

Memorandum 2004-22

**Equitable Relief in a Limited Civil Case
(Discussion of Issues)**

INTRODUCTION

The authority of the superior court to grant equitable relief in a limited civil case is restricted. The restriction on the court's authority dates from the era when a cause of that type was within the jurisdiction of the municipal court. Now that the municipal court has been abolished and the superior court's jurisdiction has been expanded to encompass limited civil cases, do the equitable relief restrictions still make sense or are they now obsolete?

The text of the relevant statutes is set out in the Exhibit to this memorandum. See Code Civ. Proc. §§ 85 (limited civil cases), 86 (miscellaneous limited civil cases), 116.2220 (small claims jurisdiction), 580 (relief awardable), and 871.3 (good faith improver).

This memorandum reviews the background of the equitable relief restrictions and discusses issues affecting resolution of the question. The memorandum suggests that the Commission consider recommending expansion of the authority of the superior court to allow certain types of equitable relief that are currently precluded by statute. These include (1) a permanent injunction in a case that would otherwise be a limited civil case, (2) the determination of title to real property in a case that would otherwise be a limited civil case, (3) declaratory relief in a case that would otherwise be a limited civil case, (4) enforcement of an order under the Family Code in a limited civil case, and (5) a good faith improver claim that would otherwise be a limited civil case.

This project stems from the Law Revision Commission's work on trial court unification. The Commission is directed by statute to determine whether any provisions of law are obsolete as a result of the restructuring of the trial courts and recommend to the Legislature any amendments to remove the obsolete provisions. Gov't Code § 71674.

The staff wishes to express its appreciation to Lynne Urman who, while working as a staff attorney for the Commission, did much of the legal research,

analysis, and drafting that underlies this memorandum. All views expressed in the memorandum are those of the current legal staff and not necessarily of Ms. Urman.

TRIAL COURT UNIFICATION

Before unification of the trial courts, the jurisdictional division between the superior court and municipal court was reasonably clear. The municipal court was a court of limited jurisdiction; its civil jurisdiction was roughly restricted to cases at law in which the amount in controversy did not exceed \$25,000. The superior court was a court of general jurisdiction; its civil jurisdiction included not only cases at law in larger amounts, but also cases in equity. Some areas of civil law were within the exclusive jurisdiction of the superior court regardless of the amount in controversy, such as family, probate, and real property matters.

During the unification process, it was necessary to address these jurisdictional distinctions. If there is only one court, does a statute that refers to a matter as exclusively within that court's jurisdiction mean anything? Is it useful any longer to categorize cases by the amount in controversy if they are all going to a single court of general jurisdiction?

A significant problem was that unification did not occur all at once throughout the state. Unification proceeded on a county by county basis at court option. The entire unification process lasted a little over a year and a half, from June 1998 when the constitutional amendment authorizing unification was approved by the voters until February 2001 when the last court voted to unify.

It was necessary to devise a system that would enable both unified and nonunified courts to function normally without disruption during the transition period. The solution devised by the Commission and adopted by the Legislature was to convert a cause traditionally within the civil jurisdiction of the municipal court into a "limited civil case." In a nonunified county, the civil jurisdiction of the municipal court would continue unchanged, except that it would be referred to as jurisdiction over limited civil cases. In a unified county, the superior court's jurisdiction would be enlarged to include limited civil cases, which it would process pursuant to the same procedures traditionally used to handle those causes in the municipal court.

The Commission explained:

On unification of the trial courts in a county, all causes will be within the original jurisdiction of the superior court. Differentiating

among superior court causes will be necessary, however, to preserve filing fees, economic litigation procedures, local appeals, and other significant procedural distinctions for matters that traditionally have been within the municipal court's jurisdiction. If instead all causes in a unified court were treated in the same manner as traditional superior court causes, there would be disparity of treatment between a party appearing in a municipal court and a similarly situated party appearing in a unified superior court. The approach may also be impractical for a number of reasons, including limited trial and appellate court resources.

Trial Court Unification: Revision of Codes, 28 Cal. L. Revision Comm'n Reports 51, 64 (1998) (footnote omitted).

The Commission recognized at the time that the limited civil case concept was only an interim solution. "Although the proposed legislation would preserve these procedural distinctions intact, they warrant reexamination as unification progresses. Adjustments may be appropriate to eliminate unnecessary rigidity and improve the court system." 28 Cal. L. Revision Comm'n Reports at 65 (footnote omitted).

Now that all courts have unified, it is appropriate to reexamine aspects of civil procedure in the superior court. The Commission has engaged in different facets of this project over the past several years, including repeal of many statutes made obsolete by trial court restructuring, reexamination of the jurisdictional limits of small claims and limited civil cases (a joint project with the Judicial Council), reexamination of preliminary procedures in criminal cases, and reexamination of appellate and writ review of misdemeanor cases and limited civil cases (peer review problem).

The staff believes deep jurisdictional issues remain in the wake of unification as remnants of the bifurcated court system. Rationalizing the jurisdictional distinctions and civil procedures that remain is a large and long term project, which the Commission is not equipped to handle at present. Meanwhile, there are smaller more immediate steps that can be taken, with beneficial effect. The question of equitable relief in a limited civil case falls into that category.

EXISTING LAW

The superior court is a court of general jurisdiction, with original jurisdiction in all causes. Cal. Const. art. I, § 10.

For procedural purposes, the statutes categorize a civil case in the superior court as either limited or unlimited. A limited civil case is, generally speaking, a civil case in which the amount in controversy is \$25,000 or less. Code Civ. Proc. §§ 85-86.1. An unlimited civil case is everything else. Code Civ. Proc. § 88.

The critical differences in treatment between the two categories of civil case are that simplified economic litigation procedures apply in a limited civil case and an appeal in a limited civil case is to the appellate division of the superior court rather than to the court of appeal. See Code Civ. Proc. §§ 90-100 (economic litigation for unlimited civil cases); 904.2 (appeals). There is no longer a significant difference in filing fees since the limited civil case filing fee increase of 2003. See Gov't Code §§ 72055, 72056.

Generally, the court may grant any appropriate relief in a civil case regardless of whether the theory upon which liability is predicated involves legal or equitable principles. Code Civ. Proc. § 580(a). However, the statutes restrict the authority of the superior court to grant the following relief in a limited civil case:

- The court may not grant a permanent injunction. Code Civ. Proc. § 580(b)(2).
- The court may not determine title to real property. Code Civ. Proc. § 580(b)(3).
- The court may not enforce an order under the Family Code. Code Civ. Proc. § 580(b)(4).
- The court may not grant declaratory relief, except in connection with certain types of indemnity and fee arbitration proceedings. Code Civ. Proc. §§ 86(a)(7), 580(b)(5).

Why not?

These restrictions are a relic of the former municipal court jurisdiction. A municipal court was limited in the type of equitable relief it could award in a civil case. On unification, these restrictions were applied to the comparable jurisdiction of the superior court in a limited civil case. The Commission Comment to Code of Civil Procedure Section 580 noted:

Similarly, subdivisions (b)(2)-(b)(5) reflect and preserve limitations on the types of equitable relief awardable in a municipal court. See R. Weil & I Brown, Jr., *California Practice Guide: Civil Procedure Before Trial, Jurisdiction and Venue* §§ 3:12-3:18.1, at 3-6 to 3-7 (1997). See also *St. James Church of Christ Holiness v. Superior Court*, 135 Cal. App. 2d 352, 362, 287 P.2d 387 (1955) (municipal court lacks jurisdiction to grant permanent injunction); *Pasadena*

Inv. Co. v. Peerless Casualty Co., 134 Cal. App. 2d Supp. 902, 286 P.2d 1014 (1955) (municipal court lacks jurisdiction to grant declaratory relief). On enforcement of orders under the Family Code, see Family Code Sections 200, 290; *In re Marriage of Lackey*, 143 Cal. App. 3d 698, 191 Cal. Rptr. 309 (1983).

HISTORICAL BACKGROUND

To understand the reasons for the municipal court's limited authority to grant equitable relief, and to properly evaluate the continued need for those limitations, an historical perspective is necessary.

Establishment of Municipal Court in 1924

The California Constitution in 1924 authorized the establishment of the municipal court. Cal. Const. art. VI, § 11a (1924). The municipal court was given original jurisdiction in all cases *at law* in which the demand or the value of the property in controversy amounted to \$1,000 or less. Cal. Const. art. VI, § 11a (1924); 1925 Cal. Stat. ch. 358, § 29.

The superior court had original jurisdiction in all other civil cases, including all cases *in equity*. Cal. Const. art. VI, § 5 (1924).

The purpose of splitting the superior court's jurisdiction in this way was to relieve congested superior court calendars. See *Wallace v. Payne*, 197 Cal. 539, 548, 241 P. 879 (1925); *Shipp v. Superior Court*, 209 Cal. 671, 675, 289 P. 825 (1930); Ames, *Origin and Jurisdiction of Municipal Courts*, 21 Cal. L. Rev. 117 (1932). This was done by picking off the smaller, easily resolved cases. Because an equity case tends to be more complex and time-consuming than a case at law, the municipal court's equity jurisdiction was limited, just as is the small claims court's jurisdiction today. Cf. Code Civ. Proc. § 116.220.

Expansion of Municipal Court's Equity Jurisdiction

The limitation on the municipal court's equity jurisdiction caused problems. The procedural interplay between the municipal and superior courts resulted in duplication of effort and in some cases aggravated the congestion problem. For example, if a defendant raised an equitable defense in municipal court to show that the plaintiff was not entitled to a money judgment, a separate superior court action was required.

1928-1929 Constitutional and Statutory Amendments

In 1928, the Constitution was amended to eliminate the grant of equity jurisdiction solely to the superior court. It was replaced by a grant of general jurisdiction to the superior court in all civil actions and proceedings except those in which the Legislature gave jurisdiction to the municipal court. Cal. Const. art. VI, § 5 (1928).

Pursuant to the constitutional amendment, the Legislature in 1929 revised the Municipal Court Act to give the municipal court jurisdiction over mechanics liens of \$2,000 or less and to provide that each municipal court “shall have jurisdiction in all cases in equity, when pleaded as defensive matter or by way of cross-complaint in any case at law commencing in the municipal court, of which it has exclusive jurisdiction.” 1929 Cal. Stat. ch. 477.

The courts have interpreted “cases when equity is pleaded as a defensive matter” to mean an equitable matter pleaded by way of answer, counterclaim, or cross-complaint. *Strachan v. American Ins. Co.*, 260 Cal. App. 2d 113, 117, 66 Cal. Rptr. 742 (1968). However, the equitable matter must still be defensive in nature. See *Jacobson v. Superior Court*, 5 Cal. 2d 170, 173, 53 P.2d 756 (1936) (cross-complaint seeking cancellation of insurance policy for nonpayment of premiums was defensive by showing plaintiff was not entitled to recover anything under the insurance policy).

The extension of equity jurisdiction to the municipal court was narrowly focused to relieve the superior court of minor cases without removing its general equity jurisdiction. See, for example, *Gallagher v. Campodonico*, addressing the municipal court’s jurisdiction over the enforcement of a mechanics lien:

Prior to 1929 exclusive jurisdiction over the enforcement of [mechanics] liens was vested in the Superior Court; but when municipal courts were established and their jurisdiction was extended to cases involving as much as \$2,000, the amendment under review was adopted as part of the plan to relieve congestion in the Superior Court and to promote expedition and efficiency in the administration of the law. With that in view, a certain exclusive jurisdiction in lien cases was transferred to the municipal courts.

121 Cal. App. Supp. 765, 5 P.2d 486, 489 (1931).

Forty Years of Statutory Expansion

In the years following the limited grant of equity jurisdiction to the municipal court, the Legislature gradually expanded that jurisdiction on a case by case

basis. In many instances, the expansion occurred as a result of a case or other writing highlighting the need for extended equity jurisdiction in the municipal court.

For example, in 1932, Judge Alden Ames pointed to a number of anomalies in the municipal court's jurisdiction. See Ames, *The Origin and Jurisdiction of the Municipal Courts in California*, 21 Cal. L. Rev. 117, 125-127 (1932). These included:

- The distinction that permitted a municipal court to hear an equity matter when raised by the defendant in the form of a cross-complaint, but not when raised by the plaintiff.
- The inability of the municipal court to enforce its own judgments because a creditor's bill was an equity proceeding.
- The difficulty in determining in some instances whether an action was at law or in equity, for example in a case involving fraud or rescission of contract.
- The apparent conflict that a plaintiff could not apply for an injunction, even for the purpose of enforcing a judgment, whereas the defendant could.

In response the Legislature in 1933 extended the municipal court's equity jurisdiction by deleting the cross-complaint limitation and by giving the court jurisdiction over additional equity matters such as authority to enforce its own judgments, to cancel or rescind a contract, and to issue a temporary restraining order or preliminary injunction to preserve the property or rights of the parties. 1933 Cal. Stat. ch. 743, § 13.

In 1969, the California Supreme Court held that a municipal court has no inherent equity jurisdiction to set aside a judgment or order obtained through extrinsic fraud or extrinsic mistake. *Bloniarz v. Roloson*, 70 Cal. 2d 143, 449 P.2d 221, 74 Cal. Rptr. 285 (1969). In response to the decision, the Legislature extended the municipal court's jurisdiction to permit such equitable relief. See discussion in *Marianos v. Tutunjian*, 70 Cal. App. 3d 61, 65, 138 Cal. Rptr. 529 (1977).

Liability Based on Equitable Principles

In 1970, *Castellini v. Municipal Court*, 7 Cal. App. 3d 174, 176, 86 Cal. Rptr. 698 (1970), held that a municipal court could not grant the relief of disregarding the fiction of corporate existence:

No sound policy reason occurs to us why in a case otherwise within municipal court jurisdiction, equitable principles should not be generally applicable. Such a rule would tend to obviate the

frequent and understandable misapprehension of litigants as to just where jurisdiction lies. It would prevent time consuming delays, such as here, which must at times result in denial of justice. But the state Constitution, article VI, section 5, casts the power to make such a determination on the Legislature, not the courts.

In response the Legislature added a new provision to the Municipal Court Act:

In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

1971 Cal. Stat. ch. 1022. The provision has since been relocated to the remedies provisions of the Code of Civil Procedure, where it applies to the civil jurisdiction of the superior court. Code Civ. Proc. § 580(a).

Note that the provision expressly authorizes liability based on equitable principles, but does not authorize equitable relief as such. The bill enacting the provision had included authority for the municipal court to impose liability “or grant relief” on either a legal or equitable basis. See Assem. Judic. Comm., *Analysis of SB 599* (Sept. 9, 1971). However, the “grant relief” language was stricken from the bill before enactment.

Cases addressing the equitable relief issue are inconclusive. *Lacy v. Laurentide Fin. Corp.*, 28 Cal. App. 3d 251, 259-60, 104 Cal. Rptr. 547 (1972), notes that the “equitable principles” provision was intended to overturn the rule that there is no general equity jurisdiction in the municipal court; however, “the \$5,000 monetary limit still prevails.” *Flowers & Sons Dev. Corp. v. Municipal Court*, 86 Cal. App. 3d 818, 823-24, 150 Cal. Rptr. 555 (1978), holds that the municipal court may grant monetary relief under an equitable theory (fraudulent conveyance), so long as the monetary relief is within the municipal court’s jurisdiction and so long as the cause of action does not fall into one of the areas exclusively within the superior court’s jurisdiction.

Equitable Relief Permissible Unless Prohibited

Code of Civil Procedure Section 580(a) also provides that “the court may grant the plaintiff any relief consistent with the case made by the complaint and embraced within the issue.” The authority of the court to grant “any relief” has been a part of Section 580 since it was enacted in 1872. In a contested case, the plaintiff may secure any relief that is consistent with the facts presented.

Section 580 has been applied to both superior and municipal courts. See, e.g., *Janssen v. Luu*, 57 Cal. App. 4th 272, 278, 66 Cal. Rptr. 2d 838 (1997) (“[T]here is *no limitation* on the application of section 580 to municipal courts.”). Section 580 applies to both legal and equitable relief. See *Walsh v. McKeen*, 75 Cal. 519, 521-22, 17 P. 673 (1888):

As to the alleged change in the nature of the action [from legal to equitable], an answer is found in the fact that we have in this state but one form of civil action for the enforcement or protection of private rights, (Code Civil Proc. § 307;) and, where an answer has been filed, any relief may be granted to the plaintiff which is consistent with the facts stated in the complaint, (Code Civil Proc. § 580.) An action does not now, as formerly, fail because the plaintiff has made a mistake as to the form of his remedy. If the case which he states entitles him to any remedy, either legal or equitable, his complaint is not to be dismissed because he has prayed for a judgment to which he is not entitled. ‘Legal and equitable relief are administered in the same forum, and according to the same general plan. A party cannot be sent out of court merely because his facts do not entitle him to relief at law, or merely because he is not entitled to relief in equity, as the case may be. He can be sent out of court only when, upon his facts, he is entitled to no relief, either at law or in equity.’

See also *Lacy v. Laurentide Fin. Corp.*, 28 Cal. App. 3d 251, 104 Cal. Rptr. 547 (1972) (plaintiffs who sought to vacate levy of writ of execution but did not pray to vacate judgment were not limited to relief demanded).

However, some types of equitable relief are specifically precluded in a limited civil case. See Code Civ. Proc. §§ 580(b), 871.3. The superior court may not grant those forms of relief unless the statutes are revised.

Quality of Municipal Court

It has been suggested that, besides the desire to reserve the municipal court for smaller and simpler cases, there was concern about extending the court’s equity jurisdiction because a municipal court judge might lack the experience and competence of a superior court judge.

From the creation of the municipal court in 1924 until 1950, the qualifications for Supreme Court justices, appellate court justices, superior court judges, and municipal court judges were the same. All judges, including a municipal court judge, were required to have been a member of the State Bar or a judge of a court of record for five years. See, e.g., Cal. Const. art. VI, § 23 (1950); *Helwig v. Payne*,

197 Cal. 524, 241 P. 884 (1925). Municipal court judges were assigned on a temporary basis to serve on the superior court as needed.

The Constitution was amended in 1950 to allow a former justice of the peace who was not an attorney to become a municipal court judge. Cal. Const. art. VI, § 23 (1950). In 1966 further differentiation between the qualifications of judges occurred when the experience required of a superior court judge was increased to ten years. Cal. Const. art. VI, § 16 (1966).

A 1971 trial court unification study included the following findings:

Some individuals and groups have expressed the opinion that there is a difference in the level of experience and degree of competence between the Superior Court and lower court judges. Many persons believe that it would be impractical to elevate all Municipal Court judges and attorney Justice Court judges to the Superior Court bench where they might be handling cases beyond their existing capacities and experience. It should be noted that Superior Court judges must be members of the Bar for at least ten years and Municipal Court judges must be members for five years. There is no Bar membership requirement for Justice Court judges. Some people feel that newly elected judges to the Superior Court are more experienced than new judges on the Municipal Court.

Booz, Allen & Hamilton, California Unified Trial Court Feasibility Study 54 (1971).

It was a common practice for the Governor to use an appointment to the municipal court to test a judge's ability on smaller, less noteworthy cases — a sort of proving ground before elevation to the superior court.

These considerations may have contributed to the Legislature's decision to circumscribe the municipal court's authority to grant equitable relief.

CONSIDERATIONS AFFECTING EQUITABLE RELIEF IN A LIMITED CIVIL CASE

Since 1928, when the state Constitution was amended to permit the municipal court to exercise equity jurisdiction, there was nothing to prevent the Legislature from granting the court additional equity jurisdiction. The decision to restrict equity jurisdiction was political and practical.

Do the concerns that brought about creation of the municipal court and restricted its equity jurisdiction still apply in a limited civil case in the superior court? Are there other considerations that warrant limiting the types of equitable relief that can be awarded in a limited civil case?

Economic Litigation Procedures

Simplified economic litigation procedures now apply in a limited civil case. Code Civ. Proc. §§ 90-100. However, an equity case tends to be more complicated on average, more fact-intensive, and more time-consuming, than a general damages action. In addition, equitable relief may be harsher in nature and have more long-lasting effects. For these reasons, it is not necessarily clear that an equity matter should routinely be subject to the discovery and pleading restrictions applicable in a limited civil case.

Judicial Competence

Under trial court unification transitional provisions, a former municipal court judge is exempt from the 10-year qualification requirement for a superior court judge. Cal. Const. art. VI, § 23(b). By the time of enactment of any extension of equitable relief in a limited civil case, all former municipal court judges would have had combined practice and judicial experience of a minimum of 10 years. Any former nonattorney who was grandfathered in as a municipal court judge is no longer in the system.

It is worth noting, however, that in our work on jurisdictional limits of small claims and limited civil cases, the staff heard some concern expressed that less experienced or able judges are routinely assigned to handle the limited civil case calendar, and that the quality of justice in a limited civil case tends to be inferior to that in an unlimited civil case. If that is true, expansion of the remedies available in a limited civil case might be problematic.

The presiding judge of the superior court has authority to distribute court business and assign judges to departments based on, among other factors, the knowledge and abilities demanded by the assignment and the judge's judicial and nonjudicial experience. Cal. R. Ct. 6.603. If a particular judge is not experienced to deal with a complex equity matter, the matter can be heard by another judge who has the requisite experience.

This resolution places a premium on perceptive assessment of the case and accurate assignment of judges. That may be a difficult task.

Appeals

Article VI, Section 11(a), of the California Constitution provides in relevant part:

[C]ourts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute.

If authority to grant equitable relief in a limited civil case is extended beyond what existed on June 30, 1995, would it be necessary to divert an appeal in a case awarding that relief from the appellate division of the superior court to the court of appeal? That depends on whether equitable relief is considered a “cause” within the meaning of the constitutional provision.

The “causes of a type” language was added to the Constitution as part of trial court unification. Its purpose was to preserve the appellate jurisdiction of the court of appeal in cases historically within the original jurisdiction of the superior court. *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51, 73 (1998); see also *General Elec. Capital Auto Fin. Services, Inc. v. Appellate Division*, 88 Cal. App. 4th 136, 145, 105 Cal. Rptr. 2d 552 (2001).

The court in *Lester v. Lennane*, 84 Cal. App. 4th 536, 559, 101 Cal. Rptr. 2d 86 (2000), construed the term as used in Section 11(a) to have the same meaning as in Section 14 (a decision of the Supreme Court that determines a cause must be in writing). The term in that context means action or proceeding. *In re Rose*, 22 Cal. 4th 430, 452, 93 Cal. Rptr. 2d 298, 993 P.2d 956 (2000).

Is equitable relief an action or proceeding? It has been held that an application for injunctive relief is an action. See, e.g., *Agricultural Labor Relations Bd. v. Kern County Superior Court*, 149 Cal. App. 3d 709, 196 Cal. Rptr. 920 (1983). See also *Tide Water Ass’n Oil Co. v. Superior Court*, 43 Cal. 2d 815, 823, 279 P.2d 35 (1955) (suit by state for injunction against unreasonable waste of gas is an “action”); *Coleman v. Los Angeles County*, 180 Cal. 714, 182 P. 440, 443 (1919) (term “action” is sufficient to include both forms of civil remedies, legal and equitable).

The California Supreme Court could ultimately interpret “cause” differently for purposes of Section 11, than it does for Section 14. In fact, the court in *In re Rose* observed that it had previously construed “cause” differently in connection with the constitutional provision permitting transfer of matters from the courts of appeal to the Supreme Court — the “distinction reflects an effort to construe the term ‘cause’ in conformance with the goals of the constitutional provisions.” *In re Rose*, 22 Cal. 4th at 450-51.

EXPANSION OF EQUITABLE RELIEF IN A LIMITED CIVIL CASE

General Grant of Equity Jurisdiction

Why not just cut through the limitations on the court's authority and allow a party to request and the judge to grant any form of relief, legal or equitable, in a limited civil case? Presumably before 1924 and creation of the municipal court, when the superior court had general jurisdiction of all causes, legal and equitable, a party simply requested and the court awarded appropriate relief without jurisdictional concerns.

It is probably not possible to recreate the past. Contemporary case loads and litigation costs demand expeditious and inexpensive procedures for smaller and simpler cases. It is necessary to differentiate among causes for purposes of efficient case processing.

The existing system ties simplified economic litigation procedures and local appellate division appeals to the size of the case — currently \$25,000 — and allows limited relief in that context. If equitable relief were broadly authorized, how would the case be classified and the determination made of what procedures apply? Take for example a case in which the only relief sought is injunctive relief. Would the case be classified and treated as a limited or unlimited civil case?

An approach would be to allow the plaintiff to choose the classification for the case. In that event, we would need to allow the defendant the option to reclassify a limited case as unlimited. Due to the potential severity of equitable remedies, it would be unfair to restrict the defendant's pleadings and discovery and apply other economic litigation procedures (e.g., deposition transcript in lieu of direct testimony) at the option of the plaintiff. Standards would be necessary to determine how the case should be treated.

Existing Code of Civil Procedure Section 91(c) permits an action, on noticed motion, to be withdrawn from economic litigation procedures on a showing it is impractical to prosecute or defend the action within the limitations. Section 95 permits additional discovery in a limited civil case on noticed motion and a showing that the moving party will be unable to prosecute or defend the action effectively without the additional discovery.

If unlimited equitable relief were allowed in a limited civil case, it would be necessary to rely heavily on devices such as these. However, use of these devices

would consume resources of the parties and the courts, and undercut the purposes of the limited civil case system.

Limited Grant of Equity Jurisdiction

Focused expansion of equitable relief in a limited civil case would be more practical than a general grant of equity jurisdiction. The statutes already permit equitable relief of one type or another as appropriate in the context of most limited civil cases. The Commission should consider whether any of the following forms of equitable relief, all of which are currently prohibited in a limited civil case, should be authorized:

- (1) Permanent injunction.
- (2) Determination of title to real property.
- (3) Declaratory relief.
- (4) Enforcement of order under Family Code.
- (5) Good faith improver claim.

Permanent Injunction

Code of Civil Procedure Section 580(b)(2) prohibits a permanent injunction in a limited civil case. However, the court in a limited civil case has authority to grant interim or temporary injunctive relief. Code Civ. Proc. § 86(a)(8) (“issue temporary restraining orders and preliminary injunctions ... where necessary to preserve the property or rights of any party to a limited civil case”).

Is there good reason to deny the court the ability to grant permanent injunctive relief? The same underlying facts are involved and more substantial findings are required in order to grant preliminary relief. Cf. Code Civ. Proc. § 525 et seq. The consequences of a TRO or preliminary injunction are potentially more immediate and severe than for a permanent injunction.

It is possible that a plaintiff would couple a prayer for a permanent injunction with a claim for minor monetary damages, in order to bring the case within economic litigation procedures. There are remedies for this, however, including a motion to reclassify, to remove from economic litigation procedures, or to increase discovery. See Code Civ. Proc. §§ 91, 95, 403.010-403.090.

An option would be to authorize the superior court to award a permanent injunction in a case in which the “amount involved” does not exceed \$25,000. The amount involved in the case would be determined not only by the monetary damages claimed by the plaintiff, but also by the potential economic harm if a

permanent injunction is granted. If a permanent injunction would implicate a greater amount than \$25,000, the defendant could obtain reclassification of the cause as an unlimited civil case.

This could be accomplished by the following revision:

Code Civ. Proc. § 86 (amended). Miscellaneous limited civil cases

86. ...

(b) The following cases in equity are limited civil cases:

(1) Cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars (\$25,000).

(2) Cases when equity is pleaded as a defensive matter in any case that is otherwise a limited civil case.

(3) Cases to vacate a judgment or order of the court obtained in a limited civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(4) Cases for a permanent injunction when the amount involved is not more than twenty-five thousand dollars (\$25,000).

Comment. Paragraph (4) is added to Section 86(b) to authorize a permanent injunction in a limited civil case where the amount involved does not exceed \$25,000. This provision supersedes former Section 580(b)(2) (restriction on permanent injunction in limited civil case). See also subdivision (a)(8) (temporary restraining orders and preliminary injunctions). As used in this provision, “amount involved” is not limited to the amount of monetary damages claimed, but includes potential economic harm if a permanent injunction is granted. If a permanent injunction would implicate a greater amount than \$25,000, a party may seek reclassification of the cause as an unlimited civil case. See Sections 403.010-403.090.

Title to Real Property

Code of Civil Procedure Section 580(b)(3) prohibits a determination of title to real property in a limited civil case.

Before unification, a municipal court judge could in some instances determine title to real property. For example, if a determination of title to real property was necessary in order to resolve a claim for damages to real property within the jurisdiction of the municipal court, the court had jurisdiction for that purpose. *Hooper v. Miley Oil Co.*, 109 Cal. App. Supp. 767, 288 P. 26, 27 (1930).

The municipal court did not have equity jurisdiction to determine title to real property for purpose of applying fraudulent conveyance remedies if the value of the property affected exceeded the jurisdictional limits of the municipal court:

The rule is that if there is present in a case any material issue involving the title of real property which property is over the value of \$5,000, the superior court has jurisdiction over the action. (See *Vella v. Hudgins* (1977) 20 Cal.3d 251, 257, 142 Cal.Rptr. 414, 572 P.2d 28; 1 Witkin, Cal.Procedure (2d ed. 1970) Jurisdiction, § 45, p. 569.)

Flowers & Sons, 86 Cal. App. 3d at 824.

Title could be tried in an unlawful detainer action in municipal court, provided the value of the property was less than the limited civil case jurisdictional limit. *Vella v. Hudgins*, 20 Cal. 3d 251, 255, 572 P.2d 28, 142 Cal.Rptr. 414 (1977).

The cases are consistent in permitting the imposition of liability on equitable principles in a case otherwise within the jurisdiction of the municipal court. This background suggests that there may no longer be good reason to prohibit the determination of title to real property in a limited civil case, so long as the amount involved does not exceed \$25,000. For this purpose, the “amount involved” would not be limited to the amount of monetary damages claimed, but would include the value of the ownership interest that would be affected by the determination of title. If a determination of title would implicate a greater amount than \$25,000, a party could obtain reclassification of the cause as an unlimited civil case. See Sections 403.010-403.090.

This result could be achieved by the following revision:

Code Civ. Proc. § 86 (amended). Miscellaneous limited civil cases

86. ...

(b) The following cases in equity are limited civil cases:

(1) Cases to try title to real or personal property when the amount involved is not more than twenty-five thousand dollars (\$25,000).

(2) Cases when equity is pleaded as a defensive matter in any case that is otherwise a limited civil case.

(3) Cases to vacate a judgment or order of the court obtained in a limited civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

Comment. Paragraph (1) of Section 86(b) is amended to permit determination of real property title in a limited civil case where the amount involved does not exceed \$25,000. This provision supersedes former Section 580(b)(3) (restriction on determination of real property title in limited civil case) and codifies the rule previously applicable in municipal court. See, e.g., *Vella v.*

Hudgins, 20 Cal.3d 251, 142 Cal.Rptr. 414, 572 P.2d 28 (1977) (determination of title in unlawful detainer action involving property within jurisdictional limits of municipal court); Hooper v. Miley Oil Co., 109 Cal. App. Supp. 767, 288 P. 26 (1930) (determination of title necessary to resolve claim for damages within jurisdictional limits of municipal court). As used in this provision, “amount involved” is not limited to the amount of monetary damages claimed, but includes the value of the ownership interest that would be affected by the determination of title. If a determination of title would implicate a greater amount than \$25,000, a party may seek reclassification of the cause as an unlimited civil case. See Sections 403.010-403.090.

Enforcement of Order Under Family Code

Family Code proceedings historically have been exclusively within superior court jurisdiction. Fam. Code § 200. Family Code proceedings are special proceedings rather than civil actions, governed by special rules of procedure. They do not generally fall into limited versus unlimited civil case categories, regardless of the amount that may be in controversy in the proceeding. An order made under the Family Code, such as a custody award, a domestic violence protective order, or an order for possession of property, may be enforceable by various means, including the court’s contempt power. Fam. Code § 290.

Family Code proceedings may also result in an order for payment of money, such as to equalize a property division or for a support arrearage. Although an order of this type would not differ much from a money judgment in a limited civil case, enforcement is not necessarily straightforward since ancillary court proceedings may well involve a modification request.

Code of Civil Procedure Section 580(b)(4) provides that enforcement of an order under the Family Code may not be granted in a limited civil case. It is unclear what this means as a practical matter. The provision could probably be repealed without loss. On the other hand, the provision does not appear to be causing any problem, given that proceedings under the Family Code are special proceedings anyway. One option would be to solicit comment on the continued utility of this provision, if we circulate a tentative recommendation for comment on other matters.

Declaratory Relief

Declaratory relief is an equitable remedy, providing for a court declaration of the rights and duties of parties. Code Civ. Proc. § 1060. Declaratory relief was

exclusively within the superior court's jurisdiction until unification. On unification, declaratory relief was precluded in a limited civil case except by way of cross complaint. Code Civ. Proc. §§ 86(a)(7)(A), 580(b)(5). (Also, an action for declaratory relief to conduct a trial after a nonbinding attorney fee arbitration is a limited civil case if the amount in controversy does not exceed \$25,000. Code Civ. Proc. § 86(a)(7)(B).)

The restriction on awarding declaratory relief in a limited civil case appears to be an historical vestige of the law versus equity division between the municipal and superior court. There is nothing unique about the procedures required to make a declaration of rights and duties; in fact a determination of rights and duties routinely occurs en route to a standard money judgment in a limited civil case. The fact that existing law allows declaratory relief in a limited civil case if brought by way of cross complaint suggests that limited civil case procedures are perfectly adequate for resolution in a limited civil case where the amount in controversy does not exceed \$25,000.

Witkin says:

An action for declaratory relief may involve a right or claim of small monetary value which would be tried in a legal action if the cause of action was based on a breach or other wrongful act actually committed. In the federal courts the amount in controversy in declaratory relief actions is determined as in ordinary actions, by the amount involved.

2 B. Witkin, *California Procedure*, Jurisdiction § 53, pp. 594-95 (4th ed. 1996).

We could revise the statutes to permit declaratory relief in a case that would otherwise be a limited civil case:

Code Civ. Proc. § 86 (amended). Miscellaneous limited civil cases

86. (a) The following civil cases and proceedings are limited civil cases:

...

(7) Actions for declaratory relief when brought pursuant to either of the following:

~~(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding that is otherwise a limited civil case.~~

~~(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and~~

~~Professions Code, where the amount in controversy is twenty-five thousand dollars (\$25,000) or less.~~

...

Comment. Paragraph (7) of Section 86(a) is amended to permit declaratory relief in a case that is otherwise a limited civil case. The provision supersedes former Section 580(b)(5) (restriction on declaratory relief in a limited civil case). The expanded provision for declaratory relief encompasses both former subdivision (a)(7)(A) (cross-complaint as to right of indemnity) and former subdivision (a)(7)(B) (trial after nonbinding fee arbitration between an attorney and client where amount in controversy is \$25,000 or less), as well as other contexts.

Good Faith Improver Claim

Code of Civil Procedure Sections 871.1-871.7 set out rights and remedies of a person who makes an improvement to land in good faith and under the erroneous belief that the person is the owner. Section 871.3(a) provides:

An action for relief under this chapter shall be treated as an unlimited civil case, regardless of the amount in controversy and regardless of whether a defendant cross-complains for relief under this chapter. Any other case in which a defendant cross-complains for relief under this chapter shall be treated as a limited civil case if the cross-complaint is defensive and the case otherwise satisfies the amount in controversy and other requirements of Section 85.

This scheme is consistent with the general rules of practice that governed equitable claims in municipal court. See *Jurisdictional Classification of Good Faith Improver Claims*, 30 Cal. L. Revision Comm'n Reports 281, 286 (2000). Under Section 871.5, the court may "effect such an adjustment of the rights, equities, and interests of the good faith improver, the owner of the land, and other interested parties (including, but not limited to, lessees, lienholders, and encumbrancers) as is consistent with substantial justice to the parties under the circumstances of the particular case." A good faith improver claim was thus not within the jurisdiction of the municipal court unless raised as a defensive matter.

The Commission recognized that this was an interim solution to the jurisdictional question. The Commission decided that, after all of the trial courts had unified, it would revisit the question of whether the law versus equity distinction makes sense for purposes of jurisdictional classification. Minutes (June 24-25, 1999), p. 9.

Even if a good faith improver complaint seeks only damages, other issues and types of relief can be decided by the court in its discretion, including the issue of title. It is likely that a good faith improver claim will exceed \$25,000 in the ordinary case, although if the plaintiff purposely undervalues the claim in order to achieve limited civil case treatment, the defendant probably wouldn't object.

We could revise Section 871.3 to allow this:

Code Civ. Proc. § 871.3 (amended). Good faith improver

871.3. (a) An action or cross-complaint for relief under this chapter shall be treated as an ~~unlimited civil case, regardless of the amount in controversy and regardless of whether a defendant cross-complains for relief under this chapter.~~ Any other case in which a defendant cross-complains for relief under this chapter shall be treated as a limited civil case if the cross-complaint is defensive and the case otherwise satisfies the amount in controversy and other requirements of Section 85 a limited civil case if the amount in controversy in the case does not exceed twenty-five thousand dollars (\$25,000).

(b) In every case, the burden is on the good faith improver to establish that the good faith improver is entitled to relief under this chapter, and the degree of negligence of the good faith improver should be taken into account by the court in determining whether the improver acted in good faith and in determining the relief, if any, that is consistent with substantial justice to the parties under the circumstances of the particular case.

Comment. Subdivision (a) of Section 871.3 is amended to permit the classification of a good faith improver claim as a limited civil case if the amount in controversy in the case does not exceed \$25,000.

Small Claims

A small claims case is a limited civil case that employs even more simplified and expeditious procedures than the economic litigation procedures applicable in a limited civil case. Code Civ. Proc. § 87. The small claims court was formerly within the municipal court but now is a division of the superior court. Code Civ. Proc. § 116.210.

Limited equitable relief may be awarded in a small claims case. In addition to or in place of money damages, the court may award rescission, restitution, reformation, or specific performance in a matter otherwise within the small claims jurisdiction. Code Civ. Proc. § 116.220(b).

The Small Claims Act also provides small claims jurisdiction over a guarantor who is required to respond based on the default, action, or omission of another. Code Civ. Proc. § 116.220(c). Jurisdiction in this type of case is limited to a \$2,500 claim or, if the guarantor is a corporate surety, \$4,000.

We have received an expression of concern about this provision from Department of Motor Vehicles. There are statutory license and vehicle bonds or deposits that show up in small claims court for enforcement. The bonds involve multiple competing claimants (including the principal, surety, claimant or claimants, and judgment creditors). This does not work well in small claims court. For example it may be difficult to explain to the judge and the litigants that it is proper for the judge to determine the claim as between the claimant and principal but not to determine the rights of others who are not parties to the litigation.

DMV believes this situation should be addressed. The law should be revised to make sure that the court can and will determine competing claims and order payment, and provide an appropriate procedure, in these bond or deposit surety type cases.

Based on the Commission's experience in its joint project with the Judicial Council on jurisdictional limits of small claims and limited civil cases, the staff doesn't think the proposed expansion is feasible at present. Our sense is that the parties to these types of cases will resist further expansion of small claims court jurisdiction until fundamental issues of fairness in the small claims process can be addressed. We would hold off on DMV's proposal for now.

CONCLUSION

The restrictions on awarding equitable relief in a limited civil case advance the cause of providing inexpensive and expeditious justice in those cases. However, with expansion of the superior court's jurisdiction to include limited civil cases, expansion of the types of relief that may awarded in those cases may be appropriate.

The staff suggests in this memorandum that the Commission consider whether the superior court should be authorized, in a cause that otherwise is treated as a limited civil case, to award the following types of equitable relief that are currently prohibited to it:

- Permanent injunction.
- Determination of title to real property.

- Declaratory relief.
- Good faith improver relief.

The staff also suggests that the Commission solicit comment on the continued need for a statutory prohibition against enforcement of an order under the Family Code in a limited civil case.

It is possible that granting a permanent injunction, determining title to real property, granting declaratory relief, or awarding good faith improver relief, in a cause that is otherwise a limited civil case, might make the case a “cause of a type” that was within the appellate jurisdiction of the courts of appeal on June 30, 1995. In that event an appeal in the case would be to the court of appeal rather than to the appellate division of the superior court. The staff does not see that as a disadvantage. The Commission has previously identified the problematic nature of peer review by the appellate division in a limited civil case. See Cal. L. Revision Comm’n, *Appellate and Writ Review Under Trial Court Unification* (Tent. Rec., November 2001).

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

Exhibit

EQUITABLE RELIEF IN A LIMITED CIVIL CASE

Code Civ. Proc. § 85. Limited civil cases

85. An action or special proceeding shall be treated as a limited civil case if all of the following conditions are satisfied, and, notwithstanding any statute that classifies an action or special proceeding as a limited civil case, an action or special proceeding shall not be treated as a limited civil case unless all of the following conditions are satisfied:

(a) The amount in controversy does not exceed twenty-five thousand dollars (\$25,000). As used in this section, “amount in controversy” means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys’ fees, interest, and costs.

(b) The relief sought is a type that may be granted in a limited civil case.

(c) The relief sought, whether in the complaint, a cross-complaint, or otherwise, is exclusively of a type described in one or more statutes that classify an action or special proceeding as a limited civil case or that provide that an action or special proceeding is within the original jurisdiction of the municipal court, including, but not limited to, the following provisions:

- (1) Section 798.61 of the Civil Code.
- (2) Section 1719 of the Civil Code.
- (3) Section 3342.5 of the Civil Code.
- (4) Section 86.
- (5) Section 86.1.
- (6) Section 1710.20.
- (7) Section 7581 of the Food and Agricultural Code.
- (8) Section 12647 of the Food and Agricultural Code.
- (9) Section 27601 of the Food and Agricultural Code.
- (10) Section 31503 of the Food and Agricultural Code.
- (11) Section 31621 of the Food and Agricultural Code.
- (12) Section 52514 of the Food and Agricultural Code.
- (13) Section 53564 of the Food and Agricultural Code.
- (14) Section 53069.4 of the Government Code.
- (15) Section 53075.6 of the Government Code.
- (16) Section 53075.61 of the Government Code.
- (17) Section 5411.5 of the Public Utilities Code.

- (18) Section 9872.1 of the Vehicle Code.
- (19) Section 10751 of the Vehicle Code.
- (20) Section 14607.6 of the Vehicle Code.
- (21) Section 40230 of the Vehicle Code.
- (22) Section 40256 of the Vehicle Code.

Code Civ. Proc. § 86. Miscellaneous limited civil cases

86. (a) The following civil cases and proceedings are limited civil cases:

(1) Cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars (\$25,000) or less. This paragraph does not apply to cases that involve the legality of any tax, impost, assessment, toll, or municipal fine, except actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) Actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars (\$25,000); actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars (\$25,000).

(3) Actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars (\$25,000) or property of a value not exceeding twenty-five thousand dollars (\$25,000), paid or delivered under, or in consideration of, the contract; actions to revise a contract where the relief is sought in an action upon the contract if the action otherwise is a limited civil case.

(4) Proceedings in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars (\$25,000) or less.

(5) Actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars (\$25,000) or less.

(6) Actions to enforce and foreclose, or petitions to release, liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 1351 of the Civil Code, where the amount of the liens is twenty-five thousand dollars (\$25,000) or less. However, where an action to enforce the lien affects property that is also affected by a similar pending action that is not a limited civil case, or where the total amount of the liens sought to be foreclosed against the same property aggregates an amount in excess of twenty-five thousand dollars (\$25,000), the action is not a limited civil case.

(7) Actions for declaratory relief when brought pursuant to either of the following:

(A) By way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding that is otherwise a limited civil case.

(B) To conduct a trial after a nonbinding fee arbitration between an attorney and client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the amount in controversy is twenty-five thousand dollars (\$25,000) or less.

(8) Actions to issue temporary restraining orders and preliminary injunctions, and to take accounts, where necessary to preserve the property or rights of any party to a limited civil case; to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments) in a limited civil case; to appoint a receiver pursuant to Section 564 in a limited civil case; to determine title to personal property seized in a limited civil case.

(9) Actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars (\$25,000) or the debt denied does not exceed twenty-five thousand dollars (\$25,000).

(10) Arbitration-related petitions filed pursuant to either of the following:

(A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is filed before the arbitration award becomes final and the matter to be resolved by arbitration is a limited civil case under paragraphs (1) to (9), inclusive, of subdivision (a) or if the petition is filed after the arbitration award becomes final and the amount of the award and all other rulings, pronouncements, and decisions made in the award are within paragraphs (1) to (9), inclusive, of subdivision (a).

(B) To confirm, correct, or vacate a fee arbitration award between an attorney and client that is binding or has become binding, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the arbitration award is twenty-five thousand dollars (\$25,000) or less.

(b) The following cases in equity are limited civil cases:

(1) Cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars (\$25,000).

(2) Cases when equity is pleaded as a defensive matter in any case that is otherwise a limited civil case.

(3) Cases to vacate a judgment or order of the court obtained in a limited civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

Code Civ. Proc. § 116.220. Small claims jurisdiction

116.220. (a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivisions (c), (e), and (f), for recovery of money, if the amount of the demand does not exceed five thousand dollars (\$5,000).

(2) Except as provided in subdivisions (c), (e), and (f), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars (\$5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars (\$5,000).

(4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars (\$5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after nonbinding arbitration of a fee dispute involving no more than five thousand dollars (\$5,000) in controversy, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code.

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages. The court may issue a conditional judgment. The court shall retain jurisdiction until full payment and performance of any judgment or order.

(c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only if the demand does not exceed (1) two thousand five hundred dollars (\$2,500), or (2) on and after January 1, 2000, four thousand dollars (\$4,000), if the defendant guarantor charges a fee for its guarantor or surety services or the defendant guarantor is the Registrar of the Contractors' State License Board.

(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver shall not become operative until judgment.

(e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a Department of Corrections facility or a Youth Authority facility, the small claims court shall have jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or determination of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation.

(f) In any action governed by subdivision (e), if the plaintiff fails to provide proof of compliance with the requirements of subdivision (e) at the time of trial,

the judicial officer shall, at his or her discretion, either dismiss the action or continue the action to give the plaintiff an opportunity to provide such proof.

(g) For purposes of this section, “department” includes an employee of a department against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

Code Civ. Proc. § 580. Relief awardable

580. (a) The relief granted to the plaintiff, if there is no answer, cannot exceed that which he or she shall have demanded in his or her complaint, in the statement required by Section 425.11, or in the statement provided for by Section 425.115; but in any other case, the court may grant the plaintiff any relief consistent with the case made by the complaint and embraced within the issue.

The court may impose liability, regardless of whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(b) Notwithstanding subdivision (a), the following types of relief may not be granted in a limited civil case:

(1) Relief exceeding the maximum amount in controversy for a limited civil case as provided in Section 85, exclusive of attorney’s fees, interest, and costs.

(2) A permanent injunction.

(3) A determination of title to real property.

(4) Enforcement of an order under the Family Code.

(5) Declaratory relief, except as authorized by Section 86.

Code Civ. Proc. § 871.3. Good faith improver

871.3. (a) An action for relief under this chapter shall be treated as an unlimited civil case, regardless of the amount in controversy and regardless of whether a defendant cross-complains for relief under this chapter. Any other case in which a defendant cross-complains for relief under this chapter shall be treated as a limited civil case if the cross-complaint is defensive and the case otherwise satisfies the amount in controversy and other requirements of Section 85.

(b) In every case, the burden is on the good faith improver to establish that the good faith improver is entitled to relief under this chapter, and the degree of negligence of the good faith improver should be taken into account by the court in determining whether the improver acted in good faith and in determining the relief, if any, that is consistent with substantial justice to the parties under the circumstances of the particular case.