VI is particularly concerned with the effect of an increase in the jurisdictional limit for the small claims and conciliation branch of the District of Columbia Superior Court from \$750 to \$2500 on the administration of justice, as it impacts on both the courts and the litigants. No dollar jurisdictional

limit can ultimately ensure that each case is handled in both the most cost-effective manner and the manner most fair to individual litigants. However, it is possible to revise the current \$750 limit to achieve a better balance between these two goals. H.R. 5951, by proposing an increase in the jurisdictional limit to \$2,000, takes an important, but appropriately moderate step in this direction.

The current \$750 limit has not been revised since it was set in 1970. In 1977 the average sales price of a home in the District of Columbia was \$66,550; today it exceeds \$120,000.¹ In 1970 the general usury ceiling in the District was 6%; today it is 24%. Furthermore, the average income for District residents is \$16,409,² which represents a substantial increase since 1970. These are but a few examples of the effect inflation has had on the average consumer over the past 14 years. Given these changes in the general economy and the buying power of the dollar, it is unrealistic to assume that the \$750 jurisdictional limit set in 1970 will adequately serve to meet the needs of the courts and of litigants in 1984. If the small claims and conciliation branch is to continue to serve its purpose, its jurisdictional limit must be reviewed and revised periodically to keep pace with the effects of inflation and the changing value of the dollar.

A review and revision of the jurisdictional limit of the small claims and conciliation branch has not occurred since the \$750 limit was set in 1970. The absence of a

revision has resulted in an absolute decline in the number of cases handled by the small claims and conciliation branch. For example, the number of cases filed in the small claims branch has declined nearly 40% from 1973 (35,832) to 1983 (21,142).³ This decline in small claims and conciliation branch case filings can be said to have contributed, at least in part, to the increase in other civil case filings and the attendant delay in civil case dispositions.

The District of Columbia Bar's Court System Study Committee found that between 1975 and 1977 57.6% to 75.3% of all debt cases filed in the civil division involved demands of \$2,000 or less. This finding also reflects that a significant portion of the increased civil division case load could be alleviated by an increase in the small claims and conciliation branch's jurisdictional limit. The Steering Committee of Division VI believes that an increase in the jurisdictional limit to \$2,000 will also help to relieve some of the backlog in other areas of the civil division, and at the same time believes that the \$2,000 limit is moderate enough to avoid the massive increase in small claims and conciliation branch filings that might occur if the limit were raised to conform to the higher small claims limits in Virginia (\$5,000) or Maryland (\$10,000).

An increase in the small claims branch jurisdictional limit to \$2,000 will also benefit litigants by placing them in a less formal forum which provides greater opportunity for their involvement in the dispute resolution

process, and offers more alternatives in the event of an adverse decision. Within the civil division (other than small claims), a defendant's failure to file a formal response to the complaint within 20 days entitles the complainant to a default decision. Many defendants may either feel incapable of filing such a response or not have ready access to an attorney to prepare the response for them. Later receipt of notice that a default judgment has been entered may well be viewed by the defendant as an irreversible result. Wage garnishment for employed defendants may occur as a natural, but often devastating, consequence.

In the small claims and conciliation branch, however, there is no requirement that a formal response to a complaint be filed. Rather, a court date, at which time both parties may be heard, is set for 14 days after the date of filing the complaint. Courtroom procedures are substantially less formal, formal rules of evidence are not strictly adhered to, and unrepresented litigants are afforded a more active role in the court proceedings than is generally true in other civil division matters. In addition, evening and Saturday court dates are available upon request to minimize the need to take time off from work. Furthermore, before any small claims case goes to trial, an attempt is made at conciliation between the parties with either court personnel or third-year law students certified to practice by the D.C. Court of Appeals acting as impartial conciliators. Even in

those instances where a case goes to trial and a decision is rendered adverse to the defendant, the defendant is often in a better position than he would have been had such a decision been rendered in the civil division. This is because a judge in the small claims branch may set up a payment plan whereby the judgment is paid in periodic installments, thus lessening the adverse impact on the defendant and often avoiding the need for wage garnishment. A judgment in the civil division simply becomes a debt which may be satisfied by attachment or garnishment.

1/ Report of the Assessment of Residential Properties in the District of Columbia for 1977; Report of the Assessment of Residential Properties in the District of Columbia for 1982, D.C. Department of Finance and Revenue.

2/ Report on Family Income for District of Columbia Residents, 1983, D.C. Office of Business and Economic Development.

3/ See 1983 Annual Report of the District of Columbia Courts, p. 49, 65; the 1976 Annual Report of the District of Columbia Courts, p. 46.