June 8, 1984

To the Members of the Board of Governors:

Attached hereto is a statement of Division IV favoring that portion of H.R. 5636 which would increase the jurisdictional limit on small claims cases from $750, set in 1970, to $2,000. (The Horsky Committee Report recommended an increase to $2,500.)

We are asking for your review on an emergency basis, because we learned only today, June 8, that we would be afforded the opportunity to testify on the bill at the June 14 hearings to be held before a subcommittee of the House District Committee. Accordingly, we must submit our statement by June 13.

The statement, reflecting a position already adopted by the Division IV Legislation Committee, was approved by the Division IV Steering Committee today.

Statement of Ellen Bass
On Behalf of Division IV
of the District of Columbia Bar *

Before the

Judiciary and Education Subcommittee
of the Committee on the District of Columbia
U.S. House of Representatives

on

H.R. 5636

June 14, 1984

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* STANDARD DISCLAIMER

The views expressed herein represent only those of Division IV: Courts, Lawyers, and the Administration of Justice of the D.C. Bar and not those of D.C. Bar or of the Board of Governors.

My name is Ellen Bass, and I am the Co-Chair-elect of Division IV of the District of Columbia Bar, which is concerned with courts, lawyers and the administration of justice, and I am also the Chair of the Division IV Legislation Committee. Division IV, primarily through its Legislation Committee, has adopted a position in support of that portion of H.R. 5636 that would raise the jurisdictional limit for the small claims branch of the District of Columbia Superior Court from its current rate of $750 to $2,000.

While we take no substantive position at this time on the remainder of the H.R. 5636, which would change the appointment process for judges of the District of Columbia courts to substitute the Mayor for the President of the United States as the appointing official and by changing the composition of the Judicial Nomination Commission, we believe it to be counterproductive to link such a controversial proposal to relatively uncontroversial proposals like the increase in the jurisdictional amount for small claims cases.

Let me begin by stating that Division IV has been concerned about backlogs and delay in the disposition of cases in the Superior Court. In light of this concern, we have previously commented in favor of the proposal to authorize additional judgeships for the Superior Court. In doing so, we pointed out that additional judges were not the only means at Congress' disposal to address the problem of case backlogs, and we specifically listed increasing of the jurisdictional limit for small claims cases as one such means.

An increase in the jurisdictional amount for small claims cases would be a relatively cost-effective means to help unclog civil dockets and to decrease delay in civil case disposition, because a far greater number of cases could be handled by the small claims court in all likelihood with only a small increase in the resources devoted to that branch of the Superior Court. The staff and other court resources now devoted to these small cases could be redeployed to more substantial civil matters.

The $750 limit was set in 1970; since that time, the number of small claims filings has declined from a high of 35,832 in 1973 to 21,142 in 1983, a decline of 40 percent; filings declined by ten percent between 1981 and 1983 alone. 1/ One judge has continued to handle all the cases in the small claims branch from 1970 to date.

In 1981, the District of Columbia Bar's Court System Study Committee recommended an increase to $2,500 of the jurisdictional limit for the small claims court. That recommendation was based upon a sample study of case filings in the civil division (non-small claims) between 1975 and 1977, which showed that over 50 percent involved demands for $2,000

1/ See 1983 Annual Report of the District of Columbia Courts, pp. 49, 65; 1982 Annual Report of the District of Columbia Courts, p. 65; 1976 Annual Report of the District of Columbia Courts, p. 46.

or less. [2/] The Court Study Committee concluded that "it is not an exaggeration to say that small collection cases are clogging the Civil Division," with the principal impact on the motions calendar. [3/] Statistics prepared for the Chief Deputy Clerk of the civil division in 1983 show that, based on a sample of 990 civil division cases, a total of 51 percent involved amounts up to $2,500. Staff and other court resources could either be allocated to more substantial civil cases and/or shifted as appropriate based upon the actual effect of raising the small claims ceiling. In either case, the result is bound to increase efficiency in case disposition.

While the civil division has made strides in dealing with its backlog of civil motions recently due to the prodigious individual efforts of judges assigned there and court personnel, the delay in civil case dispositions is still a matter of concern. For the less complex cases assigned to the civil II branch, statistics presented by Chief Judge H. Carl Moultrie I to Congress in conjunction with the proposed additional judgeships showed an average of 621 days (about 21 months) for case disposition. The shift of cases involving smaller dollar amounts to the small claims branch that H.R. 5636 would in all likelihood effect would greatly aid the

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2/ See Report of the District of Columbia Court Study Committee of the District of Columbia Bar, prepared for the Senate Subcommittee on Governmental Efficiency and the District of Columbia of the Committee on Governmental Affairs, 98th Cong., 1st Sess., Comm. Print 98-34 (1983), pp. 96-97, 134.

3/ Id. at 97.

Superior Court civil division in handling more efficiently and speedily disposition of the remaining civil cases. Furthermore, substantially quicker disposition could be made of the additional cases that could be filed in the small claims branch; at present, small claims cases are resolved on the average in one month. 4/

It is a measure of the inadequacy of the current $750 ceiling that neighboring jurisdictions have far higher jurisdictional amounts for their courts equivalent to the small claims branch: $5,000 in Virginia and $10,000 in Maryland.

Finally, there is the important consideration of fairness to the public. The expense of legal fees, filing fees, and other costs associated with traditional civil case practice involving formal pleadings and motions can be prohibitive for disputes involving only small amounts of money under $2,000. The small claims court is designed to address the need for a dispute resolution forum where costs are contained by eliminating, in most cases, the need for counsel, because formal pleadings and procedures are not used. An increase in the jurisdictional limit such as that in H.R. 5636 would open this forum to a greater number of people, consistent with the realities of current economic conditions.

4/ See 1983 Annual Report of the District of Columbia Courts, p. 65 (comparing number of cases filed and number of dispositions).

One final note involves the question of how the jurisdictional limit might be changed in the future, if conditions make that appropriate. The District of Columbia Bar Court Study Committee recommended that periodic adjustments to the small claims ceiling should be made by court rule, rather than by legislation. 4/ We believe that this recommendation has merit. Congress is not the appropriate forum to deal with a question of such minimal national or even local importance; it is really a matter of court administration. The better course would be to amend H.R. 5636 to include a provision making future changes in the small claims ceiling a matter to be resolved by court rule; Congress could set parameters for such changes, such as the consumer price index or another appropriate measure, if it believes that such parameters are appropriate.

Thank you for the opportunity to address this issue of concern to Division IV of the District of Columbia Bar.

4/ Id. at 98.