

## RESOLUTION 06-10-2013 (As Amended and Adopted)

### DIGEST

#### Civil Procedure: Jurisdictional Limits For Unlimited Civil Cases

Amends Code of Civil Procedure §§85, 86, and 86.1 to raise the jurisdictional limits for an unlimited civil case from \$25,000 to \$50,000.

### RESOLUTIONS COMMITTEE RECOMMENDATION

~~DISAPPROVE~~ (*Reasons for disapproval addressed through amendments*)

#### History:

No similar resolutions found.

#### Reasons:

Amends Code of Civil Procedure §§85, 86, and 86.1 to raise the jurisdictional limits for an unlimited civil case from \$25,000 to \$50,000. ~~This resolution should be disapproved because the increase of the jurisdiction amount—ten times the current requirement—is unreasonable.~~

~~While the proponent correctly points out that all unlimited cases are entitled to full rights of discovery, the proponent assumes that cases with damages in the high five figures, or low six figures should not be permitted these rights. The proponent states that the transactional costs of litigating cases with claimed damages less than \$250,000 would benefit from the discovery and pre-trial procedures applied in limited civil cases. While the proponent's goal of streamlining cases and lessening the costs and attorney fees incurred by both parties is laudable, limiting discovery rights for cases that fall in between the current \$25,000 jurisdictional limit and the proposed \$250,000 requirement is a solution not proportional to the problem at hand. Indeed, under this Resolution every medical malpractice case would automatically be a limited jurisdiction case pursuant to the MICRA limits. While an increase in the jurisdictional limit may be appropriate, raising the jurisdictional limit to ten times the current amount is too much of an increase and will have a negative effect on a great many cases in which full discovery is warranted. Such cases would include, but are not limited to, employment cases of low wage earners and personal injury cases with non-catastrophic medical injuries, both of which can be complicated and require full discovery. This solution, as proposed by the resolution, creates more problems than it would solve.~~

### TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend Code of Civil Procedure sections 85, 86 and 86.1 to read as follows:

- 1 § 85
- 2 An action or special proceeding shall be treated as a limited civil case if all of the
- 3 following conditions are satisfied, and, notwithstanding any statute that classifies an action or
- 4 special proceeding as a limited civil case, an action or special proceeding shall not be treated as a
- 5 limited civil case unless all of the following conditions are satisfied:

6 (a) The amount in controversy does not exceed two hundred fifty thousand dollars  
7 ~~(\$250,000) twenty-five thousand dollars (\$25,000)~~. As used in this section, "amount in  
8 controversy" means the amount of the demand, or the recovery sought, or the value of the  
9 property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys'  
10 fees, interest, and costs.

11 (b) The relief sought is a type that may be granted in a limited civil case.

12 (c) The relief sought, whether in the complaint, a cross-complaint, or otherwise, is  
13 exclusively of a type described in one or more statutes that classify an action or special  
14 proceeding as a limited civil case or that provide that an action or special proceeding is within  
15 the original jurisdiction of the municipal court, including, but not limited to, the following  
16 provisions:

17 (1) Section 798.61 or 798.88 of the Civil Code.

18 (2) Section 1719 of the Civil Code.

19 (3) Section 3342.5 of the Civil Code.

20 (4) Section 86 of the Code of Civil Procedure.

21 (5) Section 86.1 of the Code of Civil Procedure.

22 (6) Section 1710.20 of the Code of Civil Procedure.

23 (7) Section 7581 of the Food and Agricultural Code.

24 (8) Section 12647 of the Food and Agricultural Code.

25 (9) Section 27601 of the Food and Agricultural Code.

26 (10) Section 31503 of the Food and Agricultural Code.

27 (11) Section 31621 of the Food and Agricultural Code.

28 (12) Section 52514 of the Food and Agricultural Code.

29 (13) Section 53564 of the Food and Agricultural Code.

30 (14) Section 53069.4 of the Government Code.

31 (15) Section 53075.6 of the Government Code.

32 (16) Section 53075.61 of the Government Code.

33 (17) Section 5411.5 of the Public Utilities Code.

34 (18) Section 9872.1 of the Vehicle Code.

35 (19) Section 10751 of the Vehicle Code.

36 (20) Section 14607.6 of the Vehicle Code.

37 (21) Section 40230 of the Vehicle Code.

38 (22) Section 40256 of the Vehicle Code.

39 (d) This section shall remain in effect only until January 1, 2016, and as of that date is  
40 repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends  
41 that date.

1 § 86

2 (a) The following civil cases and proceedings are limited civil cases:

3 (1) A case at law in which the demand, exclusive of interest, or the value of the property  
4 in controversy amounts to fifty thousand dollars (\$50,000) ~~twenty-five thousand~~  
5 ~~dollars (\$25,000)~~ or less. This paragraph does not apply to a case that involves the legality of any  
6 tax, impost, assessment, toll, or municipal fine, except an action to enforce payment of  
7 delinquent unsecured personal property taxes if the legality of the tax is not contested by the  
8 defendant.

9 (2) An action for dissolution of partnership where the total assets of the partnership do  
10 not exceed fifty thousand dollars (\$50,000) ~~twenty-five thousand dollars (\$25,000)~~; \_\_\_\_\_  
11 an action for interpleader where the amount of money or the value of the property involved does  
12 not exceed fifty thousand dollars (\$50,000) ~~twenty-five thousand dollars~~  
13 ~~(\$25,000)~~.

14 (3) An action to cancel or rescind a contract when the relief is sought in connection with  
15 an action to recover money not exceeding fifty thousand dollars (\$50,000) ~~twenty-~~ \_\_\_\_\_  
16 ~~five thousand dollars (\$25,000)~~ or property of a value not exceeding fifty thousand  
17 dollars (\$50,000) ~~twenty-five thousand dollars (\$25,000)~~, paid or delivered under, or in  
18 consideration of, the contract; actions to revise a contract where the relief is sought in an action  
19 upon the contract if the action otherwise is a limited civil case.

20 (4) A proceeding in forcible entry or forcible or unlawful detainer where the whole  
21 amount of damages claimed is fifty thousand dollars (\$50,000) ~~twenty-five~~ -  
22 ~~thousand dollars (\$25,000)~~ or less.

23 (5) An action to enforce and foreclose liens on personal property where the amount of the  
24 liens is fifty thousand dollars (\$50,000) ~~twenty-five thousand dollars (\$25,000)~~ or  
25 less.

26 (6) An action to enforce and foreclose, or a petition to release, a lien arising under the  
27 provisions of Chapter 4 (commencing with Section 8400) of Title 2 of Part 6 of Division 4 of the  
28 Civil Code, or to enforce and foreclose an assessment lien on a common interest development as  
29 defined in Section 1351 of the Civil Code, where the amount of the liens is fifty  
30 thousand dollars (\$50,000) ~~twenty-five thousand dollars (\$25,000)~~ or less. However, if an  
31 action to enforce the lien affects property that is also affected by a similar pending action that is  
32 not a limited civil case, or if the total amount of the liens sought to be foreclosed against the  
33 same property aggregates an amount in excess of fifty thousand dollars (\$50,000)  
34 ~~twenty-five thousand dollars (\$25,000)~~, the action is not a limited civil case.

35 (7) Actions for declaratory relief when brought pursuant to either of the following:

36 (A) By way of cross-complaint as to a right of indemnity with respect to the relief  
37 demanded in the complaint or a cross-complaint in an action or proceeding that is otherwise a  
38 limited civil case.

39 (B) To conduct a trial after a nonbinding fee arbitration between an attorney and client,  
40 pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the  
41 Business and Professions Code, where the amount in controversy is fifty thousand  
42 dollars (\$50,000) ~~twenty-five thousand dollars (\$25,000)~~ or less.

43 (8) An action to issue a temporary restraining order or preliminary injunction; to take an  
44 account, where necessary to preserve the property or rights of any party to a limited civil case; to  
45 make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of  
46 Part 2 (enforcement of judgments) in a limited civil case; to appoint a receiver pursuant to  
47 Section 564 in a limited civil case; to determine title to personal property seized in a limited civil  
48 case.

49 (9) An action under Article 3 (commencing with Section 708.210) of Chapter 6 of  
50 Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce  
51 the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value  
52 not exceeding fifty thousand dollars (\$50,000) ~~twenty-five thousand dollars~~  
53 ~~(\$25,000)~~ or the debt denied does not exceed fifty thousand dollars (\$50,000)  
54 ~~twenty-five thousand dollars (\$25,000)~~.

55 (10) Arbitration-related petitions filed pursuant to either of the following:  
56 (A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except  
57 for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the  
58 Insurance Code, if the petition is filed before the arbitration award becomes final and the matter  
59 to be resolved by arbitration is a limited civil case under paragraphs (1) to (9), inclusive, of  
60 subdivision (a) or if the petition is filed after the arbitration award becomes final and the amount  
61 of the award and all other rulings, pronouncements, and decisions made in the award are within  
62 paragraphs (1) to (9), inclusive, of subdivision (a).  
63 (B) To confirm, correct, or vacate a fee arbitration award between an attorney and client  
64 that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of  
65 Chapter 4 of Division 3 of the Business and Professions Code, where the arbitration award is  
66 hundred fifty thousand dollars (\$250,000) ~~twenty-five thousand dollars (\$25,000)~~ or less.  
67 (b) The following cases in equity are limited civil cases:  
68 (1) A case to try title to personal property when the amount involved is not more than two  
69 fifty thousand dollars (\$50,000) ~~twenty-five thousand dollars (\$25,000)~~.  
70 (2) A case when equity is pleaded as a defensive matter in any case that is otherwise a  
71 limited civil case.  
72 (3) A case to vacate a judgment or order of the court obtained in a limited civil case  
73 through extrinsic fraud, mistake, inadvertence, or excusable neglect.

74  
75 § 86.1

76 An action brought pursuant to the Long-Term Care, Health, Safety, and Security Act of  
77 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety  
78 Code) is a limited civil case if civil penalties are not sought or amount to fifty  
79 thousand dollars (\$50,000) ~~twenty-five thousand dollars (\$25,000)~~ or less.

(Proposed new language underlined; language to be deleted stricken.)

**PROPONENT:** San Diego County Bar Association

**STATEMENT OF REASONS**

The Problem: The current jurisdictional limit for limited civil cases is \$25,000. Any civil action with more than \$25,000 in dispute is an unlimited civil case wherein each side is entitled to full rights of discovery, whether the amount in dispute is \$26,000 or \$26 million. The problem is that it is very difficult to litigate cases with less than \$50,000 in dispute and not incur attorney fees and costs that exceed half the amount in dispute. The high transactional costs of litigating cases in which \$50,000 or less is in dispute results in litigants walking away from otherwise valid claims or results in litigants who “win” but in reality recover little or nothing after paying their attorney.

This Solution: This resolution would increase the current jurisdictional limit for limited civil cases to \$50,000. The limitation on discovery in limited civil cases will cause attorney fees in cases where the amount in dispute is between \$25,000 and \$50,000 to be significantly less than such fees are now, resulting in a drastic reduction in the cost to the litigants in resolving such

cases. Cases worth less than \$50,000 would benefit from the discovery and pre-trial procedures applied to limited civil cases which include: (1) party questionnaires designed to elicit core information related to the claims or defenses, and pre-trial disclosures of witnesses and evidence intended to be used to establish claims or defenses (Code Civ. Proc., §§93, 96); and (2) limitations in discovery where each party may take one deposition and propound a total of thirty-five discovery requests (Code Civ. Proc., § 94). The parties still have the procedural safeguards for additional discovery because they may stipulate for additional discovery and any party may apply to the Court for additional discovery. (See Code Civ. Proc. §§ 91, subd. (c) and 95.) In balancing fairness and efficiency, this higher jurisdictional limit is likely to result in a more efficient resolution of claims under \$50,000 in such a manner that the parties will still be afforded their day in court in a fair manner.

### **LEGISLATIVE HISTORY**

Not known

### **IMPACT STATEMENT**

The proposed resolution does not affect any other law, statute or rule.

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**RESPONSIBLE FLOOR DELEGATE:** David Greeley

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## **COUNTER-ARGUMENT(S) TO RESOLUTION 06-10-2013**

### **BAR ASSOCIATION OF NORTHERN SAN DIEGO COUNTY**

In light of modern litigation costs, the proposal to increase the amount of controversy requirements for unlimited jurisdiction before California's Superior Courts is well taken. ~~Increasing the amount in controversy requirement to \$250,000, however, appears excessive, and it is unclear whether claims seeking recovery in excess of the Superior Court's current unlimited jurisdictional amount should be subject to the discovery and procedural limitations of the Superior Court's limited jurisdiction.~~ As a point of reference the amount in controversy requirements for federal diversity jurisdiction is more than \$75,000. Additionally, the resolution does not address the impact on California's judiciary that could result from funneling unlimited jurisdiction matters to the court departments that handle limited jurisdiction matters.

### **BAR ASSOCIATION OF SAN FRANCISCO**

Resolution 06-10-2013 proposes to raise the amount in controversy that determines whether a civil action is a limited civil case from the present \$25,000 ceiling to \$250,000. The statement of reasons does not provide any empirical data demonstrating that the current level needs to be raised. Rather the statement of reasons merely asserts that it is uneconomical to fully litigate any matter involving less than \$250,000. That contention is anecdotal and, depending on the nature of the case, including whether the prevailing party may be entitled to attorney's fees, not always

true. The statement of reasons also does not provide any data as to what percentage of civil actions now involve disputes between \$25,000 and \$250,000 that would suddenly become limited civil actions. One suspects that such cases constitute a fairly large percentage of all civil actions, and that many litigants with such claims would not wish to have their ability to litigate their cases limited.

If the proponent of this resolution can develop data to support a modest increase in the limited civil case ceiling, a less ambitious resolution might gain support at the 2014 Conference.

