

**Introduced by Senator Liu**

January 23, 2014

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An act to amend Section 116.540 of the Code of Civil Procedure, relating to small claims court.

LEGISLATIVE COUNSEL'S DIGEST

SB 914, as introduced, Liu. Small claims court.

Existing law generally requires that plaintiffs and defendants in small claims court actions represent themselves, but provides a number of exceptions to this requirement for specified businesses, plaintiffs who are in the military, and defendants who are nonresident owners of property, among others.

This bill would create another exception to that rule by permitting a plaintiff in a small claims action to submit declarations to serve as evidence supporting his or her claim or allow another individual to appear and participate on his or her behalf, if the plaintiff is a senior citizen or dependent adult and appearing for a hearing would pose an undue hardship, as determined by the court, due to limited mobility or limited access to transportation.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 116.540 of the Code of Civil Procedure
- 2 is amended to read:
- 3 116.540. (a) Except as permitted by this section, no individual
- 4 other than the plaintiff and the defendant may take part in the
- 5 conduct or defense of a small claims action.

1 (b) Except as additionally provided in subdivision (i), a  
2 corporation may appear and participate in a small claims action  
3 only through a regular employee, or a duly appointed or elected  
4 officer or director, who is employed, appointed, or elected for  
5 purposes other than solely representing the corporation in small  
6 claims court.

7 (c) A party who is not a corporation or a natural person may  
8 appear and participate in a small claims action only through a  
9 regular employee, or a duly appointed or elected officer or director,  
10 or in the case of a partnership, a partner, engaged for purposes  
11 other than solely representing the party in small claims court.

12 (d) If a party is an individual doing business as a sole  
13 proprietorship, the party may appear and participate in a small  
14 claims action by a representative and without personally appearing  
15 if both of the following conditions are met:

16 (1) The claim can be proved or disputed by evidence of an  
17 account that constitutes a business record as defined in Section  
18 1271 of the Evidence Code, and there is no other issue of fact in  
19 the case.

20 (2) The representative is a regular employee of the party for  
21 purposes other than solely representing the party in small claims  
22 actions and is qualified to testify to the identity and mode of  
23 preparation of the business record.

24 (e) A plaintiff is not required to personally appear, and may  
25 submit declarations to serve as evidence supporting his or her claim  
26 or allow another individual to appear and participate on his or her  
27 behalf, if (1) the plaintiff is serving on active duty in the United  
28 States Armed Forces outside this state, (2) the plaintiff was  
29 assigned to his or her duty station after his or her claim arose, (3)  
30 the assignment is for more than six months, (4) the representative  
31 is serving without compensation, and (5) the representative has  
32 appeared in small claims actions on behalf of others no more than  
33 four times during the calendar year. The defendant may file a claim  
34 in the same action in an amount not to exceed the jurisdictional  
35 limits stated in Sections 116.220, 116.221, and 116.231.

36 (f) A party incarcerated in a county jail, a Department of  
37 Corrections and Rehabilitation facility, or a Division of Juvenile  
38 Facilities facility is not required to personally appear, and may  
39 submit declarations to serve as evidence supporting his or her  
40 claim, or may authorize another individual to appear and participate

1 on his or her behalf if that individual is serving without  
2 compensation and has appeared in small claims actions on behalf  
3 of others no more than four times during the calendar year.

4 (g) A defendant who is a nonresident owner of real property  
5 may defend against a claim relating to that property without  
6 personally appearing by (1) submitting written declarations to  
7 serve as evidence supporting his or her defense, (2) allowing  
8 another individual to appear and participate on his or her behalf if  
9 that individual is serving without compensation and has appeared  
10 in small claims actions on behalf of others no more than four times  
11 during the calendar year, or (3) taking the action described in both  
12 (1) and (2).

13 (h) A party who is an owner of rental real property may appear  
14 and participate in a small claims action through a property agent  
15 under contract with the owner to manage the rental of that property,  
16 if (1) the owner has retained the property agent principally to  
17 manage the rental of that property and not principally to represent  
18 the owner in small claims court, and (2) the claim relates to the  
19 rental property.

20 (i) A party that is an association created to manage a common  
21 interest development, as defined in Section 4100 or in Sections  
22 6528 and 6534 of the Civil Code, may appear and participate in a  
23 small claims action through an agent, a management company  
24 representative, or bookkeeper who appears on behalf of that  
25 association.

26 (j) (1) *A plaintiff is not required to personally appear, and may*  
27 *submit declarations to serve as evidence supporting his or her*  
28 *claim or allow another individual to appear and participate on*  
29 *his or her behalf, if the plaintiff is a senior citizen or dependent*  
30 *adult and appearing for a hearing would pose an undue hardship,*  
31 *as determined by the court, due to limited mobility or limited access*  
32 *to transportation.*

33 (2) *For the purposes of this subdivision, the following definitions*  
34 *shall apply:*

35 (A) *“Dependent adult” means a person who is 18 years of age*  
36 *or older, who resides in this state, and who has physical or mental*  
37 *limitations that restrict his or her ability to carry out normal*  
38 *activities or to protect his or her rights, including, but not limited*  
39 *to, persons who have physical or developmental disabilities, or*

1 *whose physical or mental abilities have diminished because of*  
2 *age.*

3 (B) *“Senior citizen” means a person who is 65 years of age or*  
4 *older.*

5 ~~(j)~~

6 (k) *At the hearing of a small claims action, the court shall require*  
7 *any individual who is appearing as a representative of a party under*  
8 *subdivisions (b) to ~~(i)~~; (j), inclusive, to file a declaration stating*  
9 *(1) that the individual is authorized to appear for the party, and (2)*  
10 *the basis for that authorization. If the representative is appearing*  
11 *under subdivision (b), (c), (d), (h), or (i), the declaration also shall*  
12 *state that the individual is not employed solely to represent the*  
13 *party in small claims court. If the representative is appearing under*  
14 *subdivision (e), (f), ~~or~~ (g), or (j), the declaration also shall state*  
15 *that the representative is serving without compensation, and has*  
16 *appeared in small claims actions on behalf of others no more than*  
17 *four times during the calendar year.*

18 ~~(k)~~

19 (l) *A husband or wife who sues or who is sued with his or her*  
20 *spouse may appear and participate on behalf of his or her spouse*  
21 *if (1) the claim is a joint claim, (2) the represented spouse has*  
22 *given his or her consent, and (3) the court determines that the*  
23 *interests of justice would be served.*

24 ~~(l)~~

25 (m) *If the court determines that a party cannot properly present*  
26 *his or her claim or defense and needs assistance, the court may in*  
27 *its discretion allow another individual to assist that party.*

28 ~~(m)~~

29 (n) *Nothing in this section shall operate or be construed to*  
30 *authorize an attorney to participate in a small claims action except*  
31 *as expressly provided in Section 116.530.*