

Merrick Mediation

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To: Senate Judiciary Committee

Re: Yes on HB 2734-A

Chair Prozanski and members of the committee.

Background

My name is Jeff Merrick. Since 2012, I have served as a volunteer mediator in small claims court for Clackamas and Multnomah Counties.

During that 5 years and over 100 cases, I've learned that so-called "Small Claims" – with values up to \$10,000 - have huge consequences for thousands of people each year. The court summons our most vulnerable neighbors to mediation and trial in small claims court to answer for alleged debts. Occasionally, it is obvious that small claims court is a step toward homelessness because a judgment, followed by wage garnishment, will not leave enough money to pay rent.

On the other side, people of modest means sue in small claims court when they feel harmed or cheated, and they need an efficient, low-cost process.

I proposed a few reforms, only one of which is before you today.

What Does HB 2734-A do?

HB 2734-A allows one spouse to represent both in small claims court. It passed the House 59-0.

Why is it a Good Law?

1. Both spouses are unnecessary.

Typically, one spouse is enough. Spouses can discuss between themselves how to defend or pursue a claim in mediation or trial and have one person act on behalf of both.

2. Fairness demands that one spouse may represent the other.

Often, paid professional agents represent creditors in small claims courts. The principals do not need to appear. Collection agents suffice.

It is only fair to authorize one spouse to represent the other. The other spouse should not need to appear.

3. Requiring attendance of both spouses can be a hardship.

Too often, people in small claims court live paycheck-to-paycheck. They need every dime. When both spouses work, it is a hardship to pull both from work to attend mediation on one day and trial on another day if it does not settle.

Often, people have child care issues. Allowing one spouse to take care of children is the right thing to do.

4. Some collection agents seek default if both spouses do not appear for mediation or trial.

Let's take an example.

The family has a delinquent medical bill from a disabled child. The court summons husband and wife to mediation. Wife stays home with the disabled child. Husband attends to address the claim and work out a solution.

Some collection agents will seek an order of default against the wife.

How small claims judges deal with such default motions varies.

There should be no ambiguity and no opportunity for mischief. When one spouse appears to answer a joint debt that should be sufficient to avoid a default. Period. No question.

Conclusion

HB 2734-A is a common-sense improvement, as the 59-0 vote indicates.

Please vote to make it the law of Oregon.

Thank you.

Jeff Merrick