

WISCONSIN INSURANCE ALLIANCE

44 EAST MIFFLIN STREET • SUITE 201

MADISON, WISCONSIN 53703

(608) 255-1749 FAX (608) 255-2178

wial@tds.net / www.wisinsal.org

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MEMORANDUM

To: Assembly Committee on Judiciary
Senate Committee on Judiciary Corrections and Privacy

From: Eric Englund

Date: October 20, 2005

Subject: AB 680 – Increased Limits on Small Claims Jurisdiction

On behalf of our member companies, we respectfully request that the captioned be modified to exclude from the increase third party, personal injury, and tort claims. Our reasons for this modification are as follows:

- By definition, small claims court is a venue for a quick and efficient claims resolution.
- The proponents of this bill seek to expand small claims jurisdiction to obtain such efficiency in claims resolution primarily where contracts have not been entered into and a debt is owing.
- Tort claims are complex regardless of the amount in controversy, including, but not limited to, determinations of duty, breach of duty, proximate cause and damages. By definition such claims require not only the resolution of these complex issues but many times a formal discovery process to fully investigate underlying facts. To reach decisions in all of these areas, there are necessary procedural protections arising in circuit court, which are sacrificed in small claims court in the name of “affordable and informal access to justice.”
- Raising the threshold will bring many more complex tort claims into small claims court where a full benefit of the procedural safeguards necessary to investigate and resolve tort claims are not fully available.
- There has been no hue and cry from the supporters of this bill to expand small claims court to these types of claims...in fact they acknowledge that this bill should not apply to tort claims.
- The general informality of the small claims process and the inapplicability in the rules of evidence makes the resolution of tort claims much more difficult, and sets the stage for full appeal to the circuit court, requiring additional expense and time in the claims resolution process.
- In many instances small claims matters are resolved without notice to the appropriate insurer for the tort claim causing significant problems when the insurer is “expected” to pay the claim, but was not part of the small claims action.

For the reasons stated above, we request the exemption stated.