

To: House Committee on Judiciary
From: Teri Corsones, VBA Executive Director
Re: H. 112
Date: January 29, 2021

Thank you for the opportunity to comment on H.112, concerning increasing the jurisdictional limit in Vermont small claims cases from \$5,000 to \$10,000. Comments were solicited from the VBA Practice & Procedure and the Solo & Small Firm Sections, as well as from a number of practitioners who have served as acting judges in the small claims docket. The vast majority of comments were supportive of the increase, including several suggesting an increase to \$15,000 - \$20,000. Following is a summary of comments and other related information that we hope is helpful to the discussion.

Jurisdictional Limits: The Vermont small claims jurisdictional limit was increased from \$2,000 to \$3,500 in 1995 and increased again to \$5,000 in 2007. The average small claims jurisdictional limit in the New England states is currently \$6,000. New Hampshire has the highest limit at \$10,000 and Rhode Island has the lowest at \$2,500. The average jurisdictional limit nation-wide is \$8,500. Tennessee and Delaware have the highest limit at \$25,000 and Rhode Island and Kentucky have the lowest at \$2,500.*

Access to Justice: The most common reason cited to support an increase in the jurisdictional limit is that it would allow more litigants to seek money damages in a forum that's less costly and more expeditious than the regular Civil Division. "Small claims works well. Cases are disposed of efficiently. The more claims that can be quickly and efficiently adjudicated the better."

Concerns about Credit Card Cases: A concern expressed by several who support the increase is that credit card cases would flood the small claims docket. Credit card cases currently comprise a high percentage of the small claims docket. Presumably, that percentage would continue, if not increase with an increase in the jurisdictional limit. Other states have responded to this concern by carving out an exception for credit card cases in small claims cases by, for example, establishing a lower limit for consumer credit transaction cases than other cases, and by establishing a higher limit for cases brought by a natural person and a lower limit for all other cases. In Minnesota, the small claims limit is \$15,000, but is \$4,000 for claims involving consumer credit transactions. In Washington, the small claims limit is \$10,000 if brought by a natural person, but is \$5,000 for all other cases.

Impact on the Civil Division Docket: Because there are presumably few non-credit card cases with a \$5,000 - \$10,000 value currently being filed in the "major civil" category of cases in the Civil Division, whether there will be a significant impact on case numbers in that docket will likely depend on whether the limit on credit card cases remains the same. If the limit remains at \$5,000 for credit card cases, the impact on the major civil docket will likely be minimal. If the \$10,000 increase applies to credit card cases, credit card cases in the new range will likely be filed in small claims. (I don't believe that the Judiciary has data readily available as to how

many credit card cases are in the \$5,000 - \$10,000 range in the major civil docket.) The number of cases in the small claims docket will likely increase substantially, in either event, given how many more non-credit card cases would be filed in small claims if the limit is increased. Plaintiffs in small claims cases worth more than \$5,000 are willing today to waive the excess over \$5,000 in exchange for the savings in time and money that the small claims process affords, such that a case might be worth up to \$10,000 but is still brought in small claims. If the limit is increased to \$10,000, you will likely see cases worth much more than \$10,000 brought in small claims, for the same reasons.

Assistant Judges: Concern was expressed about assistant judges hearing small claims cases with values up to \$10,000, based on the presumption that the complexity of a case increases with the dollar amount at stake.

Acting Small Claims Judges: Lawyers serving as volunteer acting judges in small claims have provided a valuable service for many years. Typically very experienced civil trial practitioners, they serve as acting judges on a rotating basis and have contributed to the historically very good small claims case “clearance” rates state-wide. Given the stresses that are certain to impact the civil division docket with the backlog that has built up during the pandemic, superior court judges in the civil divisions may not have as much flexibility in the future to hear small claims cases – especially after the evictions and foreclosure moratoriums end. Volunteer acting judges could ensure that the small claims docket is not neglected.

*Information about jurisdiction limits is derived from a 50-state chart linked [HERE](#) .