

May 13, 2004

Attn. Romunda Price
Judicial Council
455 Golden Gate Avenue
San Francisco, CA 94102

Dear Judicial Council Members:

I am writing to you on behalf of HALT—*An Organization of Americans for Legal Reform*. HALT is a national advocacy organization committed to improving accessibility and increasing accountability in the civil justice system. On behalf of our 50,000 members nationwide and our 11,000 members in California, I urge you to adopt proposal LEG04-07, which would repeal the 10-day time period between a small claims judgment and enforcement proceedings.

Proposal LEG04-07 addresses an important element of the user-friendliness of small claims courts: the collection process. According to a study by the National Center for State Courts, prevailing plaintiffs are only able to collect a judgment in 25 to 50 percent of uncontested cases. Even in contested cases, over 25 percent of prevailing plaintiffs are unable to collect. Far too often, small claims litigants face a hollow victory when a court rules in their favor yet leaves them powerless to enforce that judgment.

Now that California's trial court system has been unified statewide, repealing the 10-day time period, as laid out in § 116.780(d), would be a tremendous step toward accelerating the collection process for prevailing parties. Furthermore, eliminating this delay would reduce the likelihood that a losing party could shift his or her assets in order to evade collection of a judgment.

Small claims courts remain the only forum where most Californians can seek a legal resolution of their everyday disputes without facing exorbitant legal fees and complex proceedings. In many ways, California's small claims courts are a nationwide model, with their small claims advisors, evening hours and ban of lawyers. The collection processes in these courts, however, represent an area in which California's small claim courts need substantial reform.

Beyond repealing the 10-day delay, California also does not assist plaintiffs who win a case with collecting their judgment from the defendant. Small claims courts should be required to make losing defendants reveal what and where their

assets are. They should also be required to inform people about the options available to them in enforcing a court judgment.

This month, HALT released its 2004 Small Claims Report Card, which rated the effectiveness and user-friendliness of small claims courts across the nation. A copy of California's report card and the national summary are enclosed. California's "B" grade in the report card put it among the best in the nation, but still leaves room for improvement. The report card reveals a series of drawbacks that stifle the potential of small claims courts as a viable point of access to the civil justice system and as a means of empowering citizens to handle their own simple legal affairs. If you would like to partner with HALT in developing or introducing small claims reforms that would build on the progress of the proposal this letter supports, please contact me.

In summary, HALT believes proposal LEG04-07 would be a step toward easing the collection process for prevailing litigants and enhancing the user-friendliness of California's small claims courts. We urge you to adopt this proposal.

Sincerely,

Thomas M. Gordon
Senior Counsel
Director, Small Claims Reform Project