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ACCESS TO JUSTICE AND SMALL CLAIMS COURTS: SUPPORTING LATIN AMERICAN CIVIL REFORMS THROUGH EMPIRICAL RESEARCH IN LOS ANGELES COUNTY, CALIFORNIA

*ACCESO A LA JUSTICIA Y TRIBUNALES DE PEQUEÑAS CAUSAS:
APOYANDO LA REFORMA A LA JUSTICIA CIVIL EN LATINOAMÉRICA,
INVESTIGACIÓN EMPÍRICA EN EL CONDADO DE LOS ÁNGELES,
CALIFORNIA*

RICARDO LILLO*

ABSTRACT: The purpose of this article is to provide an analysis on the use of Small Claims Courts as a mechanism to improve access to justice in order to support the ongoing reform movement in Latin-American countries in civil matters. In this region, this essential information is intended to be used by policymakers to help judiciaries to confront several barriers that currently face common citizens: lack of information, high economic cost of the judicial process and obtaining legal representation, corruption, extreme formalism, delays, and even the geographical location of the courts. The experience on the implementation of the Small Claims Courts in the United States, with the modifications made during the 60' and the 70's as a result of the consumers' movement, may contribute to the discussion in countries where is too much to be done in providing access to justice to groups of populations traditionally excluded, at least in many civil matters. With this purpose, the author have made an empirical research at the Stanley Mosk Courthouse of the Los Angeles Superior Court finding that even when some reforms could improve the system, with the proper incentives and with restrictions for corporate plaintiffs to avoid systemic abuse, this mechanism can become the people's court.

Key words: Access to justice, Small Claims Courts, empirical research.

RESUMEN: El propósito de este artículo es brindar un análisis del uso de los Tribunales de Pequeñas Causas como mecanismo para mejorar el acceso a la justicia, de manera de apoyar el movimiento de reforma a la justicia civil existente en varios países de Latinoamérica. Esta información está orientada a tomadores de decisiones y a poderes judiciales para ayudar a eliminar las barreras de acceso que actualmente enfrentan ciudadanos comunes: falta de información, altos costos económicos del proceso judicial y para obtener representación legal, corrupción, formalismo extremo, demoras, etc. En este sentido, la experiencia de Estados Unidos con la implementación de los Tribunales de Pequeñas Causas y las modificaciones realizadas durante los 60 y 70 gracias al movimiento de los consumidores, pueden contribuir a la discusión en países donde aún hay mucho por mejorar en el acceso de varios grupos de la población, al menos en el ámbito civil. Con este propósito, el autor realizó un estudio empírico en el Tribunal de Stanley Mosk del Tribunal Superior de Los Angeles, cuyo hallazgo

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principal es que este mecanismo, con los incentivos adecuados y las restricciones necesarias para evitar el abuso del sistema por parte de las corporaciones, puede constituirse verdaderamente en un "Tribunal del Pueblo".

Palabras clave: Acceso a la justicia, Tribunales de pequeñas causas, investigación empírica.

INTRODUCTION

Almost a century ago the first Small Claims Courts were implemented in the United States. The original idea was to provide, through a judicial institution, a venue where the common citizen could resolve their conflicts and legal needs in an expeditious, simple and informal way in front of a professional judge.

Different movements came about to achieve implementation of this mechanism throughout the country; currently every state utilizes Small Claims Courts. In some points in history these tribunals have been considered a "forgotten court", in others have been the focus of attention and reform. Today this mechanism to provide access to justice is contained in the essence of the American system, occupying important portions of the civil dockets of the courts.

This paper describes the findings of empirical research conducted in the Small Claims Court of the Stanley Mosk Courthouse in downtown LA. The research analyzes the model of small claims courts as a mechanism to improve access to justice for the common citizen, and in this sense establish if their initial goal is being met.

The main objective of this study is to provide empirical and descriptive information for those countries that are currently discussing reforms in civil justice (in general terms as opposed to criminal justice) on the subject. In particular, and because of the knowledge of the author in the current reform process underway in Latin America, this essential information is intended to be used by policymakers in the region to help judiciaries to confront several barriers that limit access to justice, among them lack of information, the high economic cost of the judicial process and obtaining legal representation, corruption, extreme formalism, delays, and even the geographical location of the courts.

As in many fields of policy in the region, there is a lack of empirical study and information that is necessary to plan, implement and evaluate public policies concerning these matters. This research was conducted to support this urgent need in regard to Small Claims Courts, which are one of the mechanisms that have been proposed. Then, the idea was to document and evaluate this mechanism in the sense of its utility in improving access to justice.

With this purpose in mind, this paper is divided in several sections. First, the Small Claims Court as a model is described in terms of its main features. The section includes a summary of some of the criticisms made by the movement that emerged during the 60's and 70's. Secondly, I will describe the model as implemented in California, describing its characteristics in terms of how the Court is organized and how the proceedings are carried out. The third part contains the findings of the empirical research conducted in Los Angeles County, and where appropriate compares with the findings to criticisms found in

other studies. Finally, some conclusions are summarized based on these findings to provide a model of Small Claims Court that could or perhaps should be implemented in Latin America to improve access to justice.

I. THE SMALL CLAIMS COURTS MODEL

The model of a mechanism to provide and improve access to justice for the population, and specially for the unmet legal needs in civil matters of larger groups of underrepresented citizens, through the creation of a special tribunal, was introduced in the United States at the beginning of the 20th century. Notwithstanding the original idea came from Europe and was first introduced in Canada at the 19th century, in United States the mechanism had an impressive expansion after the initial implementation in Kansas by 1912, Cleveland at 1913 and Massachusetts 1920, first state to pass a state-wide implementation of this type of court in 1920. Currently all the 50 states have this mechanism even when some differences between them.¹

In other countries of the Americas (e.g. Bolivia, Brazil, Costa Rica, and Uruguay), similar experiences have been implemented during the last few decades. But although many of the courts share some of the features of the model implemented in North America, they are different in many other respects including the proceeding itself, since the courts tend to have been formed out of the Civil Law tradition. One example of the mechanisms implemented in Latin America is the Brazil Small Claims Court, which was implemented in 1998 to resolve congestion problems in the judiciary (later their name changed to Special Civil and Criminal Courts or *Juizados Especiais Cíveis e Criminais*)².

As described in the literature, the main goal of this tribunal was to provide access to justice to "poor" litigants through the establishment of informal and simplified proceedings where expenses and delay should be greatly reduced³. Self representation and a simplified version of due process, where a basis of this model⁴. Notwithstanding, at the beginning of the movement, when referring to poor people, advocates meant "plain, honest men," such as "small tradespeople, lodging housekeepers and wage-earners"⁵. Then, it was understood as "...not the indigent, but the great majority of all people, those who find it hard to get through each year without debt, and so cannot endure the extravagance of litigation"⁶. The improvement of the judicial integrity (or legitimacy) among the population was also a factor⁷⁻⁸.

¹ For more information about the origins of the Small Claims Courts model, see in Spanish: RIEGO and LILLO (2014) pp. 385-417 (in Spanish). In English, see: STEELE (1981) pp. 293-376.

² JUSTICE STUDIES CENTER OF THE AMERICAS (2014) pp. 92, 93.

³ KOSMIN (1975-1976) p. 936.

⁴ YNGVESSON and HENESSEY (1975) p. 222.

⁵ YNGVESSON and HENESSEY (1975) p. 221.

⁶ JOURNAL OF THE AMERICAN JUDICATURE SOCIETY (1921) p. 163, cited by YNGVESSON and HENESSEY (1975) p. 222.

⁷ KOSMIN (1975-1976) p. 936.

⁸ RIEGO and LILLO (2014) p. 390.

As we said before, even when the 50 states currently have a Small Claims Courts, mechanisms differ throughout the country in many ways: the limits in the amount of money claimed; the possibility of legal representation or not; type of plaintiff (i.e. if corporations or other types of business figures are allowed to file claims); the staff that provide help to self-representing litigants, among others⁹. In this sense, limits on the size of the claims differ greatly, varying from \$2,500 (Kentucky, Rhode Island) up to \$25,000 (Tennessee). The most common amount is \$5,000 (Arkansas, Connecticut, District of Columbia, Florida, Hawaii, Idaho, Iowa, Louisiana, Maryland, Michigan, Missouri, New York, Vermont, Virginia, Washington, and West Virginia) and \$10,000 (Alaska, California, Illinois, Minnesota, New Mexico, North Carolina, Oregon, Texas, Utah, and Wisconsin) (Table 1).

Table 1: Limited amount by State

Amount (in U.S. dollars)	State
\$2,500	Kentucky, Rhode Island
\$3,000	Alabama, New Jersey ¹ , Ohio
\$3,500	Arizona, Mississippi, Nebraska ²
\$4,000	Kansas
\$5,000	Arkansas, Connecticut ³ , District of Columbia, Florida, Hawaii ⁴ , Idaho, Iowa, Louisiana ⁵ , Maryland, Michigan, Missouri, New York ⁶ , Vermont, Virginia, Washington, West Virginia
\$6,000	Indiana, Maine, Wyoming
\$7,000	Massachusetts ⁷ , Montana
\$7,500	Colorado, Nevada, New Hampshire, Oklahoma, South Carolina
\$10,000	Alaska, California ⁸ , Illinois, Minnesota ⁹ , New Mexico, North Carolina, Oregon, Texas, Utah, Wisconsin ¹⁰
\$12,000	Pennsylvania, South Dakota
\$15,000	Delaware, Georgia ¹¹ , North Dakota
\$25,000	Tennessee ¹²

Source: <https://www.nolo.com/legal-encyclopedia/small-claims-suits-how-much-30031.html> (last visited May 4, 2014).

⁹ RIEGO and LILLO (2014) p. 391.

¹⁰ \$5,000 for claims relating to security deposits); certain landlord-tenant suits cannot be brought.

¹¹ From July 1, 2010 through June 30, 2015 (adjusted every five years based on the Consumer Price Index).

¹² Except in landlord-tenant security deposit claims.

¹³ No limit in landlord-tenant residential security deposit cases. For return of leased or rented personal property, the property must not be worth more than \$5,000.

¹⁴ \$5,000 (city court); \$5,000 (justice of the peace, but no limit on eviction cases).

¹⁵ \$3,000 in town and village courts.

¹⁶ No limit for property damage caused by motor vehicle.

¹⁷ For business or corporations the limit is \$5,000. In cases where the defendant is a guarantor amounts varies in \$6,500, \$2,500 and \$4,000 depending on the type of plaintiff. In cases of individual/natural persons filing for damages for bodily injuries resulting from a car accident where there is automobile insurance policy that includes a duty to defend the limit is set in \$7,500. Los Angeles Superior Court, <http://www.lasuperiorcourt.org/small-claims/ui/whatis.aspx> (last visited May 5, 2014)

Besides these differences, according to Yngvesson and Hennessey (and citing on this point the Journal of the American Judicature Society), there are some important common features that gave form to the Small Claims Court as a model that can be identified and described²².

The basic common element about this type of courts is the link they have with the formal or official state court system. In fact, they tend to be an integrated part of the judiciary. Then, and as a consequence, these courts are staffed by professional or qualified judges²³.

Another common feature was the use of the adversarial model for litigation as the norm but with an essential modification on the role of the judge. With this development the judge was described more as an investigator, not an umpire. In this new role, the judge would be in charge of extracting all the information they needed to properly resolve the conflicts brought to them. In the same sense, lawyers were replaced by clerks in the preparation of the case giving them new functions as well²⁴.

With this new role of the judge, the regulations of the proceedings to be followed by these courts were established only in the general sense. The details, in turn, were left to the discretion of the judge. For these purposes they were not to be bound by formal rules of evidence, although decisions were to be reached on the basis of substantive law. From another perspective, in some cases these courts are often considered courts of equity where judges are not necessarily bound by the letter of the law. The idea was to have flexibility to use more holistic approaches to problem solving and dispute resolution activity than what is typical in regular courts²⁵. In this sense, judges were enabled to decide how a claim should be paid and to take into consideration the defendant's economic circumstances and ability to pay.

Other procedural reforms included simplified pleadings, the elimination of pre-trial procedures, the waiver of a jury trial by the plaintiff, and the curtailment of appeal rights. These reforms were in part a response to the complaints about the complicated system of pleadings and pretrial motions that not only caused delays but also made it virtually impossible to bring a case to court without an attorney, where the attorney's fees were themselves a barrier due to the significant expense²⁶.

In this way costs were reduced to the minimum. Attorney fees were of significant concern at the time, as noted by Steele, "The age-old problem of court costs and lawyers' fees was also emphasized in the muckraking literature of the era. Much of the criticism

¹⁸ \$4,000 for claims involving consumer credit transactions, \$15,000 for claims involving money or personal property subject to criminal forfeiture.

¹⁹ No limit in eviction suits.

²⁰ No limit in eviction cases.

²¹ No limit in eviction suits or suits to recover personal property.

²² YNGVESSON and HENNESSEY (1975) pp. 223-224. See also: TURNER and MCGEE (2000) pp. 177-188.

²³ About the origins and causes of this particular element, see: STEELE (1981) p. 328.

²⁴ RIEGO and LILLO (2014) p. 392.

²⁵ ZUCKER and HER (2002-2003) p. 317.

²⁶ STEELE (1981) p. 323.

focused on the undue costs and fees arising from widespread appeals and retrials for technical procedural errors exacerbated by the multiplicity of ununified courts..."

Another characteristic of the Small Claims Courts is that almost any case matter can be heard, so long as the amount of money being disputed (or in other words, the amount that the plaintiff may request) was within the limits provided in that jurisdiction²⁷.

Finally, although not all the states limit the legal representation of the parties by attorneys, the idea of self or "pro se" litigation was at the origin of the new system²⁸.

Notwithstanding the definition of "minor disputes" in terms of the money limit, it must be said that for the reform movement the original importance of the Small Claims Courts went beyond the individual case to "their role in the widespread dissemination of justice throughout society"²⁹. Then, it was connected with the idea that the States' owed positive duties to protect fundamental rights of the individuals by providing for certain minimum standards and guaranteeing access to justice of every person.³⁰ As noted by Steel, "One of the most significant accomplishments of Progressivism was the strengthening of the government as a protector and guarantor of the "social rights" of individuals. In contrast to the "classical rights" of the previous century, the state became increasingly invested with the power and obligation to insure the maintenance of certain standards"³¹

In this manner the concept of "minor disputes" was related more to the type of cases in the sense that they tend to be more straightforward for their resolution. In this sense "... the court was conceived and structured as a "plaintiff's court"..."³²

II. MAIN CRITICISMS OF SMALL CLAIMS COURTS

By the 60's and 70's with the growth of the consumer rights movement, a renewed focus of attention on the Small Claims Court began. By that time is when many of the empirical and traditional legal research in the field were made. Before these decades it is difficult to find research in the area (besides the work of the beginning of the century when the model was created)³³.

Most of these studies were centered in the evaluation of whether the original goals that led to the founders' movement to push for implementation of Small Claims Courts were being met. In other words, critics looked at whether from the perspective of the consumer these tribunals were effective venues for the common citizen to resolve their conflicts by improving their access to justice, or whether instead they were being used for other purposes.

²⁷ ZUCKER and HER (2002-2003) p. 315.

²⁸ STEELE (1981) p. 309. See also: POUND (1906) pp. 395-417.

²⁹ STEELE (1981) p. 300.

³⁰ RIEGO and LILLO (2014) p. 395.

³¹ STEELE (1981) p. 317.

³² YNGVESSON and HENESSEY (1975) p. 226.

³³ See e.g.: MONTAGUE and ROSENSTEIN (1972-1973) pp. 1309-1361; MINTON and STEFFENSON (1971-1972) pp. 324-328; HOLLINGSWORTH, FELDMAN and CLARK (1973) pp. 469-527; EOVALDI and MEYERS (1977-1978) pp. 947-1003; MC EWEN and MAIMAN (1981) pp. 237-268.

The findings of that research led to a serious criticism that can be described as follows: "Established in the years after World War I with the aim of bringing justice within the reach of every citizen, [Small Claims Courts] have degenerated into judicial collection agencies and have become identified in the minds of most people with the business corporations and public utilities that now dominate them"³⁴. Then, the idea was mainly that the court was being used for the disadvantage of those who it was supposed to benefit, the poor and the common citizen.

A study conducted in California in 1969 described these criticisms by noting how the individual litigant appeared most frequently as a defendant and how the real beneficiaries of this mechanism were business interests and government agencies, many of whom filed multiple claims as a regular part of their collection activities³⁵. In this sense an empirical research made by Carl R. Pagter, Robert McCloskey and Mitchell Reinis in Oakland-Piedmont-Emeryville judicial district, found that only 30% of the cases of their dataset were brought by individuals, whereas individuals were defendants in more than 85% of the cases. Based on these numbers, the author concluded that "[i]nasmuch as the small claims court was created primarily to help the "poor" litigant, it is questionable whether that purpose is actually being fulfilled"³⁶.

Other research made in Los Angeles County found plaintiffs were businesses in about 60% of the cases, and that almost all of them were suing private individuals, not other companies. Likewise, private individuals typically lodged complaints only against other individuals³⁷.

The criticism was that individuals not only participated more often as defendants but that they also lost their cases more frequently as well. In this sense, a literature review of the research done by that time reveals there was clear evidence from all courts analyzed that the plaintiff almost always wins³⁸. Various reasons were given for that phenomenon. For example, for Moulton, this happened because corporate plaintiffs that frequently resort to small claims court to collect delinquent accounts will quickly become familiar with the procedures of the small claims court, and with the relevant law governing the types of cases they usually handle³⁹.

Faced with this situation of disadvantage for individual defendant, these criticisms were directed to the elimination of pro se litigation and the lack of attorney representation that existed in California. In this sense, Moulton wrote that "...if the low income litigant is to have a fair hearing, he will almost invariably need in court assistance in presenting his side of the story, assistance that California has denied him in the interest of speed and economy"⁴⁰.

Similarly, another of the studies reviewed summarize the findings by saying that corporate plaintiffs "...almost always bring suit against individual defendants; they are almost always represented; and they have a better chance of winning, and of collecting,

³⁴ KOSMIN (1975-1976) p. 981.

³⁵ MOULTON (1969) p. 1659.

³⁶ PAGTER *et al.* (1964) p. 884.

³⁷ GRAHAM and SNORTUM (1976-1977) p. 264.

³⁸ YNGVESSON and HENESSEY (1975) p. 243.

³⁹ MOULTON (1969) p. 1662.

⁴⁰ MOULTON (1969) p. 1665.

than individual plaintiffs (or defendants), a fact which has been linked in one study to the fact that they are represented"⁴¹.

These criticisms led to a series of reforms to the Small Claims Courts, particularly: trying to limit the participation of corporate plaintiffs in terms of the amount of claims that could be brought; fees; improvements to the support provided for defendants in the preparation of their cases (but not necessarily allowing lawyers to represent them); and finally efforts to bring awareness about the court among the general population. Of note among these efforts in California was the 1980's TV show called "The People's Court"⁴² and more recently the use of self-help, e-Filing and other websites offering a user-oriented perspective⁴³.

III. CALIFORNIA SMALL CLAIMS COURTS

In California a general establishment of Small Claims Court for the entire state passed, following Massachusetts, in 1921⁴⁴. Following important modifications during the century, a current small claims court law was enacted in 1990 and is found at Sections 116.110 to 116.950 of the California Code of Civil Procedure.

The Small Claims Courts occupy a relevant place in the civil docket of the judiciary in California. During the fiscal year 2012, 183,957 small claims cases were filed statewide. This represents approximately 19% of the totality of civil cases filed in the Superior Courts statewide⁴⁵. Of the total number of Small Claims filed in the state, 61,603 were filed in Los Angeles County, the equivalent to 33.5% of the entire system, making then by far the largest Small Claims docket (Table N° 2).

Table 2: Table: Counties in California with Small Claims filings over 10,000.
(2012)

County	Small Claims Filings (%)
Los Angeles	61,603 (33.5)
Orange	16,667 (9.1)
Riverside	11,955 (6.5)
San Bernardino	14,606 (7.9)
San Diego	16,400 (8.9)
Statewide	183,957 (100)

Source: Judicial Council of California, Administrative Office of the Court, "2013 Court Statistics Report, Statewide Caseload Trends 2002–2003 Through 2011–2012"⁴⁶.

⁴¹ YNGVESSON and HENESSEY (1975) p. 255.

⁴² ZUCKER & HER (2002-2003) pp. 322-323.

⁴³ SMITH (2012) p. 1.

⁴⁴ California Statutes, chapter 125, 1921.

⁴⁵ JUDICIAL COUNCIL OF CALIFORNIA (2013) p. 18.

⁴⁶ RIEGO and LILLO (2014) p. 397.

From Los Angeles County, the Stanley Mosk Courthouse was selected for this research in particular because it is one of the main entry points among the districts of the Los Angeles Superior Court jurisdiction (there are five other courthouses where small claims can be filed: Alhambra, Downey, Inglewood, Michael Antonovich Antelope Valley, and Van Nuys). In this sense, according to information provided by the Los Angeles Superior Court, 12,010 cases were filed in the Stanley Mosk Small Claims Court in 2012. This means that this particular Small Claim Court receives approximately 20% of all the small claims filed in Los Angeles County.

Beside the importance in terms of the docket, in California a special place for the Small Claims Court is given by the organization of the system. In this sense, the Code of Civil Procedure highlights the social and economic significance of the resolution of minor civil disputes. For that purpose, and to resolve these types of cases expeditiously, inexpensively, and fairly, it is said that it is essential to provide a judicial forum accessible to all parties directly involved in resolving these disputes⁴⁷.

As with many other states, in California the Small Claims Court are part of the ordinary court system. For this purpose, each superior court has a small claims division (called Small Claims Courts even when they are not considered a separate tribunal).

Since 2005, the current limit of the claim amount is \$10,000 if the action is brought by a natural person (individual or sole proprietor)⁴⁸. This is the general rule for individual plaintiffs but there are other special exceptions as well. For example, in cases related to damages for bodily injuries resulting from a car accident, the limit is \$7,500 if the defendant had insurance policy covering a duty to defend⁴⁹. For corporate plaintiffs the court has jurisdiction only in cases up to \$5,000. Finally, some other restrictions or limitations apply when the defendant is a guarantor⁵⁰.

Currently, the basic fees to file a Small Claims Court are \$30 if the amount of the demand does not exceed \$1,500 and \$50 if the amount exceeds that amount but is equal or less to \$5,000. Over this amount until the limit of \$10,000 the fee is \$75. As a limitation for repeat players (those who file more than 12 claims in a 12 months period), the filing fee is \$100⁵¹. To use the e-Filing system of the Court there is an additional fee of \$10.

Another rule that seeks to limit the use of Small Claims Court to single players and restrict use by corporate entities establishes that no person may file more than two small claims actions in which the amount demanded exceeds \$2,500, anywhere in the state in any calendar year⁵².

Observing that many persons can't go to the court during regular office hours, it is provided in the Code of Civil Procedure that Small Claims Courts with seven or more judicial officers shall conduct at least one night session or Saturday session each month⁵³.

⁴⁷ Cal. Code Civ. Proc. § 116.120 (2006).

⁴⁸ Cal. Code Civ. Proc. § 116.221 (2006).

⁴⁹ Cal. Code Civ. Proc. § 116.224 (2006).

⁵⁰ Cal. Code Civ. Proc. § 116.220 (2006).

⁵¹ Cal. Code Civ. Proc. § 116.230 (2006).

⁵² Cal. Code Civ. Proc. § 116.231 (2006).

⁵³ Cal. Code Civ. Proc. § 116.250 (2006).

In the case of Stanley Mosk Courthouse currently, only two judges working in two hearing rooms so they are only open between Monday and Friday from 8:30 to 4:30.

To initiate the a small claim action, and in accordance to the general model of Small Claims Courts, no formal pleading (other than the claim itself) is necessary and the pretrial discovery procedures are not permitted⁵⁴.

To simplify the claim a standard form is provided (physically or electronically). This form provides information regarding (1) the name and address of the defendant, if known; (2) the amount and the basis of the claim; (3) that the plaintiff, where possible, has demanded payment and, in applicable cases, possession of the property; (4) that the defendant has failed or refused to pay, and, where applicable, has refused to surrender the property; and (5) that the plaintiff understands that the judgment on his or her claim will be conclusive and without a right of appeal⁵⁵.

For informative purposes, the form must include instructions containing that the plaintiff (1) may not be represented by an attorney, (2) has no right of appeal, and (3) may ask the court to waive fees for filing and serving the claim on the ground that the plaintiff is unable to pay them⁵⁶.

As seen during visits to the courts, the task to provide those forms and clarify doubts regarding how to fill them out (however without providing help on substantive issues) is carried out by the administrative officers of the Small Claims Divisions, who make turns also that all of them work at some point at the front desk. Therefore, the same officers are in charge of providing procedural assistance and handling all of the workflow of the court. A separate unit is in charge of the work at the two hearing rooms, where they provide support to the two judges carrying out the functions of the court.

After the claim is filed and received, the court clerk will issue an order to appear and will schedule the trial hearing no earlier than 20 days but not more than 70 days from the date of the order⁵⁷. This order to appear together with the claim will be served to the defendant, who may elect to file a counterclaim within the same amount limitation⁵⁸.

At the Small Claims Courts there is no direct support for litigants in terms of case preparation. For this purpose the institution relies heavily on the Website of the Judicial Council. The Website provides self-help modules categorized by the most common legal needs of citizens, as well as manuals and multimedia describing step-by-step how to file claims, how to prepare evidence, collect the judgment, and other types of useful information⁵⁹. For in person support, there are separate public agencies are in charge of providing this type of legal aid; normally the court administrative staff will direct the plaintiff to those institutions.

⁵⁴ Cal. Code Civ. Proc. § 116.310 (2006).

⁵⁵ Cal. Code Civ. Proc. § 116.320 (2006).

⁵⁶ Cal. Code Civ. Proc. § 116.320 (2006).

⁵⁷ Cal. Code Civ. Proc. § 116.330 (2006).

⁵⁸ Cal. Code Civ. Proc. § 116.360 (2006).

⁵⁹ HOUGH (2003) p. 51.

The process is designed to be resolved through a single informal hearing. The objective of this hearing is to dispense justice promptly, fairly, and inexpensively⁶⁰. Witnesses are allowed in this hearing, but in an innovation from normal court proceedings, the court may consult witnesses informally and otherwise investigate the controversy with or without notice to the parties⁶¹. The general rule is *pro se* litigation, which means that no attorney may take part in the conduct or defense of a small claims action (with some exceptions e.g. if one of the parties is an attorney but is not representing a third party)⁶². Additionally, when one party does not understand English sufficiently, an interpreter will be provided⁶³.

According to the information provided by the court approximately 30 hearings are scheduled daily between Monday and Friday. They are held in two blocks (one in the morning and one in the afternoon). Because many of the Small Claims are dismissed due to the non-appearance of the parties, it is extremely rare that all of those hearings will be effectively tried during the day.

The case might be disposed of by dismissal, settlement or judgment. When judgment is entered, the Court can order compensation for damages, equitable relief, or both within the jurisdictional limits. Judges can make any orders as to the time of payment or otherwise as the court deems just and equitable for the resolution of the dispute⁶⁴. This ability to grant equitable relief is one of the distinctive characteristics of the jurisdiction according to Zucker and Her⁶⁵.

The plaintiff has no right to appeal the judgment on the plaintiff's claim, but a plaintiff who did not appear at the hearing may file a motion to vacate the judgment. In contrast, the defendant may appeal the judgment to the superior court⁶⁶. At this stage, the parties can be represented by lawyers.

Finally, some of the common features of the Small Claims Court in California are "...that there are no attorneys, no pleadings and no legal rules of evidence; there are no juries, and no formal findings are made on the issues presented. At the hearings the presentation of evidence may be sharply curtailed, and the proceedings are often terminated in a short space of time. The awards — although made in accordance with substantive law — are often based on the application of common sense; and the spirit of compromise and conciliation attends the proceedings"⁶⁷.

⁶⁰ Cal. Code Civ. Proc. § 116.510 (2006).

⁶¹ Cal. Code Civ. Proc. § 116.520 (2006).

⁶² Cal. Code Civ. Proc. § 116.530 (2006).

⁶³ Cal. Code Civ. Proc. § 116.550 (2006).

⁶⁴ Cal. Code Civ. Proc. § 116.610 (2006).

⁶⁵ ZUCKER and HER (2002-2003) p. 327.

⁶⁶ Cal. Code Civ. Proc. § 116.710 (2006).

⁶⁷ SANDERSON v. NIEMANN (1941).

IV. EMPIRICAL RESEARCH: STANLEY MOSK COURTHOUSE SMALL CLAIMS COURT

1. METHODOLOGY AND DESCRIPTION OF THE DATASET

The database used consisted of 200 cases randomly selected from the Stanley Mosk Courthouse for the period 2010-2013 (25 cases each year). To avoid selection bias, two clusters of 100 cases were picked randomly from the entire list of cases filed at the court for that period, without any overlap between them. For this purpose, and for all the calculations, tables and figures here presented, the statistical software STATA v. 13.1 was used.

A list of cases was made for each cluster, after which data for each case was requested to the Court, which kindly provided the physical and publicly available files. When the physical copy of the file was missing (because of destruction or because it was currently being used of due to a future hearing), the relevant information available for each case was extracted directly from the Website of the Court. With the data extracted from both clusters and after checking for consistencies between their descriptive statistics, the final dataset of 200 cases was created.

The information gathered for each case was used to fill the different variables of this dataset: (1) Type of plaintiff (individuals, corporations or other type of business, or government agencies); (2) Type of defendants (individuals, corporations or other type of business, or government agencies); (3) Year; (4) Counterclaims; (5) Type of case (following a categorization as described below); (6) Type of filing (in paper or using the e-Filing system of the court); (7) Amount requested; (8) Winning party (when disposed by judgment); (9) Type of disposition (judgment, dismissal, settled in court, or other); (10) Amount awarded; (11) Days between filing and first hearing scheduled; (12) Days between Filing and disposition; (13) If it was appealed or not; (14) If a fee waiver was granted; (15) If there were repeated players; (16) Zip codes and Census tracts. All the information was gathered following strict privacy standards, in a way that ensures that the information collected does not allow the identification of specific individuals or the publishing of private information.

The main findings described in this section come from the data extracted from the case files (paper or digital). To learn how the small claims are held in the practice and to compare or confirm some of the findings from the data, approximately 30 hearings were observed between different days and presiding judges (randomly chosen). When appropriate, empirical data is complemented with comments about the information gathered in those hearings.

2. WHO IS USING THE SMALL CLAIMS COURT?

Many of the criticisms done by previous empirical research are related to the capture or appropriation of the system by corporations who looked for it as a way mainly to collect money debts. This would have implied that the Small Claims Courts, long ago implemented to bring access to justice for the average citizen, now would be transformed into something like a collection agency where the "little man" is pursued. Because a Small

Claims Court is a mechanism to provide access to justice to the average citizen, private individuals should be the main actors who bring their conflicts and legal needs before these tribunals. A scenario where the plaintiffs are primarily businesses trying to increase profits through a cheaper and abusive means would run contrary to the purpose of the courts.

From the 200 cases analyzed, plaintiffs were individuals 57% of the time. This means that individuals constitute the principal type of actor bringing claims to this jurisdiction, in contrast with corporations who constitute the plaintiff in 38% of the cases. On the opposing side, individuals were the defendant in 64.5%, while corporations were the defendant in 33.5% of cases (Figure 1).

Individuals not only participate as plaintiff more often by bringing their conflicts to the Small Claims Court, but they are also the defendant in the majority of cases as well. In contrast, corporations participate more often as a plaintiff than as defendant government agencies are minor actors in both roles (Table 3).

Table 3: Type of Party
(Corporations, Government Agencies or Individuals)

Type of party	Corporations	Government Agencies	Individuals
Plaintiffs	38%	5%	57%
Defendants	33%	2.5%	64.5%

Individuals represent a majority of the defendants because both corporate and individual filed claims against them more often. When the plaintiff was an individual they sued another person 61.4% of the time, and corporations did so in 72.4% of the cases. In comparison, individuals sued private companies in 36% of the smalls claims filed; companies filed against each other 26.3% of the time (Table 4). The only type of plaintiff that sued another type of actor more often than they sued individuals was the government, which brought slightly more claims against businesses during the sample period. This fact, even when representing a small fraction of the dataset, can be related to the type of case brought as seen below.

These findings differ from a study conducted in Ventura County where the percentage of corporation plaintiffs was higher than individual plaintiffs (56.2% and 36.2% respectively). Government agencies represent a similar percentage in both studies⁶⁸. In terms of the type of defendants this study does not seem to cover that information, but other previous studies showed even higher percentages of individuals as defendants. In this sense, the research also conducted in California by Carl R. Pagter, Robert McCloskey and Mitchell Reinis (1964:893) found that in 85.7% percent of cases of their dataset the defendant was an individual.

⁶⁸ ZUCKER and HER (2002-2003) p. 336.

Table 4: Type of plaintiff vs Type of defendant
(Corporations, Governments agencies or Individuals)

Type of Defendant	Type of plaintiff			Total
	Corporations	Government agencies	Individuals	
Corporations (%)	20 (26.3)	5 (50)	41 (36)	66 (33)
Government agencies (%)	1 (1.3)	1 (10)	3 (2.6)	5 (2.5)
Individuals (%)	55 (72.4)	4 (40)	70 (61.4)	129 (64.5)
Total (%)	77 (100)	10 (100)	113 (100)	200 (100)

Pearson $\chi^2(4) = 6.7222$ Pr = 0.15113⁶⁹

Plaintiffs are individuals in the majority of the cases. Additionally, corporations and individuals sue individuals more often, which might explain why defendants are individuals in a higher percentage of cases.

Of course, to answer the question about who is using the court it is not only important to assess the percentage by type of party but also see how often they file a claim as well. As seen above in the description of the Small Claims Court system of California, some rules were established to limit the number of claims that can be presented per year (by increasing fees). To control that information, the form that must be used to file a claim contains a box that the party has to "check" if they have filed more than 12 small claims in the last 12 months in California. For the purpose of this study those plaintiffs who filled that information are called "repeat players" and this data is issued to provide an idea of the type of plaintiffs that use the system recurrently.

From the totality of cases where this information was available (133)⁷⁰, 30% were repeat players. Examining only the repeat players, 80% were corporations, 15% government agencies and only the 5% were individuals (Table 5). This finding is important because although corporations are not the majority of plaintiffs in the entire dataset, they are the parties that most frequently use the Small Claim Courts.

Table 5: Repeat players by type of plaintiff

Type of plaintiff	Repeat player		Total
	No	Yes	
Corporations (%)	20 (21.5)	32 (80)	52 (39.1)
Government agencies (%)	1 (1.1)	6 (15)	7 (5.3)
Individuals (%)	72 (77.4)	2 (5)	74 (55.7)
Total (%)	93 (70)	40 (30)	133 (100)

Pearson $\chi^2(2) = 61.1466$ Pr = 0.000

⁶⁹ The p-value is .15, thus we cannot reject the null hypothesis that there is no difference between corporate and individual plaintiffs in the population. Given the number of observations in this study, the issue then is how big the difference must be before it is significant at the .05 level. Using a simulation, the results of this test shows that these data are powerful enough to detect a difference of 29 points (instead of 21) at the .05 level of significance.

⁷⁰ This is the number of cases where the information was extracted directly from the physical copy of the case file.

Repeat players not only are overwhelmingly corporations, but when they file a claim they are overwhelmingly targeting individuals (in 82.5% of the times). In comparison, when the plaintiff is not a repeat player, they tend to sue more individuals and corporations at similar levels (44.1% and 52.7% respectively) or at least the difference is not that shocking (Table 6).

Table 6: Repeat player by Type of defendant

Type of Defendant	Repeat player		Total
	No	Yes	
Corporations (%)	41 (44.1)	6 (15)	47 (35.3)
Government agencies (%)	3 (3.2)	1 (2.5)	4 (3)
Individuals	49 (52.7)	33 (82.5)	82 (61.6)
Total	93 (100)	40 (100)	133 (100)

Pearson $\chi^2(2) = 10.7768$ Pr = 0.005

Finally, it is interesting to note that usually the defendant does not file a counterclaim. In the analyzed dataset only the 4% of cases had counterclaims (Table 7). This is consistent with previous research in Ventura, where only the 1.1% of the cases had cross claims⁷¹.

Table 7: Counterclaims

Counterclaim	Number	Percent
Yes	8	4.00
No	192	96.00
Total	200	100.00

3. WHERE DO THEY COME FROM?

The jurisdiction covered by the Stanley Mosk Courthouse is basically the City of Los Angeles. Then, by using the address of the plaintiffs and the Census Tracts that corresponds to them it's possible to see where they come from. 89% of the time the plaintiffs list their address as inside the Los Angeles County area. Only in 10.8% percentages of the cases was the plaintiff located outside the jurisdiction of the court (Table 8).

Table 8 Plaintiffs County of origin

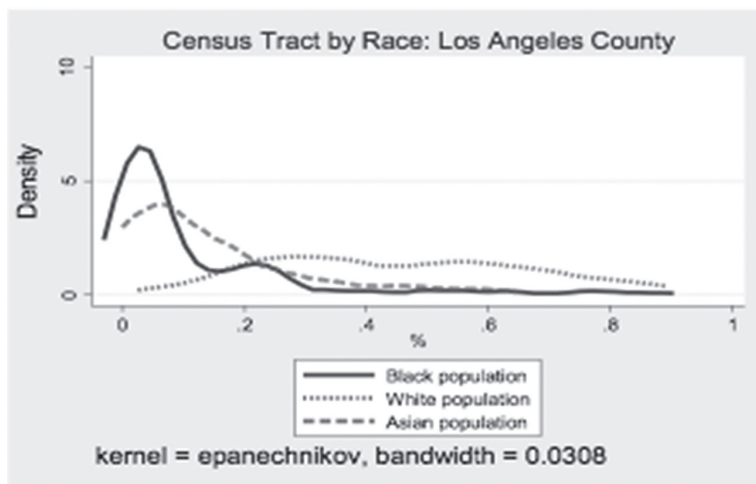
County	Number of cases	Percent
Los Angeles County	116	89.2
Other counties	14	10.8
Total	133	100

⁷¹ ZUCKER and HER (2002-2003) p. 336.

Using the information provided by the American Community Survey it is possible to compare the basic demographic information of the corresponding tracts of the plaintiffs, whether corporate or individual, against the Los Angeles County data and compare if they are similar or if they have different compositions. This can give an idea in terms of who is using the Small Claims Courts and where they come from.

To have a point of comparison, the composition of the census tracts inside Los Angeles County are broken down in terms of Asian, Black (or African American) or White population (according to the census definition). For the White population, there are more tracts with percentages between 30% to 60% of that type and the composition of the tracts are more similar. In comparison, there are more tracts with lower percentages than 20% of black or Asian population (Figure 1).

Figure 1: Histogram of Census Tract by Race
(Los Angeles County)



In comparison, when the tracts of the corporate plaintiffs are considered together with the data of Los Angeles County, the main difference is the amount of tracts with lower percentage of the Black population, which is far more common in the addresses of this type of plaintiff. The tracts from where corporate plaintiffs are listed tend to have a smaller Black population than the rest of the county. In terms of the Asian population it is the opposite; there are more tracts with a higher percentage of Asian residents in comparison with Los Angeles County. Finally, in terms of white population, corporate plaintiffs came from tracts that never see the white population drop below 20% (Figure 2).

When looking at individual plaintiffs, the demographic information by race of the population is more similar to the distribution of Los Angeles County (Figure 3). The only difference regards the Black population; there are fewer tracts with lower percentages of black population than the county in general and of course in comparison with the tracts correspondent to the corporate plaintiffs (Figure 2).

Figure 2: Histogram Census Tract by Race
(Corporate plaintiffs)

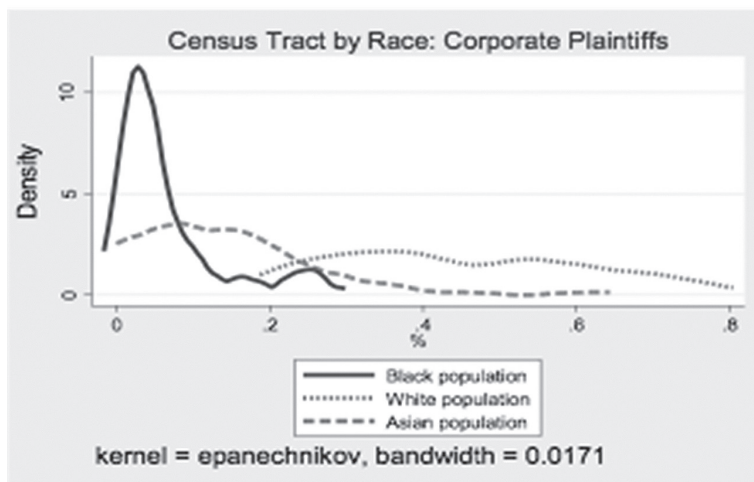
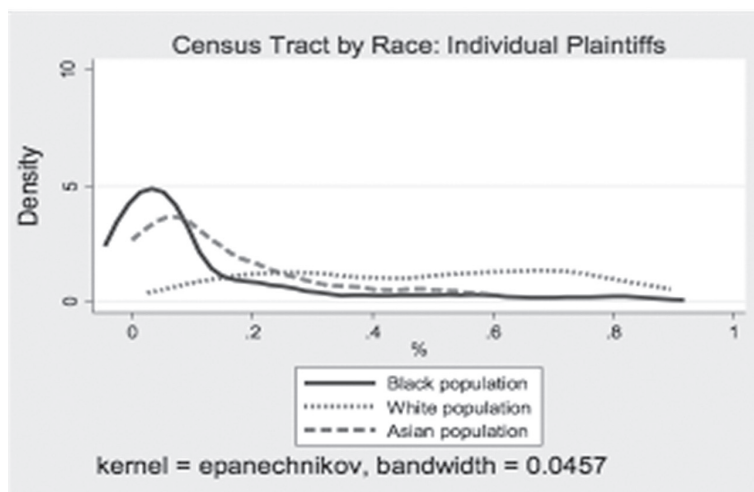
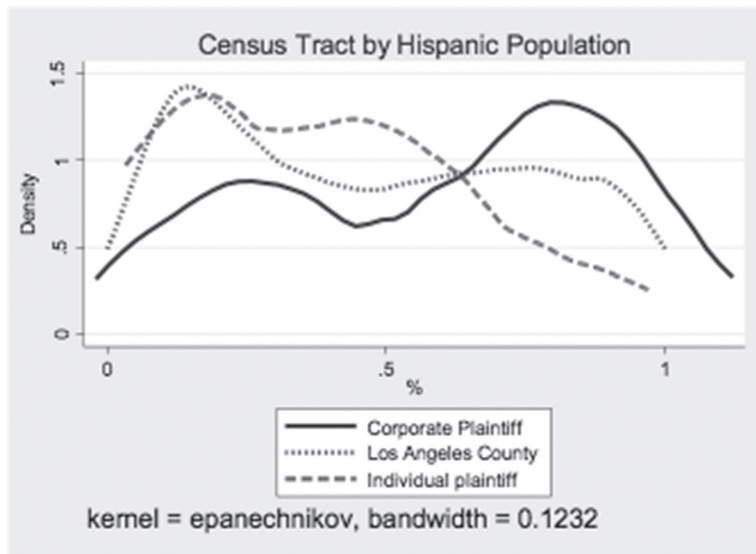


Figure 3: Histogram of Census Tracts by Race
(Individual plaintiffs)



Things seem a little bit different in terms of Hispanic population representation in the census tracts analyzed. The demographic composition of the tracts considering the corporate plaintiffs differ importantly from the Los Angeles County data, having many more tracts with high Hispanic population and fewer tracts with a low Hispanic population. For the individual plaintiffs, the composition of tracts with lower percentages of this type of population is somewhat similar to the Los Angeles County composition, however there are more tracts with Hispanic population around 50% and less with higher representation (Figure 4).

Figure 4: Histogram of Census tracts by Hispanic population



Notwithstanding that this analysis is only a preliminary attempt to analyze the population that is using the Small Claims Courts, and that analysis of factors other than race, such as education level, poverty or gender, can also be done by referencing the Census data, such analysis exceeds the scope of this study. However, it is crucial that more empirical research must be done in this regard, so that activities designed to disseminate information about Small Claims Courts can be properly focused.

4. HOW DO PLAINTIFFS FILE THEIR CLAIMS?

Because of the *pro se* litigation requirement at Small Claims Courts, it is essential for the system to provide support in terms of preparation of the cases and for the exchange information with the Court as well. For this purpose Information and Communication Technologies (ICTs), and particularly Internet, could be a useful tool. In this sense, through the use of Websites they might provide relevant information for the parties through self-help modules helping them to learn about their specific legal problems, the procedures of the Small Claims Courts, how to prepare the evidence for their hearings, access to the status of their cases, etc.

For the purpose of providing access to useful information on how to prepare their cases, the Small Claims Courts in California rely in the Website of the Judicial Council which was launched in July, 2001. This website provides more than 1,000 pages of information on legal issues that come before state courts with step by step instructions for many common proceedings. The last statistics available of April 2003 shows that the Website had 2,184,476 hits, 560,840 views, 129,504 user sessions and an average time of 12:42⁷².

⁷² HOUGH (2003) p. 51.

In the jurisdiction of the Los Angeles Superior Courts the Internet can be used to file claims through a system called “e-Filing.” The dataset was analyzed to gather information regarding whether the plaintiff used that system or if they filed in paper format instead.

From the 133 physical files of the cases analyzed, 31 were filed electronically (23.3%). In terms of the type of plaintiff, corporations used this tool 21.1% of the time, government agencies 42.9% and individuals 22.9%. Taking into consideration the totality of the cases filed electronically, individual plaintiffs were the main users of the e-Filing system of the court with 54.8% of the total of those filings (Table 9).

Table 9: Type of filing by type of plaintiff

Type of filing	Type of plaintiff (%)			Total
	Corporations	Government	Individuals	
No	41 (78.9)	4 (57.1)	57 (77.1)	102 (76.7)
Yes	11 (21.1)	3 (42.9)	17 (22.9)	31 (23.3)
Total	52 (100)	7 (100)	74 (100)	133 (100)

Pearson chi2(2) = 1.6362 Pr = 0.44114

5. WHAT TYPES OF CASES ARE BROUGHT BEFORE SMALL CLAIMS COURTS?

The type of cases brought to the Court complements information regarding who is using the Court and mainly serves to analyze for which purposes. Whether the Small Claims Court is used as a collection tool or not depends greatly on the types of cases that are tried.

This analysis is not easy because the plaintiffs are not necessarily aware of the substantive law involved in their problems. They only have to explain briefly in the claim’s form what the case is about. Because of this, collecting this information requires categorizing cases based on the type of conflict, in the following manner:

- Auto repair: cases concerning conflicts between clients and service providers involving car repairs.
- Breach of contract: in many cases, it is not easy to differentiate this category from debt collection, particularly because in Small Claims Court the only type of relief available to the plaintiff is the payment of money. Therefore, this category considers any type of case from a breach of a contractual obligation where the nature of the breach was different from the payment of a sum of money (i.e. to perform other type of services).
- Car Accident: any claim involving damages caused by car accidents. From property damage to claims for medical bills, pain and suffering.
- Debt collection: Because in many situations it is not easy to differentiate this type of cases from others (i.e. breach of contract) the criteria used was to identify

⁷³ The p-value is .44. Like before this was tested using a simulation. The result of this test shows that these data are powerful enough to detect a difference in the type of filing for individual plaintiffs of 12 points (instead of 30) at the .05 level of significance.

the kind of obligation that the agreement between the parties was about. If the main obligation of the party that is being sued involved a money debt, the case was coded in this category.

- Defamation, slander or other related: all cases in which the plaintiff requested relief for conduct that constitutes defamation or otherwise harms the honor and reputation of the plaintiff.
- Defective products: cases where consumers bring claims against service/product providers because the product received was defective (other than auto repairs).
- Government services: cases where the main conflict is related to the provision of a public service ordinarily provided by a government agency.
- Insufficient funds: specified to claims where plaintiffs requested compensation for checks with insufficient funds.
- Landlord and tenant: any issue involving a dispute between landlord and tenant. From the lack of payment of a monthly rent, the security deposit check to other conflicts that may arise between them.
- Other Torts: Any case involving liability for damages not included in the previous categories.

From the totality of cases where this information was available (the 133 cases with physical files plus one case where the website record showed the type of case), 41.8% were debts collections. The next most common cases were those coded as car accidents (14.9%), landlord and tenant conflicts (12.7%) and those related to breach of contract (9.7%) (Table 10).

Table 10: Cases by type

Case type	N° of cases (%)
Auto repair	4 (3)
Breach of contract	13 (9.7)
Car accident	20 (14.9)
Debt collection	56 (41.8)
Defamation, slander or other related	2 (1.5)
Defective products	3 (2.2)
Government services	4 (3)
Insufficient fund	6 (4.5)
Landlord/Tenant	17 (12.7)
Other	7 (5.2)
Other torts	2 (1.5)
Total	134 (100)

The cited study from Ventura County found similar findings in that jurisdiction, where most of the cases were breach of contract disputes (62.4%, including debt collection), involved some form of tort action (14.1%) and involved suits for checks with

non-sufficient funds (10.3%)⁷⁴. In comparison, in the research of Pagter, McCloskey and Reinis (1964:893) from California Small Claims Courts, they found the main type of cases were relative to goods (29.5%), governmental services (14.2%), and property damages (12.7)⁷⁵.

If the majority of cases filed at the Small Claims Court are debts collections, it is mainly because corporate plaintiffs file these claims 80.8% of the time. These cases were mostly related to balances owed on installment contract agreements by the defendants who were mainly individuals. In comparison, individuals filed this type of claim only 12% of the time (Table 11). The nature of the debts also varied greatly with individual plaintiffs, ranging from cases in which the claimant was pursuing the payment for a services or products provided to but not paid for by the defendants, family cases where one of the parents fail to pay agreed compromises, parties that failed to paid for money borrowed, etc. In these cases, all of them were against other individuals.

Corporations are not the only ones who use the Small Claims Court almost exclusively for debts collections; government agencies do as well. The latter filed such claims 71.4% of the time (Table 11), mainly dealing with the recovery of unpaid taxes by the defendant.

In contrast, cases involving individual plaintiffs tend to differ more. Individuals sued for car accident-derived conflicts 26.7% of the time, for issues derived from landlord tenant relationships 21.3% of the time, and for breach of contract 13.3% of the time (Table 11).

Table 11: Cases by type of plaintiff

Case type (%)	Type of plaintiff		
	Corporations	Government agencies	Individuals
Auto Repair	2 (3.9)	0	2 (2.7)
Breach of Contract	3 (5.8)	0	10 (13.3)
Car Accident	0	0	20 (26.7)
Construction/Product	0	0	3 (4)
Debt Collection	42 (80.8)	5 (71.4)	9 (12)
Defamation, Slander or other related	0	0	2 (2.7)
Government Services	0	2 (28.6)	2 (2.7)
Insufficient Fund	4 (7.7)	0	2 (2.7)
Landlord/Tenant	1 (1.9)	0	16 (21.3)
Other	0	0	7 (9.3)
Other Torts	0	0	2 (2.7)
Total	52 (100)	7 (100)	75 (100)

Pearson $\chi^2(10) = 73.2616$ Pr = 0.000

⁷⁴ ZUCKER and HER (2002-2003) p. 336.

⁷⁵ PAGTER *et al.* (1964) p. 898.

The docket analyzed shows that the uses for the Small Claims Court are diverse. It will depend greatly in the type of defendant. Although debt collections occupy the majority of the cases, this is because corporations overwhelmingly sue within this category. Moreover, an important number of the corporations that sue for debt collections are repeat players. Individuals, on the other hand, who represent the majority of the plaintiffs, tend to use it for bringing different types of claims.

5. WHO WINS MORE OFTEN?

As we seen before, the Small Claims Court in many ways is a plaintiff’s court. Several former studies have found that plaintiffs win more often and particularly where the plaintiff was a corporation.

For the analysis of who wins more often, the only cases that were taken into consideration were those where a judgment was entered as the method of disposing the case. Cases settled outside the hearing and those that were dismissed were excluded. We also only present the information of corporate and individual plaintiffs to simplify the analysis, but also because in the small amount of cases filed by government agencies the government won 100% of the time.

For this universe of cases plaintiffs won repeatedly (75%). This is especially true in cases involving corporate plaintiffs, who won 84.6% of the time. Defendants won only 15.4% of the time (Table 12). These results are consistent with previous empirical research done during the 70’s. In this sense, the literature review done by Yngvevsson and Henessey (1975:243) shows that “Studies of fourteen courts in six states indicate that plaintiffs win at least 85% of the claims going to judgment”⁷⁶.

By looking the type of cases that the corporate plaintiffs brought to the Small Claims Court (Table 12), which were almost exclusively debt collections, it may lead to an assumption that they won because of the type of the case. Debt collection for corporate plaintiffs often involves written contracts where the debtor recognizes the amount of money that it owes to the plaintiff. Against this evidence, defendants can only use a limited array of mechanisms (e.g. that the defendant already paid, that the statute of limitations has passed, etc.). However, in general it is more probable that the outcome of the case is going to be unfavorable for the defendant.

Table 12: Type of plaintiff by winning party

Type of plaintiff (%)	Winning party		Total
	Defendant	Plaintiff	
Corporations	6 (15.4)	33 (84.6)	39 (100)
Individuals	19 (31.1)	42 (68.9)	61 (100)
Total	25 (25)	75 (75)	100 (100)

Pearson chi2(1) = 3.1526 Pr = 0.07615

⁷⁶ YNGVESSON and HENESSEY (1975) p. 243.

But Small Claims Courts do not seem to be a plaintiff's court only for corporations. Individual plaintiffs also win more often, even when at the same level as the former. In this sense, when the plaintiff was an individual that type of party won in 68.9% of the cases and the defendant won in just 31.1%. Notwithstanding this, it must be highlighted that defendants tend to win twice as often against individual plaintiffs in comparison with cases brought by corporate plaintiffs (Table 12).

This is important because as we saw before, the type of cases that individuals bring to the court goes beyond just debt collections; even though these claims are diverse, individual plaintiffs still tend to win most of the time.

6. HOW MUCH ARE THEY WINNING?

As we saw before, the maximum amount of money that can be requested by the plaintiff, at least in general, is \$10,000. Correspondingly, this was the maximum amount requested and awarded in the dataset analyzed. At the other end, the minimum amount of money requested was \$315, with the minimum amount awarded being \$100. The mean of the amount requested was \$3,891 whereas the amount awarded by judgment was \$2,164. Finally, the median requested was \$2,550, whereas the amount awarded was \$1,561 (Table 13).

Table 13: Amount requested versus awarded

	Median	Mean	Min	Max
Amount requested	2550	3891.4	315	10000
Amount awarded	1561.5	2164.3	100	10000

The difference between the descriptive statistics of both variables supports the basic fact that the Court tends to award less than requested. But this might not be true in the same way for corporate and individual plaintiffs. To analyze this question, only cases disposed through a judgment by the court were considered.

There is just one case where the court gave more than the requested amount (at least in the claim). This case was filed by a corporate plaintiff. Besides this case, which seems to be an exception, the court tended to give less than the amount requested by the plaintiff. In this regard, the court gave exactly the same as requested just 37% of the time, and less 62% of the time (Table 14).

The court awarded what the plaintiff asked for more often for corporations than individuals. In this sense, corporate plaintiffs received the same amount they requested in 61.5% of the time, versus 21.3% for individuals. In relation with this, individuals received less than what they asked for 78.7% of the time in comparison with just 35.9% for corporate plaintiffs (Table 14).

Table 14: Amount requested and awarded by type of plaintiff

Amount Requested v. Awarded	Type of plaintiff (%)		
	Corporation	Individual	Total
Requested<Awarded	1 (2.6)	0	1 (1)
Requested=Awarded	24 (61.5)	13 (21.3)	37 (37)
Requested>Awarded	14 (35.9)	48 (78.7)	62 (62)
Total	39	61	100

Pearson $\chi^2(2) = 18.9948$ Pr = 0.000

Again, this finding is related with the type of cases for which corporations sues more often: debt collections where the money owed is specified in written contracts. Therefore, it is not the fact that the type of cases deal with debt collection, but rather the fact that the disputes concern installation agreements what provokes this difference. When individuals file claims to collect a debt owed to them, they tend to receive less than requested as well (Table 15).

Table 15: Amount requested and awarded in debt collections by type of plaintiff

Difference amount requested and awarded	Type of plaintiff	
	Corporation	Individual
Requested<Awarded	1 (3.3)	0
Requested=Awarded	22 (73.3)	2 (25)
Requested>Awarded	7 (23.3)	6 (75)
Total	30 (100)	8 (100)

Pearson $\chi^2(2) = 7.5310$ Pr = 0.023⁷⁷

HOW LONG DO THEY TAKE TO RESOLVE THEIR CASES?

The average time that it takes to schedule the first hearing after filing the claim was 56.3 days. This finding is very similar to the cited study of Ventura where the average between filing and the first hearing was 57 days⁷⁸.

The fact that the average on our dataset is very close to the mean (55 days) means that the range of time permitted by law (no less than 20 and no more than 70) is regularly respected⁷⁹. The soonest a hearing was scheduled was 30 days following filing, while the latest took 118 days. Although the maximum is far from the average, because the mean and the median are so close it means there are not many hearings scheduled near this maximum (Table 16).

⁷⁷ The p-value in this table is .076, just a little over the .05 level of significance. Thus we cannot reject the null hypothesis that the difference in terms of winning parties between corporate and individual plaintiffs may be higher in the population. Using the same method than before (simulation), the test shows that these data are powerful enough to detect a difference between individual plaintiffs of 21 points (instead of 23) at the .05 level of significance.

⁷⁸ ZUCKER and HER (2002-2003) p. 345.

⁷⁹ Cal. Code Civ. Proc. § 116.330 (2006).

Table 16: Days between filing, first hearing, and disposition

	Median	Mean	Minimum	Maximum
Days between Filing and First Hearing	55	56.3	30	118
Days between filing and disposition (by judgment)	61.5	80.4	30	356
Days between filing and disposition (by any type of disposition)	62.5	86.8	15	399

In those cases terminated by judgment, which may or may not be entered in the same first hearing, the average amount of days between filing and disposition was 80.4 days. The median is 61.4 which means that the average is probably being raised by the cases closest to the maximum amount of days registered (356). The minimum amount of days was 30 (Table 16).

Taking into account all cases of the dataset with any type of disposition the numbers are similar. The median is 62.7 days, which means that most of the cases were disposed in less than 70 days. The mean is 86.8 days, which is likely influenced by hearings scheduled closer to the maximum amount of days (399). The minimum was 15 days, which can be explained by cases that were resolved before the first hearing (Table 16).

The expenditure of time required to dispose a case since the filing of the claim is related to the capability of the system to resolve the case at the first hearing. From the totality of cases that were resolved (190 cases, as 10 were pending at the time the data was collected), 57.9% were disposed at the first hearing (Table 17). Most of these cases involved a corporate plaintiff; one possible explanation for this is the type of cases they bring to the court, which are primarily debt collections of installment agreements. In fact, out of 56 such cases, 39 were resolved at the first hearing.

Table 17: Cases disposed (by any type of disposition) at first hearing by type of plaintiff

Cases disposed in first hearing (%)	Type of plaintiff		
	Corporation	Individual	Total
No	23 (30.3)	57 (50)	80 (42.1)
Yes	53 (69.7)	57 (50)	110 (57.9)
Total	77 (100)	113 (100)	190 (100)

Pearson $\chi^2(1) = 6.3525$ Pr = 0.012

For individual plaintiffs in cases finished by any type of termination, the proportion of cases disposed at first hearing and those that take more time are the same (Table 17). This might be directly influenced by the type of termination because by considering only those disposed by judgment the amount of cases ended at first hearing are more than those that are not. For corporate plaintiffs in those cases the difference is even bigger (Table 18).

Table 18: Cases disposed (by judgment) at first hearing by type of plaintiff

Cases disposed in first hearing (%)	Type of plaintiff		
	Corporation	Individual	Total
No	6 (15.4)	21 (34.4)	27 (27)
Yes	33 (84.6)	40 (65.6)	73 (73)
Total	39 (100)	61 (100)	100 (100)

Pearson chi2(1) = 4.3764 Pr = 0.036

HOW OFTEN DO PLAINTIFFS RECEIVE FEE WAIVERS?

As described below, in the Small Claims Courts of California the plaintiff may request the court waive fees for filing and serving the claim on the ground that the plaintiff is unable to pay them⁸⁰.

From our dataset of 200 cases, fee waivers were granted in 38 (19%). These fee waivers were provided almost exclusively for individuals (32 out of 38), although most of them (71.9%) did not requested or received a fee waiver. Only in a few cases were fee waivers granted for government agencies (6 out of 38) and mainly because the agencies were entitled to receive fee waivers by statute. Corporate plaintiffs did not receive any fee waivers in any of the cases examined (Table 19).

Table 19: Fee waiver granted by type of plaintiff

Fee Waiver	Type of plaintiff (%)			
	Corporations	Government	Individuals	Total
No	76 (100)	4 (40)	82 (71.9)	162 (81)
Yes	0	6 (60)	32 (28.1)	38 (19)
Total	76 (100)	10 (100)	114 (100)	200 (100)

Pearson chi2(2) = 34.8438 Pr = 0.000

Even when in our dataset the percentage of plaintiffs that received a fee waiver might seem low (19%), other research has found even lower percentages. In this regard, and in comparison with our findings, the research made from Ventura in 2002 found that only 2.3% of the plaintiffs qualified for fee waivers⁸¹.

HOW ARE THE CASES DISPOSED?

The types of dispositions were categorized as one of the following: judgment, settlement (when they were expressly settled), dismissal, or other forms not included in these. From the 190 cases terminated at the time of the gathering of information, 54.7% resulted in a judgment while 40% were dismissed. Usually the dismissals were caused by the non-appearance of the plaintiff or of both parties. The low recurrence of cases that were settled is due to the fact that the data only allows for coding settlements reached at

⁸⁰ Cal. Code Civ. Proc. § 116.320 (2006).

⁸¹ ZUCKER and HER (2002-2003) p. 338.

the hearing, and cannot account for those cases where the parties agreed to settle outside and then just dismissed (Table 20).

Table 20: Terminated cases by type of disposition

Type of outcome	Freq.	Percent
Judgment	104	54.7
Settlement	8	4.2
Dismissal	76	40.0
Other	2	1.1
Total	190	100

From the totality of cases terminated by judgment in this dataset, corporate plaintiffs represented 39% and individuals 61%. For the cases that were dismissed, corporate plaintiffs represent 47.1% while individuals 52.9% (Table 21).

Table 21: Terminated cases by type of outcome and plaintiff

Type of plaintiff	Judgment	Dismissal	Total
Corporations	39 (39)	33 (47.1)	72 (41.1)
Individuals	61 (61)	37 (52.9)	98 (58.9)
Total	100 (100)	70 (100)	170 (100)

Pearson chi2(1) = 1.1183 Pr = 0.290⁸²

WHICH CASES ARE APPEALED?

One of the essential characteristics of the Small Claims Courts is that the right of appeal is expressly limited for the plaintiffs. The reason for that is the idea of speediness and because of the type of claims. Cases are usually not difficult to resolve, and therefore do not justify spending resources and time in a new stage. In this regard as described below, in California the plaintiff must be expressly informed that the judgment will be conclusive and without a right of appeal⁸³.

These limitations might explain the low prevalence of cases that were appealed in our dataset. In this regard, from the total of the dataset only 5 cases were appealed. This is similar as well to the Ventura study, where only 8 defendants appealed their cases⁸⁴.

From the totality of cases appealed in our dataset, 4 were filed by individual plaintiffs and only 1 from a corporation. The type of appealed cases was diverse. One case

⁸² The p-value in this table is .29. Thus we cannot reject the null hypothesis that the difference in terms of type of outcome between corporate and individual plaintiffs may be higher in the population. Using the same method than before (simulation), the test shows that these data are powerful enough to detect a difference between corporate plaintiffs of 4 points at the dismissal over the judgment (instead of 6 in favor of judgment) at the .05 level of significance.

⁸³ Cal. Code Civ. Proc. § 116.320 (2006).

⁸⁴ ZUCKER and HER (2002-2003) p. 338.

was related to landlord/tenant disputes, one for a car accident, one for defective products and another for a case related to defamation.

CONCLUSIONS

Based on International Human Rights Law standards, states must "...guarantee not rights that are theoretical and illusory but rights that are practical and effective."⁸⁵ In this regard, states should adopt "legislative or other measures" to comply with these standards and to give effect to those rights or freedoms. States must ensure the exercise of rights by individuals "without any discrimination for reasons of (...) national or social origin, economic status, birth, or any other social condition".

People cannot effectively exercise their rights without having access to a state mechanism to protect those rights. Therefore this implies unrestricted access to the courts to seek protection of rights which must be available to all persons regardless of their economic status, social origin, or other factor. Lack of access to justice, particularly for those in vulnerable conditions therefore implies a violation of the international standards as set in many instruments and especially of what has been called as effective judicial protection.

At the very origin of the Small Claims Courts was the idea of to provide mechanism to resolve some type of conflicts that in other ways might not be resolved. This "minor civil" dispute arises as an important element of the judicial organization not just because of their individual characteristics but because of their social and economic significance. Then, these mechanisms had the goal to provide a sense of social justice for those who were traditionally underrepresented in front of the judicial institutions.

With the purpose of solving this type conflicts in an effective, flexible and speedy way, and because of some of the historical background that led to its introduction, this mechanism shared some common features: simplified procedures; cost reductions; elimination or discouragement of attorneys; limitations on appeals; expansion of the clerk's role to aid litigants; grant of procedural discretion to judges; full qualification, salary, and supervision of judges; and attempt at conciliation⁸⁶.

Notwithstanding the expansion in the first part of the century, the enthusiasm of the movement decayed during the middle part of the century, and these courts "...went largely unnoticed and, for several decades, uncriticized"⁸⁷.

With the growing movement of consumers during the decades of the 60's and 70's new research was made that produced the richest set of empirical data in the field. The authors of these studies were focused on testing the initial goals of improving access to justice for the common citizen and found instead that the Small Claims Courts were being captured by businesses and corporate plaintiffs, in so doing turning the court into collection agencies where the people were participating mainly as defendants.

⁸⁵ VAN DIJK and VAN HOOF (1998) p. 74.

⁸⁶ STEELE (1981) p. 330.

⁸⁷ ELWELL-CARLSON (1989-1990) p. 433.

This empirical research, carried out in one of the main case hub of Los Angeles County Superior Court jurisdiction, suggests such inequality may no longer be as prevalent (at least in comparison with the studies made during the 60' and 70'), although some concerns remains.

First of all, the data gathered from the case files reveals that individuals are now the principal actors in terms of the absolute number of claims filed. Corporations on the contrary represent the 38% of the cases as a plaintiff. This suggests that the restrictions, in terms of the amount of claims and fees imposed for the participation of these actors, are working to maintain the system for the purpose of serving as the people's court.

Notwithstanding this finding, individuals still represent the majority of the defendants because they are sued by both types of parties. In contrast, corporations participate as defendant in a low percentage of the cases. This might lead to future reforms to bring claims of consumers and other type of users in front of private companies or the government, and not just use it as venues to resolve disputes between individuals.

Some counterargument can be framed from the perspective of the repeat players. As observed in the data, repeat players are overwhelmingly corporations or government agencies, which mean that these types of plaintiffs use the system more frequently. Repeat players also overwhelmingly file claims against individuals, doing so at a much higher rate from the distribution when the party suing is not a repeat player. This information could be useful for policymakers, who may seek to further limit the ability of certain parties to appear frequently, in order to focus the limited resources of the court to individual or private actors who do not seek recourse in Small Claims Courts as a routine part of their business.

By referring to the census tracts of the plaintiffs it was seen that in most cases the plaintiff comes from Los Angeles County. It remains important for further research to be conducted that can gather additional information about the defendants and their origins. Old data in this sense suggest that in many cases defendants come from outside the jurisdiction of the Court⁸⁸.

Using the American Community Survey, the demographic information from the census tracts of the plaintiffs were compared with the demographic composition of Los Angeles County data. Here the data shows that corporate plaintiffs come from places with lower Black populations and higher Hispanic populations than the average composition of the county. This type of information might be useful to design awareness campaigns more focuses-oriented toward different types of populations. Notwithstanding, as said before, further studies in terms of other factors like education level, poverty or gender, among others, must also be done in this regard and which seems as a crucial focus point for future research in the subject.

The fact that individuals are the main actors of the Small Claims Court in the jurisdiction analyzed in this study is reinforced by the composition of the docket when broken down according to the type of the matter discussed. In this sense, the main finding is that the docket shows that the use given for the Small Claims Court is diverse.

⁸⁸ MOULTON (1969) p. 1671.

Although debt collections occupy the majority of the cases there are other types as well, and particularly cases which by their nature are more individual-oriented and that in sum represent as much as debt collections.

This particular point is related to the amounts awarded by the Court, which tends to award less than requested. This was a difference between corporate and individual plaintiffs and it was mainly related to the type of cases that they bring.

Another example of the main users of the court as individuals is the rate of fee waivers, which were granted in the 19% of cases and almost exclusively for individuals.

The old affirmation that the Small Claims Courts are mainly "plaintiff's courts" remains untouched. In this sense, the data from the Stanley Mosk Courthouse shows that plaintiffs tend to win more often, regardless of whether they are corporations or individuals (with 84.6% and 68.9% 'win' rates, respectively).

This finding might be explained by the nature of the court, the type of the cases and the type of support that is brought to defendants. Data and other information show that an important part of the support for defendants is provided through Web technology. Notwithstanding, a next step is to advance from the information to the service provision by the Internet. Use of e-Filing is still low in comparison with the totality of cases filed, and even though it is encouraging that use of the system is mainly used by individuals, use of this type of tools could be improved in the future.

One critical part of access to justice of the citizens is the delay. Currently the average and median times to schedule the first hearing and to dispose a case are low for corporate and individuals plaintiffs, especially when the case is disposed by judgment. Case duration typically falls within the time limits imposed by legislation. One explanation for this is the use of a single hearing and the ability to resolve a case at trial.

Finally, a point of concern is the high percentage of cases dismissed (40%) in comparison with the cases where judgment was entered (54.7%). This criticism is based on old data as well, and the main explanation given by those studies and received by the court as well during this research is the high percentage of nonappearance of the parties. In consequence, some concern among reform efforts should be given in this regard by looking for incentives for those parties that decide to not appear, perhaps to restrict the jurisdiction of the court to the defendant's side (e.g. by redirecting cases to the Small Claims Court located in the defendant's domicile).

As we have seen, Small Claims Courts can work and become a true people's court, with the proper incentives and with restrictions for corporate plaintiffs to avoid systemic abuse. Even when some reforms could improve the system like those mentioned in this conclusions, after almost a century after its implementation this system is in fact providing fast, informal and flexible responses and as a result provides access to justice for common citizens. For those currently discussing about the introduction of mechanisms to improve access to justice, I hope this can be seen as good news.

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