



# Responsive Law

Consumers for a Responsive Legal System

January 31, 2013

Hon. Mark Baker  
Mississippi House of Representatives  
Room 112-A  
P.O. Box 1018  
Jackson, MS 39215

RE: House Bill 244

Dear Representative Baker:

I am writing to express support of House Bill 244 on behalf of Responsive Law, a national non-profit organization working to make the legal system more accessible, affordable, and accountable to ordinary Americans.

House Bill 244, which you have introduced, would allow court cases for money damages under \$100,000 to be brought under expedited small claims procedures. In cases where smaller amounts of money are at issue it is often not cost-effective for a litigant to hire a lawyer. The amount of money a plaintiff might recover in such a case can be severely diminished, if not wiped out all together, by the cost of a lawyer. In addition, when smaller amounts are at stake, it is not economically viable for a lawyer to take cases on a contingency fee basis.

Because small claims courts do not require lawyers and offer simplified procedures, they are often the only forum where individuals and small businesses can resolve their disputes fairly, efficiently, and without excessive costs. Unfortunately, Mississippi's small claims courts only hear cases up to \$3,500. This leaves a vast no-man's land where disputes too large for small claims court but too small to hire a lawyer cannot be fairly resolved.

House Bill 244 minimizes this legal no man's land by allowing Circuit Courts to use expedited small claims procedures in cases with up to \$100,000 at stake. These expedited procedures allow very limited discovery (no more than two non-party depositions totaling less than four hours, up to ten interrogatories, and up to ten requests for admission). They also allow for expedited admission into evidence of common documents such as contracts, billing statements, and correspondence. By minimizing the amount of discovery and legal procedure around authentication and admission of documents, the bill would reduce the number of hours of lawyer time that a litigant would need, thus lowering the cost of litigation.

Opponents of this bill may claim that expedited small claims procedures could result in a denial of due process to litigants. However, such a claim is based on the faulty premise that litigants can afford the legal help needed to navigate the full procedures of the Circuit Court. Unfortunately, hiring a lawyer is simply not economically feasible for most Mississippians. The average Mississippian, who makes about \$32,000 annually<sup>1</sup>, has to work nearly a whole week just to pay for one hour of a lawyer's time at \$300 per hour. If this person becomes in litigation, he will be unable to afford a lawyer and will be forced to represent himself. If he does so under regular Circuit Court procedures, he will not be able to understand a set of procedures that is designed for lawyers, and thus will enjoy none of the due process protections that those procedures provide. Furthermore, *pro se* litigants unfamiliar with legal procedures place a burden on courts that are already facing resource cuts.

In any event, the bill provides for expedited small claims procedures to be used at a court's discretion, so that a judge can safeguard against the denial of due process. Although simplified procedure generally protects litigants by removing economic barriers that prevent them from having their day in court, we support this provision as a check on the rare instances where simplified procedure might unfairly harm a party.

In conclusion, we believe that this bill will give many more Mississippians meaningful access to justice by reducing procedural and economic barriers to the courts. We hope that your colleagues will agree and support the bill.

Sincerely,



Tom Gordon  
Executive Director

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<sup>1</sup> U.S. Bureau of Economic Analysis, "Table SA1-3. Personal Income Summary," <http://www.bea.gov/iTable/iTable.cfm?reqid=70&step=1&isuri=1&acrdn=3>, accessed January 30, 2013.