

Statement of
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In support of
Maryland Senate Bill 4

Submitted to the
Maryland Senate Committee on Judicial Proceedings

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We thank the members of the committee for the opportunity to testify in support of Senate Bill 4. We also thank Senator Janet Greenip for introducing this important legislation. HALT is a non-partisan public interest organization with 50,000 members nationwide and over 1,800 members in Maryland, which works to increase both accountability and accessibility in our civil justice system. We support SB 4 as a critical first step in increasing access to the civil justice system for all residents of Maryland.

Each year, tens of millions of low- and moderate-income households nationwide need legal help, but are denied access to the civil justice system. Most of these Americans are shut out of the civil justice system simply because they

cannot afford to hire a lawyer to help resolve their legal problem. As a result, the legal needs of these Americans are not met.

A civil justice system that is supposed to serve all Americans must promote innovations that increase accessibility for citizens of limited means. Small claims reform is one way to help address the enormous gap in accessibility between those in upper income brackets and those with average or lower incomes. We strongly support the increase in the small claims jurisdictional limit in SB 4 -- it is one reform that can help to bridge this gap. With the recent explosion in self-representation, it is important that the court system respond by expanding access to the one court that is designed to handle *pro se* litigants.

HALT believes that a small claims limit of \$20,000 is appropriate to the types of problems that face today's consumers. We realize that this is an ambitious goal that may require incremental steps to achieve. However, it is worth noting that Maryland's neighbors in Pennsylvania and the District of Columbia already are much closer to this goal, with limits of \$8,000 and \$5,000, respectively. On the other hand, only seven states have small claims courts with limits lower than Maryland's. (See Attachment for a complete list of state small claims limits.) Furthermore, Maryland has not raised its small claims limit since 1987, meaning that a significant increase is needed just to keep up with inflation over the past sixteen years.

To show why higher small claims limits are essential to ensuring access to the civil justice system, consider an example of someone denied access to the system. Suppose a homeowner in Elkton hires a plumber to replace a pipe in her basement, only to come home the next day to find a foot of water on the floor because the plumber didn't properly install the new pipe. The cost to repair all the damage to her home is \$5,000. The plumber, unfortunately, refuses to pay for the repair costs and is not returning the homeowner's calls.

The homeowner, having been rebuffed in her efforts to settle this dispute amicably, is forced to take the plumber to court to pay for the damage he caused. However, the \$5,000 she lost exceeds the current limit of \$2,500 to bring a small claims case in District Court. To bring a small claims case, she would have to forfeit her claim to half of the actual damage so that she could get her claim below the limit.

Suing in Circuit Court or in non-small-claims proceedings in District Court is not a viable option for her because the complicated procedures used by those courts would require her to hire an attorney. For a case worth \$5,000, it could easily cost her more to pay the attorney than she would collect if she won. As a result, she is stuck in a legal no-man's land and must shoulder the loss herself, or at least the amount of the loss above \$2,500.

SB 4 would eliminate part of this no-man's land in which consumers become involved in a simple dispute but are not given a forum in which to resolve the dispute simply. By raising the limit of small claims jurisdiction to \$5,000, Maryland would make small claims procedures available in a wider range of everyday disputes faced by ordinary citizens.

MISCONCEPTIONS ABOUT SB 4

Critics of higher small claims court jurisdictional limits have advanced several misconceptions about raising the dollar limit which we find it necessary to refute.

First, opponents of such legislation have expressed concern that expanding the exclusive jurisdiction of District Court would deny litigants the ability to use procedures such as trial by jury and formal discovery. Such procedures are an important part of our judicial system; however, concern over these issues is misplaced. Litigants in cases with such a small amount in dispute cannot afford to hire a lawyer to conduct discovery or a jury trial, and such procedures are generally too difficult to perform *pro se*. Raising exclusive District Court jurisdiction to \$5,000 would not deny anything to people with cases worth between \$2,500 and \$5,000, for the simple reason that these people are not going to go to the expense

and trouble to use these formal procedures when such procedures will cost as much as the amount at stake.

Second, critics of this bill have raised concerns about an adverse impact on the livelihood of lawyers who may lose business when more consumers are able to represent themselves in small claims court. The interests of lawyers will not be adversely affected by raising the small claims limit. As noted above, people do not hire lawyers for cases worth less than \$5,000 since the cost of an attorney would eat up most or all of any damages they might be awarded. Also, attorneys do not generally take cases worth such a small amount. However, even if this legislation were to hurt lawyers' wallets, this bill would still merit passage, since the narrow financial interests of one profession do not outweigh the needs of consumers statewide to have access to the court system.

THE NEED FOR FURTHER REFORMS

We hope that Maryland will build on the progress represented by SB 4 and consider further reforms that address the problem of access to small claims courts. For instance, while the problems of our hypothetical Elkton homeowner would be solved by this bill, there would still be others stuck in the legal no-man's land. Those with consumer disputes over \$10,000 or \$15,000 – a common occurrence in today's economy, would still have to either forfeit a large portion of their claims or

go to the prohibitive and unnecessary expense of hiring an attorney to resolve a simple dispute.

To achieve real reform, we believe that the small claims dollar limit should be raised to \$20,000 – about the average price of a new car or minivan. While purchasing a new vehicle is an important financial decision for most people, it is not one for which they consult an attorney or other outside expert. Similarly, Marylanders who are seeking resolution of their disputes do not need outside expertise when the dispute is over an equivalent amount.

HALT's *Small Claims Reform Project* has suggested a number of reforms that could be implemented to reform small claims courts nationwide. In addition to raising dollar limits, these reforms are:

- (1) **Authorizing small claims judges to issue court orders.** Court orders could be used to deal with many disputes over contracts and disputes between neighbors that cannot currently be heard by the small claims courts. Also, the inability to issue court orders means that small claims judges often cannot help people collect a judgment they have already won.
- (2) **Expanding small claims dispute resolution programs.** Mediation and other alternative dispute resolution methods are one way to avoid some of the lasting antagonisms produced by court fights. Several Maryland counties have these programs and we encourage their expansion statewide.
- (3) **Protecting non-lawyer litigants.** Despite the simplified procedures in small claims court, the presence of a lawyer on the opposing side can intimidate a litigant. The simple reform of discouraging lawyers from appearing in small claims court has already been adopted in some states.
- (4) **Making small claims courts user-friendly.** Maryland has taken some steps to make its small claims court user-friendly, such as

providing forms and general advice for small claims litigants. It also has the lowest filing fee in the country for a small claims action, at \$10. Other steps that could make the courts more user-friendly are the expansion of small claims court hours to include evenings and weekends, and provision of in-person assistance to consumers at the courts.

States such as California have implemented most of these reforms, making their small claims system a true “people’s court.” We hope that Maryland will follow in their footsteps in helping its citizens settle their disputes in a simple, affordable manner.

HALT is deeply concerned by the current denial of access to the justice system to many Marylanders. While we applaud the step to correct this situation contained in this legislation, and urge your support of SB 4, we hope that you will take further action to resolve this problem in the future. Thank you again for considering our testimony on this important legislation.