

RESOLUTION 07-03-2014

DIGEST

Civil Procedure: Change to Small Claims Jurisdictional Limit

Amends Code of Civil Procedure section 116.221 and eliminates section 116.224 to strike the cap of \$7,500 for injury claims in small claims court where the defendant is covered by automobile insurance.

RESOLUTIONS COMMITTEE RECOMMENDATION

ACTION UNNECESSARY

History:

No similar resolutions found.

Reasons:

This resolution amends Code of Civil Procedure section 116.221 and eliminates section 116.224 to strike the cap of \$7,500 for injury claims in small claims court where the defendant is covered by automobile insurance. This resolution should be deemed action unnecessary because the provisions set forth in California Code of Civil Procedure section 116.224 providing for the reduced \$7,500 limit will expire by terms of the current statute on January 1, 2015.

TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 116.221, and repeal Code of Civil Procedure section 116.224, to read as follows:

§ 116.221

In addition to the jurisdiction conferred by Section 116.220, the small claims court has jurisdiction in an action brought by a natural person, if the amount of the demand does not exceed ten thousand dollars (\$10,000), ~~except for actions specified in Section 116.224, or as~~ otherwise prohibited by subdivision (c) of Section 116.220 or subdivision (a) of Section 116.231.

~~§ 116.224~~

~~(a) Notwithstanding Section 116.221, the small claims court has jurisdiction in an action brought by a natural person for damages for bodily injuries resulting from an automobile accident if the amount of the demand does not exceed seven thousand five hundred dollars (\$7,500).~~

~~(b) This section shall apply only if a defendant is covered by an automobile insurance policy that includes a duty to defend.~~

~~(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.~~

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

PROPONENT: Bar Association of Northern San Diego County

STATEMENT OF REASONS

The Problem: Existing Law provides for a small claims court limit of \$10,000 for all personal injury claims, except those arising from an automobile accident where the defendant is covered by insurance. In that case, the jurisdictional limit is reduced to \$7,500. There is no rational basis for reducing the small claims limit by \$2,500 for injuries arising from an automobile collision where the defendant is covered by insurance. It merely provides auto insurance companies an opportunity to avoid paying just claims, since it will be difficult for injured people to pursue claims between \$7,500 and \$10,000 in a superior court.

The Solution: This Resolution corrects the problem by deleting the exception in Code of Civil Procedure section 116.224, and amending Code of Civil Procedure section 116.221 accordingly. This change would remove the reduced limit of \$7,500 for injury claims arising from an automobile accident where the defendant is covered by insurance.

LEGISLATIVE HISTORY

Not known.

IMPACT STATEMENT

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

AUTHOR AND/OR PERMANENT CONTACT: Russell Kohn, Kohn Law Offices, 2170 El Camino Real, Suite 201, Oceanside, CA 92054; (760) 721-8182; rkohn@kohnlawoffice.com

RESPONSIBLE FLOOR DELEGATE: Russell Kohn

COMMENTS TO RESOLUTION 07-03-2014

SANTA CLARA COUNTY BAR ASSOCIATION

DISAPPROVE: This resolution seeks to amend Code of Civil Procedure section 116.221 and eliminate Code of Civil Procedure section 116.224 so as to delete the exception providing a reduced small claims court limit of \$7,500 for injury claims arising from an automobile accident where the defendant is covered by insurance. While the resolution may have merit, it appears to be unnecessary. Section 116.224, the section the resolution seeks to eliminate, contains a sunset provision. As set forth in subdivision (c), Section 116.224 will be repealed as of January 1, 2015. Unless there is pending legislation that seeks to extend the life of Section 116.224 – and the proponent does not give any indication that such legislation exists – it seems unnecessary to pass a resolution to strike a statutory section that, by its own language, will self-expire at the end of the calendar year.