

A History of the California Small Claims Court During the 1920s

J. Ibarra
Senior Thesis
Professor
April 25, 2005

Table of Contents

Introduction	3
Historiography	9
The Legal Aid Movement	17
Professionals Define Poor People	22
The Public Uses and Define Small Claims Court	25
Professionals Define the Court	30
Substance v. Procedure	33
Legitimacy and Doubt	36
Policy Change: Outside the Courtroom	37
Policy Change: Inside the Courtroom	42
Conclusion	50
Bibliography	56

Introduction

Congress established the California small claims court under the Small Claims Act of 1921. The act called for a "judicial forum accessible to all parties directly involved in resolving individual minor civil suits."¹ The court was a new legal space where anyone, rich or poor, could file a small claim under \$50. Before small claims court, the expense of hiring a lawyer was a problem because claims under \$50 were less than the legal fees and hiring a lawyer did not make economic sense. Since many poor people wanting to pursue a claim could not afford the legal fees, they were denied access to the judicial system. Small claims court created an informal procedure that reduced costs by excluding lawyers from the small claims process. Both those who used the court and professionals who managed it expected small claims court to be an inexpensive, fast, and efficient form of justice.

In addition to the problem of legal expense, small claims court was also a solution to delayed justice. A central reason for delay was the lawyer's technical argument and legal jargon, which slowed down legal proceedings. Technicalities included specific rules of evidence and complex filing procedures. Small claims court involved a truncated judicial process without the complex procedures managed by lawyers. By creating a small claims venue without lawyers, minor issues were resolved more quickly and efficiently. However, the informal procedure brought up various questions regarding the constitutionality of small claims court. Removing the lawyer from the courtroom left some wondering whether due process was obstructed. During the early court history

¹ California Code of Civil Procedure Section 116

challenges to the court shaped its function, identity, and purpose. Despite any challenges, the small claims court process became an important part of the California legal system.

In California, Harry A. Chamberlin, Republican Senator, was the first to explain the small claims process. Chamberlin described the method of prosecuting a claim before small claims as "extremely simple, and expeditious."² First, any person seeking a claim for less than \$50 went to the court and filed an affidavit. Second, the justice set a time for a hearing for 5 to 10 days thereafter. Third, a copy of the affidavit was sent by registered mail to the alleged debtor. And fourth, both parties appeared with any witnesses on the assigned date for a hearing before the judge. Compared to the complex and expensive system managed by lawyers, small claims court was a simple process. However, the basic small claims court used in California was not the only one.

The California small claims court was not the only small claims court in the U.S., nor was it the first. In 1913, the first small claims court was established in Cleveland, Ohio. Massachusetts established a small claims court in 1920. California was the third to establish a small claims act in 1921.³ Though each small claims court had different specific procedures, they commonly involved a process similar to California's, and intended the court as an inexpensive and efficient venue for resolving small claims. Within the California court, innovations, such as afternoon sessions and night courts, contributed to its uniqueness. The California court also became one of the largest in the country during the 1920s, which made it more representative of small claims justice.

² Harry A. Chamberlin, "Establish New Tribunals," *Los Angeles Times*, July 31, 1921.
<http://www.proquest.com>.

³ Lindsay Conner, "Night Small Claims Court: 'The People's Court' Reaches Out to the People," *University of West Los Angeles Law Review* 10 (1978): 3.

In California, professionals managed small claims court policy. Professionals included policymakers, lawyers, judges, and scholars who talked and wrote about small claims court to expand access to justice. These figures understood small claims court as “the poor man’s court” and used the court as an instrument of public policy. However, these people had a variety of interests and did not always agree with the theory behind the court, or with the implementation. Their disagreement defined court policy and concept as much as their agreement.

While professionals managed court policy, how people used small claims court in California shaped its particular history. On the one hand, ordinary people used the court as professionals intended. They used it to solve many different types of claims under \$50 and accepted the judge’s decision. On the other hand, ordinary people used the court for unintended purposes such as irritating their peers. They used the court as a public forum to carry out personal vendettas. By bringing their disputes before small claims court, poor people shaped small claims justice and how it was administered. Collectively, small claims court cases were important because everyone who used the court left it with a new understanding of the legal system. Furthermore, the early court cases also set a precedent for future small claims cases.

This analysis evaluates small claims court as “the poor man’s court.” The central questions are: How did professionals interpret small claims court and the poor people who used the court? Who used the court? Why did they use it? What did professionals intend with the informal procedure? How did the informal procedure change people’s conception of law? And finally, what did small claims court mean for democracy? By examining government statutes, small claims court studies, law journal articles, and

newspaper reports, this analysis concludes that small claims court was an elitist institution. It was established to create the impression of a fair justice system and engrained elitist assumptions into an informal legal procedure.

The period for this analysis examines the 1920s for three reasons. First, professionals and nonprofessionals defined the informal procedure in small claims court during this period. Understanding how different people shaped the court explains original intent and also elucidates why the court followed its particular path. Second, the main policy questions, such as the constitutionality of the court, were asked during this period. Although professionals arrived at new answers in subsequent years, the basic policy and procedure was established. Third, the Great Depression defined a new era in the history of small claims court. Although court policy retained an astonishing continuity, the significance of small claims court clearly changed in a different historical context. Nevertheless, by the end of the 1920s, small claims court was an essential part of the California legal system.

Three main themes constitute the main argument of this history of the California small claims court. First, during the 1920s small claims court legitimized the legal system. Professionals recognized that poor people could not access the justice system because of expense and delay. As a solution to these problems, small claims court was intended to demonstrate to poor people that the justice system was fair. Although, to some degree, small claims court did expand access to justice, it was not the most democratic option. For example, instead of creating an informal procedure, poor people could have been provided with lawyers. This analysis proposes that the reason many

professionals approved of small claims court was that it subordinated the privileges of poor people to the goal of creating a more efficient legal system.

Despite the limited democracy produced in small claims court, the increased use of the court during the 1920s signaled public approval. Public approval, in addition to the expansion of small claims court in California, also indicated its importance as part of the legal system. During this period the court became an essential democratic institution. Consequently, for the many poor people who used the court, the court defined what democracy means. It shaped people's conception of justice and, in turn, people shaped small claims justice. Thus, the professionals who established small claims court were largely successful. They created an institution that sufficiently legitimated the legal system and subsequently, they wove an elitist conception of justice into the small claims court and the broader legal system.

The second theme examines how professionals established and managed small claims court. In their effort to create a more efficient legal system, professionals adjusted the administration of justice inside and outside the small claims courtroom. Inside the courtroom, prohibiting lawyers centralized authority in the judge because there were no lawyers to present legal arguments. Instead, a poor person argued his own case and total discretion was left to the judge, who was expected to apply legal reasoning. Some professionals were wary of the informal adjudication. Their disagreement was highlighted by disputes between those who opposed the condition that small claims court did not have a jury trial. To some professionals, limiting provisions for a jury trial was a denial of due process. It was one of many issues that arose when the constitutionality of

small claims court was challenged. Thus, inside the courtroom, the small claims process was marked by the concentration of judicial authority.

Outside the courtroom, small claims court also centralized professional authority. Small claims court was part of a movement to reorganize the California justice system. It was one of many other centralizing instruments of public policy including the municipal court system and the judicial council. These institutions were designed to solve the problems of expense and delay, and to improve the efficiency of the legal system. The interconnected histories of these other centralizing institutions indicated how professionals envisioned and hope to modernize the justice system. Essentially, the centralizing features inside the small claims courtroom were representative of the concentration of professional authority outside the courtroom, as part of the broader justice system.

The third theme deals with the way legal professionals talked and thought about small claims court. The language professionals used when they talked about small claims court revealed their original intent and a broader conceptual basis for law. First, professionals understood small claims court as a small part of the greater judicial machinery. They used mechanistic language to describe the justice system as a machine and to identify the necessary solutions to problems that plagued the administration of justice. Second, the language professionals used also supported their notions of privilege. They understood the administration of justice as their responsibility. Because of this, they generally did not have a problem with the limited democracy created and promoted in small claims court.

During the 1920s the history of the California small claims court was an important window that explained three important relationships. First, small claims court legitimated the legal system by creating the appearance of fairer system. Small claims court was successful largely because it subordinated the privileges of poor people to the goal of creating a more efficient legal system. Second, to create a more efficient legal system professionals centralized justice inside and outside the courtroom. In this way, the small claims process represented broader changes to the legal system. Third, how professionals talked and thought about small claims court indicated how they envisioned their roles as administrators of justice. Examining professional's language showed how the court reinforced privilege. Thus, the small claims court, or "poor man's court," had an elitist agenda. The early history of small claims court revealed how the professionals who created and managed small claims court etched a form of small claims justice marked by an undemocratic, elitist intent.

Historiography

The California small claims court was born into the 1920s, a period of history characterized by industrialization, urbanization, immigration, war, and technological development. These conditions, well documented by historians, marked the transformation of the United States from an agrarian to an industrial society. While this transformation was involved industrial expansion and economic prosperity, society became increasingly stratified. Poor people, people whose labor was essential to economic prosperity during the 1920s, were marginalized by the inequalities perpetuated through the unequal distribution of wealth. Professionals created small claims court to remedy the inequality. But historians disagree about whether the professionals intended

to create true equality, or the perceived equality. Regardless, poor people were the people for whom small claims court, the “poor man’s court,” was intended. Thus, the important secondary literature provided the important historical context and helped shape the framework for evaluating how small claims court fared as the “poor man’s court.”

Just as the United States continued a process of industrialization during the 1920s, so did California. Kevin Starr’s history of Southern California provided much of the essential context for understanding how California reflected broader changes to the legal system. Appropriately, Starr quoted Wallace Stagner who said, “California is like the rest of the United States, only more so.”⁴ Put into numerical terms, Starr noted that, “The \$900 million industry output of 1921 became the billion-dollar-plus industrial output of 1927.”⁵ Clearly, during the 1920s California underwent an industrial transformation that constituted the circumstances into which small claims court was established in 1921. While Starr provided important context for California history, an excellent introduction to small claims court literature was found in Barbara Yngvesson and Patricia Hennessey’s, “Complex Disputes: A Review of Small Claims Literature.”

After providing a thorough study of the small claims court literature through 1975, Yngvesson and Hennessey concluded that, “the small claims movement of the 20s must be viewed as a minor, and sloppily devised, adjustment in our judicial system.”⁶ However, Yngvesson and Hennessey’s interpretation underestimated the small claims court of the 1920s. The California small claims court represented broader changes to the

⁴ Kevin Starr, *Endangered Dreams: The Great Depression in California* (New York: Oxford University Press, 1996), 1

⁵ Kevin Starr, *Material Dreams: Southern California Through the 1920s* (New York: Oxford University Press, 1990), 94

⁶ Barbara Yngvesson and Patricia Hennessey, “Small Claims, Complex Disputes: A Review of Small Claims Literature,” *Law and Society* 9, No. 2 (1979): 228

legal system and it played an increasingly important role in how people understood the justice system. Although, at times, professionals were confused about how the small claims procedure fit into the broader legal machinery, the court was a powerful adjustment that convinced many poor people that that justice system was fair. Nevertheless, Yngvesson and Hennessey's second conclusion supported this analysis' findings concerning professionalism and legitimacy.

Small claims court legitimacy depended on professionals' ability to convince poor people that the justice system was fair. Yngvesson and Hennessey said that small claims court was, "created by the legal profession to fulfill certain narrowly defined needs of low-income wage-earners and tradespeople who could not afford to use their services but whose political allegiance was of sufficient importance that measures were taken to prevent their alienation."⁷ This theme, of how small claims court legitimated professional authority, was central to understanding the significance of small claims court to California legal history. Essentially, Yngvesson and Hennessey introduced the small claims court of the 1920s as an institution supported by hollow democratic rhetoric. However, Eric H. Steele presented an alternative vision of small claims court.

Eric H. Steele's history of the small claims court provided a starting point for addressing the questions in this analysis. Essentially, Steele's history reiterated much of the professional rhetoric. He understood small claims court, not as a means to reassert professional authority, but as a genuine expansion of access to justice. Steele argued that small claims court was established to meet the fears and anxieties of the middle class. According to Steele, middle class progressives were caught between the poor and the

⁷ Barbara Yngvesson and Patricia Hennessey, "Small Claims, Complex Disputes: A Review of Small Claims Literature," *Law and Society* 9, No. 2 (1979): 228

rich, and they feared the increasing inequalities produced by an industrial society. While there is some truth in Steele's observations, he did not fully evaluate the significance of the small claims concept. Steele did not examine why professionals chose to implement the particular informal procedure established through small claims court. This paper concludes that privileged professionals legitimated the legal system through small claims court and that they selected small claims court because it subordinated the poor people's privileges, while reaffirming professional authority.

For Steele, the 1920s was a "reforming period" in small claims court history because the progressives who established small claims court intended it as a remedy for problems regarding access to justice. Steele asserted that during "reforming periods" professionals recognized the collective social significance of small claims cases. In contrast, during "conserving periods" professionals understood small claims as an unimportant legal venue and focused on the relatively little social value of any single small claim. These two periods constituted the basic framework for Steele's application of a cyclical pattern to the history of small claims court. However, this analysis found that professionals were not truly concerned with access to justice. Rather than recognizing the collective social value of small claims court, professionals recognized the collective threat of many poor people knowingly unable to obtain justice. Their main concern was with legitimating the legal system and preserving the traditional structures that maintained professional authority.

This history of small claims court adds to Steele's observation that this period involved the centralization of legal authority. While Steele briefly discussed the centralization of legal authority, he did not thoroughly examine how the informal

procedure, which concentrated authority, in small claims court reflected broader changes to the legal system, which also centralized authority. This analysis closely examines how professionals and poor people thought about, and used small claims court. However, Steele provided more than just a starting point. Through his comparison of courts nationwide, Steele added to this analysis a broader application for the questions and conclusions. Ultimately, the conceptual framework behind Steele's general history and this history were marked by more difference than similarity. However, in addition to Steele's comprehensive study of small claims court, understanding the general historical legal context was central to understanding the history of the California small claims court.

Lawrence Friedman provided important background for understanding the legal context of the 1920s. In *A History of American Law* Friedman noted that, "in a society of mass markets, mass production, and giant enterprise, the individual shrinks to relative insignificance."⁸ While individuality was threatened by industry, professionals interpreted individual poor people as cogs in the industrial machine. It is true that individual cases had little significance for the broader legal system. But if too many individuals were unjustly absorbed into the industrial machine, professionals feared the collective reaction. Thus, collectively small claims cases mattered because they determined how poor people understood the legal system.

This analysis also adds to Friedman's remarks concerning administrative agencies. While Friedman examined administrative agencies on a predominately national scale, small claims court also represented an expanded legal bureaucracy. Friedman noted, "To the general public, it seems as if the only source of control is that system

⁸ Lawrence Friedman, *A History of American Law* (New York: Simon and Schuster, 1985), 440

called law. And the agencies of control are, more and more administrative: that is bodies of civil servants charged with a continuous, steady, rational job of monitoring some segment of business or life.”⁹ This analysis indicated two similar developments within administrative agencies. First, the law clerk represented an expansion of bureaucracy. Law clerks were sub-professionals who played a decisive role in managing small claims court and small claims legitimacy. Second, the Judicial Council represented an administrative body whose purpose included creating a more efficient legal system. In the history of small claims court, these are the administrative bodies that largely managed the court.

An important theme of this history of the California small claims court examined why the court and the legal system was engineered and evolved through its particular history. An evaluation of Taylorism, as it applied to the centralization of the legal system, provided essential insight. Tayloristic principals were imbedded in small claims court emphasis on efficiency, and were also as part of the broader legal system. These principals were also represented in the professionals themselves. As arbiters of justice, the professionals Friedman called administrators were in a sense engineers of the legal machine. To examine Taylorism, Charles S. Maier’s essay, *Between Taylorism and Technocracy*, was an essential source. Maier set the conceptual basis for which this analysis understood the American emphasis on efficiency during the 1920s.

While Maier focused on European industrial productivity during the 1920s, his assessment of the impact of U.S. technology on the industrial development of Europe explained several key elements of Taylorism and “scientific management.” Maier explained how scientific management, “expanded Taylorism into all areas of labour

⁹ Lawrence Friedman, *A History of American Law* (New York: Simon and Schuster, 1985), 441

productivity, technological efficiency, and even corporate organization.”¹⁰ Small claims court, then, was an example of how an increasingly systematic conception of society was manifested in the legal system. This systematic conception was marked professional’s push to centralize and concentrate professional authority in the name of efficiency. However, an understanding of professionalism was important to understanding the significance of the concentration of professional authority.

Jerold S. Auerbach’s *Unequal Justice* provided an essential analysis of professionalism during the 1920s. Auerbach’s careful examination of professional rhetoric helped illustrate the undemocratic intent underlying the establishment of small claims court. In particular, this analysis largely subscribed to Auerbach’s interpretation of Reginald Heber Smith, who wrote *Justice and the Poor* in 1919, and was the father of the modern billable hour. Auerbach showed how Smith was more concerned with “solving” the problem of poor people, rather than creating genuine equality. Essentially, Auerbach revealed Smith’s elitism as it applied to the legal aid movement. This analysis extended Smith’s condescending view of the poor people who used legal aid to those who used small claims court. However, different interpretations of Smith exist. For example, in a history that closely resembled Eric H. Steele’s work, Mark Spiegel wrote about Smith as a progressive overshadowed by the conservative legal majority.

In “The Boston Legal Aid Society: 1900-1925,” Mark Spiegel emphasized Smith’s “progressive qualities” as opposed to the “conserving effects” for which Smith was remembered. Spiegel believed Smith was a visionary whose progressive ideas were overshadowed by the conservativeness of most lawyers and especially the American Bar

¹⁰ Charles S. Maier, “Between Taylorism and Technocracy: European Ideologies and the Vision of Industrial Productivity in the 1920s,” *Journal of Contemporary History* 5, no. 2 (1970): 27-58, <http://www.jstor.org>.

Association. While Spiegel thoroughly discussed Smith's use of legal aid as a laboratory, he was at times celebratory when it came to Smith's view of poor people. Despite any limitations, Spiegel provided an important examination of Smith's life that showed how the principals of Taylorism's "scientific management," and those reiterated in progressive rhetoric, were interrelated. The common element was efficiency, and through his history of the Boston Legal Aid Society, Spiegel illustrated how Smith applied new organizational and research methods to improve the efficiency.

By examining Smith's managerial applications in legal aid, Spiegel indicated how legal aid, through Smith, represented an implementation of mechanistic progressive principals. Spiegel provided the appropriate context for examining how Smith's use of scientific managerial methods related to the conceptual basis of small claims court. According to Spiegel Smith was, "consistent with the scientific part of the Progressive Movement that believed that reform could be accomplished through application of scientific managerial methods."¹¹ This belief, applied to small claims court, explained why professionals thought they could adjust the legal system through an informal legal procedure. Professionals believed it was their responsibility to revise the old structure to meet the demands of an industrial age. At the same time, small claims court showed how their elitist assumptions were woven into policy. Thus, progress was synonymous with efficiency, even if efficiency meant undermining poor people's right and opportunities.

The secondary literature concerning small claims court provided the relevant background and facilitated the development of the conceptual framework for this analysis. Each author contributed an historical context from which to ask new questions about small claims court. This analysis adds a closer examination of the relationship

¹¹ Mark Spiegel, "The Boston Legal Aid Society: 1900-1925," *Massachusetts Legal History* 9 (2003): 35

between the informal procedure in small claims court and structural changes to the legal system. It also seeks to understand the underlying intent of small claims court by examining the relationship between the professionals who managed the court and the predominately poor people who used it. By examining these issues, this history of the California small claims court shows how small claims court produced limited democracy and was intended to prop up traditional structures of power by convincing poor people that the justice system was fair.

The Legal Aid Movement

The small claims court concept emerged out of the legal aid movement. Reginald Heber Smith's *Justice and the Poor* (1919) rooted small claims court in the legal aid movement. The Carnegie Foundation asked Smith to write the book because the foundation received an application for funds from various legal aid societies. The corporation trustees felt that a "thoroughgoing report on the whole question of legal aid should precede any such action on their part."¹² They wanted to know whether legal aid represented a good investment. To evaluate legal aid societies Smith expanded his analysis beyond legal aid to other agencies "supplementary to the existing machinery."¹³ He collected data about justice and the poor in American society and found three main problems: delay, court cost and fees, and the expense of counsel. These were the precise problems small claims court was intended to solve. Thus, the intersecting histories of small claims court and the legal movement pointed to a common intent behind the creation of both institutions.

¹² Reginald Heber Smith, *Justice and the Poor: A Study of the Present Denial of Justice to the Poor and of the Agencies making More Equal Their Position Before Law With Particular Reference to Legal Aid Work in the United States*, (New York: The Carnegie Foundation, 1919), xi

¹³ R.H. Smith, *Justice and the Poor*, xi

On the surface, small claims court and legal aid were part of a reform movement increasingly concerned with access to justice. Harry A. Chamberlin, the Republican Senator who first wrote about the California court, claimed that the establishment of small claims court marked a change in how the legal system dealt with small claims justice. He observed that before small claims court, legal aid societies typically managed small claims as form of charity. With the establishment of small claims court, he alleged, the aid was, "received as a matter of right of citizenship."¹⁴ To Chamberlin, the change in the way professionals talked about small claims court as a right, rather than a charity, signified a progressive conception of law. Although Chamberlin undoubtedly believed small claims court was a legitimate solution to expense and delay, he failed to understand the implications of an informal procedure.

Chamberlin was representative of many legal professionals who did not recognize the greater significance of small claims court. They failed to look beneath the surface. These people accepted and espoused rhetoric that hailed small claims court as a change from small claims justice as a charity to a right. To them, small claims court really was a progressive step towards more evenly administered justice. Thus, while small claims court ultimately held elitist undertones, many professionals simply did not consider the elitist implications, and furthermore, how they were a part of that process. Although professionals like Chamberlin did not recognize the underlying significance of small claims court, their understanding of the court helps explain how they thought about the broader legal system, and how elitist assumptions were woven into the small claims process.

¹⁴ Harry A. Chamberlin, "Establish New Tribunals," *Los Angeles Times*, July 31, 1921.
<http://www.proquest.com>.

Like Chamberlin, Reginald Heber Smith believed small claims court expanded access to justice. Smith considered small claims court's informal procedure a necessary modification to the legal system. In doing so, Smith defined the informal procedure as an instrument of public policy meant to solve problems created by industrialization. This reflected Smith's belief that the unequal administration of justice was not inherent in the system, but the result of societal changes. For Smith, procedure needed to change because access to justice was unfair, not the substance of law – not the rules themselves. If the problem was truly procedure and not substantial, then modifications to the legal system sufficed. However, this interpretation was a convenient way of understanding the legal system because it let professionals ignore the underlying issue: that justice was unfair.

Because they thought law was fair, Smith and other professionals advocated restructuring the legal system instead of proposing substantive change. By using small claims court to change the way people accessed law, and not the law itself, they used the court as a procedural reform. However, as Jerold Auerbach indicated, "Smith could not fully accept the implications of his own evidence: that much of the legal system, with or without legal aid, was designed to control poor people."¹⁵ For Auerbach, legal aid was a stabilizing force during a time of instability. Just as Smith argued that lawyers used legal aid to convince poor people that the system was fair, small claims court, the "poor man's court" was also a powerful stabilizing force because it created the impression of expanded justice. Further, while some professionals like Smith recognized existing inequalities, and were ready to enact structural change, they were unprepared to recognize how true reform would have challenged their privileged status.

¹⁵ Jerold Auerbach, *Unequal Justice* (New York: Oxford University Press, 1976), 61

While professionals believed the system needed change, they did not want to challenge the status quo. When Smith quoted Roscoe Pound of Harvard Law School he showed how professionals understood legal aid society as a charity organization and subsequently desired a structural change that solved the problem of unequal access to justice: "For ordinary causes our contentious system has great merit as a means of getting at the truth. But it is the denial of justice in small causes to drive litigants to employ lawyers and it is a shame to drive them to legal aid societies to get as charity what the state should give as a right."¹⁶ Clearly, Pound enunciated his view that people should have a right to file small claims. However, it is interesting that professionals chose small claims court when the court was such a strong departure from traditional means of obtaining justice. In fact, small claims court was not just a modification of legal procedure, it was the creation of an informal legal space that did not previously exist. Ultimately, an important reason for small claims court was that it modified access to justice and did not pose a threat to privileges of the elite. Superficially, it also appeared to many as a fair administration of justice.

Professionals chose small claims court because it was cost-effective, fast, efficient, and appeared to help marginalized people access the justice system. While Pound celebrated expanded rights for the disadvantaged, he also hoped that small claims court would reinforce the status quo in a transforming society. As Jerold Auerbach noted, Pound recognized that "the principals endured, but the society that once had been comfortably governed by them no longer existed."¹⁷ The "principals" that Auerbach referred to were not democratic principals, but the elitist cultural principals. As society

¹⁶ Pound, Roscoe, "The Administration of Justice in the Modern City," *Harvard Law Review* 26: 318, quoted in Reginald Heber Smith *Justice and the Poor* (New York: The Carnegie Foundation, 1919)

¹⁷ J. Auerbach, *Unequal Justice*, 17

changed, so did the legal system. But change threatened the elite because it had the potential to expose the inequalities of justice. As old legal structures became obsolete new structures were necessary to prop up the impression of evenly distributed justice. Thus, small claims court helped preserve traditional cultural principals that maintained the professional status quo.

In a sense, Smith himself was a mechanizing figure who defined the changing context in which small claims court emerged. Smith's career illustrated how the histories of legal aid and small claims court crossed paths with the history of the modern legal profession. When Smith graduated from Harvard Law School in 1914 he worked as the Boston Legal Aid consul. As consul, Smith applied "scientific management," also called Taylorism, which was an "approach to management closely associated with mass production methods in manufacturing factories." Smith's use application of scientific management greatly improved efficiency. The society's annual caseload increased from 2,000 to 5,000 and the costs of handling each case was more than halved. Richard Hale, a past Boston Legal Aid director, was impressed with Smith's organizational abilities and hired Smith to help run a new firm, Hale and Dorr. It was as a managing partner for Hale and Dorr that Smith introduced the billable hour that transformed the legal profession. Smith's story paralleled an increasingly mechanical vision of American law. In this way, Smith contributed to the context into which small claims court emerged.

Small claims court, like legal aid, was a stabilizing institution meant to preserve the professional status quo. Professionals understood that modifications to the legal system were necessary and that the "machinery" required change. They chose smalls court because it created the appearance of expanded justice, without threatening the status

quo. But the small claims concept was packaged in empty democratic rhetoric.

Professional elites who understood the significance of societal transformations recognized that more was at stake than a poor man's access to justice. Small claims court, then, was meant to legitimate the legal system, but more importantly, it legitimated the authority of legal professionals. Simply, small claims court was less of a poor man's court, than a poor man's bread and circus. Accordingly, whom lawmaker's meant when they said "poor" largely explained what kind of justice they intended for small claims court.

Professionals Define Poor People

One group of poor people identified in Smith's *Justice and the Poor* were immigrants unfamiliar with the American legal system. In the forward, Elihu Root wrote, "... it should be of great value to the multitude of Americans who are interested in the Americanization of the millions of foreigners who have immigrated to this country, and who fail to understand or who misunderstand American institutions."¹⁸ Clearly, Smith and Root shared the presumption that poor immigrants were ignorant of American institutions. But Root's comment also undermined Smith's conclusion that the justice system was unfair. Root believed Smith had too drastically criticized legal authority. Auerbach attributed Root's attitude to, "the mood of the Red Scare (which) distorted Smith's ill tidings: his theme of injustice for the poor was repressed; the need for rapid Americanization of immigrants was emphasized."¹⁹ Thus, even though Smith believed in the injustice suffered by poor people the context of the Red Scare during the early 1920s

¹⁸ R.H. Smith, *Justice and the Poor*, x

¹⁹ J. Auerbach, *Unequal Justice*, 60

made many professional were unwilling to acknowledge the existence of procedural inequality, let alone substantive inequality.

Smith and other professional's identification of the immigrant population were important for a second reason. Professional bias reaffirmed the notions of inequality imbedded in the small claims concept. This was best illustrated by their comparison between how small claims court and legal aid dealt with poor immigrants. For example, Charles Evan Hughes believed that the legal aid society was the best remedial institution because it helped assimilate foreigners. For Hughes, the central problem with the access to justice was "the question of Americanization."²⁰ By Americanization, Hughes meant that immigrants were unfamiliar with American institutions because they were not properly assimilated. Legal aid was the best solution because the legal aid lawyer essentially served as an advocate for the legal system by asserting its fairness. In some respects, the legal aid lawyer was like a small claims court judge because the goal was not exclusively to represent a client, but to work with both parties to come to a reasonable solution.²¹ Thus, the type of access to justice advocated for immigrants by Hughes was not of democratic opportunity based on individual freedom, but based on a premise that immigrants needed to be assimilated into American society.

When Hughes said legal aid was the best way to assimilate immigrants, he overlooked small claims court, which dealt with the perceived immigration problem much more efficiently. The type of legitimacy achieved in small claims court was very similar to that achieved through legal aid. First, in a practical sense, small claims court was cheaper than providing poor people with lawyers. Second, small claims court made it

²⁰ J. Auerbach, *Unequal Justice*, 60

²¹ Mark Spiegel, "The Boston Legal Aid Society: 1900-1925," *Massachusetts Legal History* 9 (2003), 39

easier for professionals to ignore the poor. Auerbach found that in 1918, when Smith wrote *Justice and the Poor*, Americanization was part of a post-war hysteria that subsided a few years later.²² But the expansion of small claims court also played a part in professional disregard for the poor. Small claims court gave professionals a place to send the poor. And if the poor were dissatisfied with small claims justice, there was not anything they could do about it. And so, small claims court helped professionals “deal” with the poor in an inexpensive, fast, and efficient process. It was a streamlined procession designed to meet the need to preserve the elite in an increasingly stratified society.

In addition to the immigrant population identified by Root, Smith and other professionals, small claims court was also intended for “small trades people, wage-earners, lodging housekeepers, whatever the nature of their claims.”²³ “Poor people” were a diverse group and largely middle and lower class. In fact, by 1930 R. Morgan Galbraith of the Los Angeles Municipal court observed that about one third of small claims court parties, witnesses and spectators were women and that all nationalities were represented.²⁴ Fundamentally, they were people caught in the industrial machine. On the other hand, some professionals like Roscoe Pound held the poor in extremely low esteem, Pound called the poor, “the defective, the degenerate of decadent stocks, and the ignorant or enfeebled victim of severe economic pressure...”²⁵ However harsh a depiction this image illustrated, to Pound these were not the type of people with whom one shared democratic privilege. But Pound was wrong. Although their rights were marginalized, the

²² Auerbach, *Unequal Justice*, 61

²³ I.H.R., “Court: Jurisdiction of Small Claims Courts,” *California Law Review* 11 (1922): 279

²⁴ Morgan Galbreth, “The Small Claims Court,” *Los Angeles Bar Bulletin* (1930): 113-14

²⁵ Auerbach, *Unequal Justice*, 18

poor were not marginal figures. They were people who could not afford lawyers and whose rights were increasingly threatened by societal changes.

While poor people were caught in the industrial machine professionals, concerned more with preserving their own authority than with expanding access to justice, understood them as cogs and as problems necessitating remedy. To recall Smith's use of Taylorism, professionals understood immigrants like Taylor's mechanical workers. The marginalization of poor people's rights disrupted the legal machinery's ability to produce the appearance of a fair and just legal system. Accordingly, small claims court was a tremendously effective way to manage justice for the poor. Just as workers were the variables in the adjustment of the production process, so were the poor to small claims court. From an elitist vantage point, the necessary modifications were clear. While immigrants required assimilation, poor non-immigrants necessitated appeasement. Through small claims court professionals sought to convince both groups that justice was fair. Ultimately, the small claims factory produced professional legitimacy packaged in democratic wrapping. However, beyond the elitist, understanding how people used the court helps define the court during this period. It also serves as an important context for understanding the different ways that professionals thought about the court and their relationship to small claims litigants.

The Public Uses and Defines Small Claims Court

On the surface, small claims court successfully created an effective venue for settling small legal disputes. In fact, in California legal history, the informal process created a new legal space whose usefulness should not be underestimated. In the first case to come before the new court, Mr. Ball of 2917 Stephenson Avenue asserted that

\$28 was due to him as commission for selling an automobile for the defendant, who said he was willing to pay \$25, but not \$3 for storage.²⁶ After Judge Hinshaw agreed that the defendant should pay the \$25, the defendant asked, "Do I have to stand by your decision?" "No, you can appeal," said Hinshaw, upon which the defendant gave notice of appeal. Thus, the first case was an example of the informal negotiation managed by the small claims judge. Like a legal aid attorney, the judge worked with the plaintiff and defendant to find a solution to their problem. However, the fact that this defendant appealed leaves one inquiring about the efficiency of small claims court. If people appealed, was the delay and expense of justice really solved? The answer is that, at its best, small claims court really was "the peoples court," it did create new opportunities for redress and its establishment inaugurated a new forum for justice. By making the court their own, regardless of the justice dealt, poor people determined the meaning of small claims court and subsequently, American justice.

Beneath the surface, small claims court had many meanings. For example, from its inception, small claims court was not always about monetary redress. It was a public venue where people could argue their personal disputes. It was also a place that some people used to embarrass their peers. For example, in 1921 one plaintiff said that he would not have sued, if the defendant had not been rude to him.²⁷ Undoubtedly, this characteristic provided a sense of satisfaction to many who used it to resolve their problems. Thus, by using small claims court poor people legitimated their win-or-lose personal disputes by word of law. By changing the way people accessed justice, then, small claims court also affected the nature of justice. Even though it was professionals

²⁶ Los Angeles Times, "Blind Horse's Hire Too High," August 4, 1921.

²⁷ Los Angeles Times, "Court for Poor Man is Success," August 30, 1921.

who created such an opportunity by establishing and managing small claims court, it was poor people who filed the claims.

The most basic way that people reaffirmed the judge's authority in small claims court was when they sought to convince him to accept their particular side of the story. Because there were no lawyers to formally present legal arguments, litigants did their best to convince the judge. However, in small claims court where the judge sat on the bench, literally dealing justice from above, the balance of power was clear. Trying to convince the judge was like asking a grade school teacher to settle an argument. This was especially true considering the relaxed the rules of evidence. In a he-said, she-said situation, the judge's adjudication was undoubtedly arbitrary. The way litigants accepted small claims court judgment was analogous to the way children accept their teacher's direction. In this way, small claims court legitimized the authority of legal professionals. Beneath the small claims court theater; the basic situation still essentially involved a professional, a judge telling two lay people how to sort out their problems. Thus, regardless of whether people were satisfied with their case the process changed the way they thought about the broader legal system.

Whether the public used small claims court for money, or simply to irritate their peers, they always sought to put the law on their side. But the public used small claims mattered for other reasons, too. Using small claims legitimacy in sometimes absurd cases changed the way people thought about law. By using the court to solve petty disputes, small claims justice undermined the formal legal process, and subsequently, the authority of the legal system. For example, if a poor man was going to sue his neighbor for shaving

his goat's whiskers, then why not use the rest of the legal system for such disputes?²⁸ Further, because fairness in small claims court regularly depended on arbitrary adjudication, many times over people left small claims with the impression that justice was not a matter of law, but of what a judge had to say. When one considers the collective significance of small claims cases, it is clear how the court could have significantly undermined legal legitimacy. Even if people did not recognize this significance, the public's participation in small claims court shaped the kind of legitimacy small claims court produced.

To professionals, ridiculous small claims cases also reaffirmed their perceived superiority. The public used the court for everything from payment disputes to deciding whether a man was qualified to perform as the bearded lady.²⁹ In this way the public made small claims their own court, and subsequently involved themselves in a court comedy ridiculed by professionals. But perceived comedic value of small claims court undermined the disputes and the people who waged them. In effect, the court reaffirmed the elitist view that poor people were cogs in the machine and legitimized the limited democratic tools provided for in small claims court.

The importance of small claims court was underscored by its tremendous popularity. Even though small claims court was new, the volume of small claims court cases indicated the court's popularity. For example, two hundred and twelve cases were filed in 30 days.³⁰ On one day in November 1921, a crowd of 200 waited outside to get in. These numbers were especially interesting because there does not appear to have been very much advertisement or announcement about small claims court. Instead, news

²⁸ Los Angeles Times, "Goat's Whiskers Aired In Court," January 30, 1926.

²⁹ Los Angeles Times, "Male Bearded Lady Loses," April 23, 1922.

³⁰ Los Angeles Times, "Court For Poor Man Is Success," August 30, 1921.

reports about the court were marked by their scarcity rather than abundance. However, people may have learned or already known about small claims court from the court's established in states outside of California. For example, in 1913 the first small claims court was established in Cleveland, Ohio.³¹ It is likely that people learned about the court through word of mouth. As for texts relating to the court, during this period nearly every document about small claims court provided a basic explanation of how the court operated. There were also various efforts by judges and clerks to clarify the procedure to those wanting to file a small claim.

Poor people's complaints about small claims court were left largely undocumented. Instead, the main criticisms of the court came from professionals who disapproved of the basic small claims court theory and not from people who used the court. However, of the problems that did arise, confusion about the apparently simple filing procedure suggested that some poor people had trouble using the court. For example, the court opened on Friday, July 26, 1921.³² By the following Wednesday nine suits were filed, but more than a dozen complaints were not filed because they did not satisfy court rules. One law clerk noted that parties came unprepared or without the proper evidence to settle disputes. Evidence included documents (i.e. contract) or witnesses (i.e. neighbor, coworker, relative) that helped prove a litigant's side of the dispute. To professionals, these violations indicated how uninformed many poor people were about even basic legal procedure.

While the public shaped the kind of legitimacy small claims court produced, professionals maintained an elitist attitude toward small claims court. Nevertheless, how

³¹ Lindsay Conner, "Night Small Claims Court," 3.

³² Los Angeles Times, "New Court Popular," July 31, 1921

poor people used the court and how professionals interpreted these uses shaped small claims justice. Even though professionals undermined the cases in small claims, the court was popular. People expressed an enthusiasm for using the court to solve very personal disputes. Further, despite any inconveniences or problems the public encountered in the small claims process, the very small number of appeals indicated that those who initiated small claims were either satisfied with the judgment, or did not believe the case was worth pursuing further legal remedy. Small claims court legitimacy, then, was shaped by the collective way that poor people used small claims.

Professionals Define the Court

Judge Hinshaw was the sole small claims judge during the first month in Los Angeles County. Hinshaw played an important part in determining how the court functioned and his posture as the first small claims court judge underscored the court's elitist undertones. During Hinshaw's tenure over the court he used an analogy that compared the court to a feudal mode of justice. Before the court's first case in July 1921 Justice Hinshaw reportedly said, "I shall feel like a knight of England in the olden days when I preside next Wednesday over the first case to be heard in small claims court."³³ Although this was a poor reflection of actual feudal justice, the comparison of small claims court to an imagined feudal mode of justice was an important analogy because it illustrated a contradiction in small claims court. Poor people sought justice and found justice in small claims court. But the type of justice dealt in small claims court was marked by an informal procedure that concentrated authority in the judge. Judge Hinshaw, then, was the earliest small claims "knight," who epitomized the elitism that accompanied the administration of small claims court.

³³ Los Angeles Times, "Poor Mans Court to Open Soon," July 30, 1921.

Despite the elitism, there was some truth in the comparison between small claims court and the idea of a knight riding on his horse dealing justice. For instance, early on the court rotated through different townships. "The old-time knight went into the rural districts, where there were no established small claims courts, and there dealt out justice as he saw fit."³⁴ By moving from township to township, early small claims court judges like Justice Hinshaw exposed small claims court to the public. Something like feudal violence also occurred in a strange event of October 1922. Small claims Justice Hanby apparently interpreted his role as a proud knight. After Hanby was insulted by a resentful defendant, "the court (Hanby) rose up in its dignity and planted a hard punch upon the defendant's nose."³⁵ Hanby's reaction to the insult in a rather unprofessional manner reflected how some small claims court justices thought about their relationship to litigants. To some very limited degree, the feudal image of a virtuous knight dealing justice to laymen fit with the notions of about the small claims court judge.

If Justice Hinshaw was the first noble lord to fill the position of small claims court judge, then the first court squire was Edward M. Miller. "Edward H. Miller, clerk in charge of receiving and issuing complaints in this lawyerless court, is in the position of the old time esquire, and to him, for six days a week come the tales of woe from a population of more than 700,000."³⁶ Miller's highly dramatized position as "squire" in the feudal analogy underestimated his considerable responsibility. Clerks were essentially middlemen in the dealing of small claims justice. Clerks like Miller were expected to explain court procedure to the public and screen the cases. In fact, Miller explained and re-explained the small claims procedure to hundreds and soon thousands of potential

³⁴ Los Angeles Times, "Changes Proposed in Court Methods," August 24, 1922

³⁵ Los Angeles Times, "Judge Punches His Nose," October 25, 1922

³⁶ Los Angeles Times, "Practicing Attorneys Barred In This Court," November 20, 1921

litigants. Without the small claims law clerk to help people through the process, small claims court could never have worked. The law clerk also showed how small claims court facilitated the development of an increasingly mechanistic legal system.

The emergences of the small claims court law clerk contributed to a new type of legal bureaucracy, a sub-professionalism that existed outside of the legal realm dominated by lawyers and judges. While Taylorism and "scientific management" expanded the bureaucracy in the corporate world, the small claims law clerk represented a comparable development. If the California legal system was a corporation, then small claims court was a factory and the law clerk was middle management. Law clerks facilitated the small claims court in two ways. First, they helped ensure that the court ran accordingly and filtered cases heard by the judge. Second, they served a public relations function in which they represented the court to those seeking to file a small claim. Playing the roles of squire and manager, the law clerk performed a decisive role in small claims management.

By serving on the front line of small claims justice law clerks had many demands pushed upon them by the public. One article in late 1921 described, "Mr. Miller is a sort of buffer for the court. He has to refuse more cases than he receives."³⁷ The pressure put upon the law clerk and the tediousness of explaining the process many times over was no doubt stressful. Law clerks also felt the brunt of much public dissatisfaction with individual cases. Many accounts indicated that angry defendants routinely approached the clerk's office to dispute the result of a claim or to voice their frustrations about the small claims procedure. By 1925 one reporter said that clerks, "have become a bit callous to

³⁷ Los Angeles Times, "Practicing Attorneys Barred In This Court," November 20, 1921

these oft told stories and somewhat impervious to imperious airs."³⁸ Thus, while they performed important role managing the small claims court process, law clerks received little credit for their hard work and efforts. Clearly, the small claims court machine could not have functioned without these overworked small claims court managers.

The feudal analogy indicated how small claims court replaced formal procedure with an informal procedure. Essentially, one form of legal theater was replaced with another. As one newspaper reported, in small claims court, "a justice of the peace, like the ancient knight, talks informally with litigants and decides who comes nearest to telling the truth."³⁹ This image of informal justice dominated the recently established small claims court. By creating an informal procedure, professionals removed some very important parts of formal legal theater that had served important purposes. First, lawyers provided practical arguments for their clients. They achieved this by managing the legal process. Second, by managing the formal procedure, lawyers also reaffirmed the importance of law by talking about law in abstract terms. Like legal aid, lawyers protected the notion that law could be discovered and that it was not arbitrary. But the informal relationship between the judge and small claims litigant provided for absolute discretion in the judge. And in doing so, it threatened to pull the curtain on the legal system itself.

Substance v. Procedure

By differentiating between substantive law and the administration of law, professionals created the conceptual basis for rationalizing the creation of small claims court and thus, maintained traditional structures of power. By administration of law,

³⁸ Los Angeles Times, "Speedy Justice Is Dealt Out In Tribunal," August 30, 1925

³⁹ Los Angeles Times, "Practicing Attorneys Barred In This Court," November 20, 1921

which they also called “remedial” or “procedural” law, they meant the process by which the substantive law was applied. Basically, substantive law referred to the actual rules, while “administration,” “remedial,” and “procedural” were the ways that the rules were applied. Thinking about law in this way sought to reaffirm to professionals and non-professionals that substantive law was fair. For example, Harry A Chamberlin, the Republican Senator, said that substantive law had not discriminated against the poor man, but had instead protected his rights. Chamberlin believed small claims court improved the way in which people accessed justice. Because substance was “fair,” professionals assumed that any improvements to the legal system had to be procedural. By definition, then, small claims court was a procedural change because the judge was expected to apply legal principals in an informal setting. When professionals applied this conception of law to democracy, an important contradiction arose.

Like Chamberlin, *Justice and the Poor* alleged that the substance of law did not discriminate against poor persons. In the introduction to the text, Henry S. Pritchett, President of the Carnegie Corporation, wrote:

“The conclusion to which the author of this study is led is that in so far as concerns what is technically know as the substantive law, the poor are at no special disadvantage as compared with the rich... If no more were required for the even handed distribution of justice that this... then democracy has come near to realizing its ideal.”⁴⁰

While Pritchett explained the fairness of the substance of law, he also pointed out that for a democratic society, fairness in substance was not enough because justice was more than an ideal. However, the substance of law inevitably related to the procedure, or the way

⁴⁰ R.H. Smith, *Justice and the Poor*, xii

that law was administered. Pritchett illustrated a contradiction in how professionals sought to convince themselves and each other that law was fair.

Professionals also used small claims court to perpetuate the assumption that they would continue to administer justice. For all practical purposes, the process of applying legal rules is inextricably linked to the rules themselves. Thus, Pritchett's assertion that the substance was fair, but that the administration was not, overlooked the practical application of law. On the one hand, the small claims court process did not represent fundamental change to the substance of justice. On the other hand, the informal procedure affected how law was applied to people's problems. By changing how law was applied, substance was also changed. Central to this change was the informal relationship between the judge and poor people. This quality exposed one way that elites concentrated professional authority while maintaining the appearance of providing equal access to justice. Like Pritchett's vague conception of democratic ideals, the distinction between substantive law and the administration of law had broader implications.

Distinctions between substantive law and the administration of law represented a broader, systematic conception of the legal system. In their rhetoric, professionals emphasized how societal conditions affected the system. For example, in 1926 Henry Hugh Brown said, "The trouble is the system. The system that was suitable when American life was simple is not adaptable to modern life."⁴¹ For Brown and other professionals, understanding how modern life operated was a privilege comprehended by few. And these few, the professional elite, had a professional responsibility to manage the administration of justice. The distinctions indicated how professionals rationalized the unequal relationships perpetuated through the small claims procedure. Through their

⁴¹ Henry Hugh Brown, "The Administration of Civil Justice" *State Bar Journal*, (1926): 10

efforts to create a more “democratic” legal institution legal professionals like Chamberlin and Pritchett demonstrated an elitist tendency in which professionals reasserted their authority by reforming legal procedure. Thus, Judge Hinshaw’s crude use of a feudal analogy was accurate to the extent that it explained how professionals understood their responsibilities as arbiters of justice in a mechanical society.

Legitimacy and Doubt

As arbiters of justice, professionals used small claims court as an instrument of public policy meant to legitimate the legal system. By creating the appearance of an equal justice, professional elites preserved their own positions of power. But even professionals like Smith, Root, and Chamberlin wondered if small claims court was the proper remedy for societal conditions. For example, Root called into question the legitimacy of small claims court as a democratic institution. “New projects are continually forming for improving the condition of the poor by the aid of government,” he wrote, “(it) is a debatable question whether they come within the proper province of government and whether official interference will not in the long run do more harm than good to the beneficiaries and to the community.”⁴² Root understood that creating and managing projects like small claims court was a new and important way professionals managed access to justice. However, he questioned the use of official government authority and the related structural changes. While Root indicated that small claims court mismanaged the legal process, Smith also doubted whether small claims court was a viable solution to the problems created by modern society.

⁴² R.H. Smith, *Justice and the Poor*, x

Smith believed the informal adjudication, the emphasis on judicial discretion, and the departure from legal precedent were elements of small claims court that reached back to an old administration of justice to solve problems created by modernity. Smith wrote:

“They represent a recurrence of the old unfortunate tendency of creating new courts for old needs, which inevitably causes duplication and confusion. More serious, they indicate a renewed attempt to secure justice without trained judges and without law...one may doubt whether in the long run this plan can succeed when like plans throughout our legal history have always ended in failure.”⁴³

Smith’s criticism in a sense answered the question posed by Root. He was uncomfortable with the idea of a court without lawyers and he was wary of the informal legal space. Ultimately, despite any ambiguity, once professionals decided to implement small claims court they did their best to ensure an inexpensive, fast, efficient, and legitimate informal venue.

Policy Change: Inside the Courtroom

As professionals challenged and revised court policy they continued to modify the legal machinery to improve its efficiency and legitimacy. By the end of the court’s first year Justice Hinshaw proposed two policy changes. First, he proposed a change in the method of notifying the defendant.⁴⁴ The initial “servicing method,” the method by which a plaintiff notifies a defendant of a suit, involved sending a notice by registered mail. But many times someone signed off for the registered mail and the defendant never received the notice. This led to many default judgments against upset defendants who did not have the chance to argue their side of the case. The second change to the small claims court

⁴³ R.H. Smith, *Justice and the Poor*, 56

⁴⁴ Los Angeles Times, “Changes Proposed in Court Methods” August 24, 1922.

process created a filing fee of 25 cents to help defray the cost of maintaining the court.⁴⁵

This made sense because some suits were less than a dollar and the cost of the court was several hundred dollars per month.⁴⁶ But at the same time, instituting any fee was the first step towards re-marginalizing certain cases because it did not make sense to file a claim less than the fee. Even if beneath the rhetoric small claims court held elitist undertones, these two revisions represented professional's commitment to legitimating the small claims concept.

In addition to procedural modifications, professionals shaped small court policy through a series of challenges to the small claims court concept. Attorneys for a Dr. Alfred J. Foster launched the first attack on the constitutionality of small claims court.⁴⁷ They argued that the court was unconstitutional on two grounds. First, they pointed out that the court did not require a return receipt for the mailing summons. Therefore, there was no proof that a summons was served. Second, they claimed the court held no provision for a jury trial. In fact, the provision for a jury trial was linked to the appeals process. Although a defendant could appeal from a small claims decision, a plaintiff was bound and so did not have the opportunity for a jury trial by filing a small claims. The idea behind this provision was that the plaintiff chose to file in small claims court and in doing so waived their right to a jury trial in exchange for an expedited procedure.

The ruling in *Foster* led to a disagreement between Judge's Newell and Strang that showed how professionals were not unified in how they viewed small claims court. On January 31, Judge York, of the Superior Court heard the case brought by Foster and

⁴⁵ Los Angeles Times, "Changes Proposed in Court Methods" August 24, 1922.

⁴⁶ Los Angeles Times, "Changes Proposed in Court Methods" August 24, 1922.

⁴⁷ Los Angeles Times, "Small Claims Court Law is Attacked in Suit," January 3, 1923.

ruled that small claims court was unconstitutional.⁴⁸ After York's ruling, Justice Kenneth Newell of Pasadena subsequently discontinued seeing small claims cases. However, Newell's colleague, Justice Benjamin C. Strang announced that he would continue hearing all the cases that came before him. Strang remarked, "although there may be certain features of small claims court which are unconstitutional, I believe that the court is accomplishing a great deal of good in Pasadena."⁴⁹ The fact that small claims court continued in Pasadena, despite the disagreements between two of the judges, showed how different judges chose to interpret the ruling based on their like or dislike of the small claims court itself. The central issue was not the constitutionality; instead, the issue was whether professionals thought it was a good idea.

A few months after *Foster*, Judge Collier of the Superior Court determined that the small claims court provision to appeal violated the 14th Amendment because small claims court allowed the defendant the right to appeal, but denied the plaintiff that option. Judge Collier reasoned that the provision was, "contrary to that part of the Fourteenth Amendment which states that no State shall deny to any person within its jurisdiction the right of equal protection under the law."⁵⁰ Judge Collier's reasoning appeared to fall back on a desire to implement an efficient system by creating a comprehensive, but formal procedure. Most characteristically an informal procedure, small claims court was anything but uniform in the administration of justice. In fact, Judge Collier was not the only judge uncertain as to how to interpret the right appeal in the informal small claims process.

⁴⁸ Los Angeles Times, "Another Jolt Handed Small Claims Court," February 1, 1923.

⁴⁹ Los Angeles Times, "Justice Discontinues Small Claims Court," February 3, 1923.

⁵⁰ Los Angeles Times, "Holds Law on Debtors Court Void," May 21, 1924.

One year later, in a surprising response to this decision Superior Court Judges Shaw and McLucas formed a joint opinion that there can be no appeal from the judgment of a small claims tribunal.⁵¹ The Justices held that allowing the appeal of the defendant and not the plaintiff was "discriminatory and unconstitutional."⁵² The practical effect of their decision was that a defendant summoned to small claims court was basically stuck with the decision, without the option for representation.

Judges Shaw and McLucas's decision hurt defendants because plaintiffs initiated the claim and defendants had to accept the verdict, without appeal, even though they did not choose the venue. The day after this ruling Evelyn Myers was sued in small claims court and lost. She appealed to the Superior Court, but the judges refused to hear the appeal.⁵³ Even though she did not choose the small claims venue, she was bound by the decision. Additionally, because Evelyn was limited to small claims court she did not have a right to representation, nor did she have the option for a jury trial. Evelyn Myer's was representative of many other defendants who were denied due process because Judges Shaw and McLucas necessitated uniformity in court policy, even if it meant infringing on people's rights.

While Judges Shaw and McLucas denied both litigants appeal from small claims, in April 1927 Judge Collier determined that both parties in a small claims action had the right to appeal. In his opinion, Judge Collier specifically referred to the fact that Justice Shaw had given an opposite ruling, and asked that someone take the question to a higher court.⁵⁴ Thus, while Judge Shaw held that small claims left no provision for any appeal,

⁵¹ Los Angeles Times, "Right of Appeal in Small Claims Court Refused," December 15, 1925.

⁵² Los Angeles Times, "Right of Appeal in Small Claims Court Refused," December 15, 1925.

⁵³ Los Angeles Times, "She Vindicates Women of Right to Change Mind," June 18, 1926.

⁵⁴ Los Angeles Times, "Small Claims Plea Granted," April 22, 1927.

Judge Collier believed that the Small Claims Act was only invalid, as it limited the right to appeal by one party. Both views showed how judges did not know how to deal with the informal small claims process. Beyond the competing opinions of Judges Shaw and Collier, was the fact that both agreed that small claims court was unconstitutional. Like the situation in Pasadena, despite these disagreements and the consensus that the court was unconstitutional, the court continued to hear small claims cases.

Small claims jurisdiction was tested in February 1923 when Judges Work and Finlayson of the Court of Appeals decided that the court had no jurisdiction in damage suits. The decision arose out of an appeal taken by F.R. Leuschen, who was the defendant in a case involving an automobile accident.⁵⁵ A 1923 law journal argued that only a very technical reading of the small claims statute would have supported Work and Finlayson's ruling that there was not small claims jurisdiction in tort law.⁵⁶ In his dissent, Judge Craig said the court was created for the "express purpose of expediting court procedure and expressed the belief that its work has been of general benefit."⁵⁷ Once again, justices indicated how interpreting the informal procedure was a challenge. The issue was important because the decision would either limited or expanded small claims jurisdiction.

An appeal was taken to the State Supreme Court where Justice Wilbur reversed the judgment and declared that small claims court jurisdiction included tort law.⁵⁸ Wilbur reaffirmed that the small claims was only limited by the monetary jurisdiction. Wilbur's opinion read: "It is clear that an action for tort is included in the phrase "cases for the

⁵⁵ Los Angeles Times, "Small Claims is Restricted in New Ruling," February 28, 1923.

⁵⁶ I.H.R., "Court: Jurisdiction of Small Claims Courts," 227

⁵⁷ Los Angeles Times, "Small Claims is Restricted in New Ruling," February 28, 1923.

⁵⁸ Los Angeles Times, "Tribunals Authority Is Defined," May 15, 1923.

recovery of money only," and unless there is something in the statute which limits or modifies this provision, it is clear that the respondent is authorized to proceed in the matter pending before him, as a justice of the peace sitting as a small claims court."⁵⁹

Leuschen reaffirmed that small claims were marked by cost, not complexity. Thus, the ruling expanded the options for small claims remedy and the types of questions that could be answered through the informal small claims procedure.

Policy Change: Outside the Courtroom

When the municipal court system in was established in 1924 some justices used it as a reason to discontinue small claims court. In Los Angeles, for example, small claims were discontinued in February 1926.⁶⁰ Those who opposed small claims court contended that the Municipal Court Act, which stated that there should be "no other courts inferior to the Superior Courts,"⁶¹ abolished the small claims court where municipal court functioned.⁶² Judge Willis testified against small claims court at a Supreme Court hearing on September 1, 1926.⁶³ Others held that the municipal court assumed the duties of small claims court. For example, Deputy State Attorney General Linnev said at the end of August that he believed, "the Legislature did not intend to abolish the small claims act... and that the Municipal Court Act was broad enough to allow Municipal Court Judges to sit as small claims court judges."⁶⁴ Three months later, in *Hughes v. Municipal Court* the Supreme Court ruled that the enabling act creating Municipal Courts did not have the effect of abolishing the small claims courts.⁶⁵ Presiding Judge Willis, who had opposed

⁵⁹ *Leuschen v. Small Claims Court*, 191 Cal. 133; 215 P. 391 (1923)

⁶⁰ Los Angeles Times, "She Vindicates Right of Women to Change Mind," June 18, 1926.

⁶¹ Municipal Court Act of 1924

⁶² Los Angeles Times, "Reopening of Small Claims a Hit," August 9, 1926.

⁶³ Los Angeles Times, "Claims Court Ruling Given," August 23, 1926.

⁶⁴ Los Angeles Times, "Claims Court Ruling Given," August 23, 1926.

⁶⁵ *Hughes v. The Municipal Court of the City of Los Angeles*, 200 Cal. 215; 252 P. 575 (1926)

small claims court, announced that claims filing would re-commence on January 10, 1927. The *Hughes* decision not only reinstated the court, but also helped specify how small claims fit into the legal machinery.

In addition to re-establishing small claims court in Los Angeles, *Hughes v. Municipal Court* reaffirmed small claims as a procedural legal entity. Small claims court was explicitly defined as a procedural legal process, as opposed to an independent court. In the opinion for *Hughes*, Justice Seawell said that the establishment of a municipal court was intended to abolish "justice courts and other inferior courts of like jurisdiction."⁶⁶ Furthermore, Justice Seawell explained that small claims court did not fit into this definition because it was never a "distinct or independent judicial body." The Municipal Court Act was, "inapplicable to small claims court matters and we think the procedure therein provided was not intended to abolish the small claims court procedure. To abolish the procedure would, in fact, be to abolish the court." The small claims "court," then, was not actually a court, but a procedure use as part of a court, adjunct formal procedure.

Like small claims court, municipal courts represented an attempt by lawmakers to improve the efficiency of California justice system. The purpose of the municipal court was to, "relieve the congestion in the superior courts by displacing the courts of justices of the people and police courts, and bestowing upon the new courts increased jurisdiction of the superior courts."⁶⁷ Similarly, the opinion in *Leuschen v. Small Claims Court* declared that, "The small claims court was created primarily to avoid wasteful litigation

⁶⁶ *Hughes v. The Municipal Court of the City of Los Angeles*, 200 Cal. 215; 252 P. 575 (1926)

⁶⁷ Judicial Council, "Creating the Judicial Council," First Report (1927): 18

and to reduce the minimum costs of trial in cases where the demands are useful.”⁶⁸ While *Hughes v. Municipal Court* indicated that municipal court was an institutional means to achieving efficiency, small claims court was a procedural instrument. Both small claims and municipal court were intended to create a more efficient system, and both courts found common ground in the way they centralized authority.

The efficiency created by the municipal court and small claims court was marked by the centralization of authority. To reiterate, small claims court centralized authority inside the courtroom by concentrating judicial discretion. In essence, this supports the notion that small claims court was a procedural instrument because the structural change was inside the courtroom. On the other hand, municipal court was a centralizing authority outside the courtroom by reorganizing court jurisdictions. This difference is the main reason Justice Seawell identified municipal court as an institutional change in *Hughes*. Further, the fact that small claims court survived the structural adjustments suggested how firmly established the small claims procedure was within the legal system. Thus, as professionals pushed to streamline the legal system in the name of efficiency, they concurrently concentrated professional authority.

In 1926 Henry Hugh Brown used mechanistic language to describe a powerful analogy that compared the administration of justice to the organization of a corporation. Mechanistic language was language that described the legal system as an industrial machine. Brown’s call for a uniform system of courts indicated his desire to centralize authority to improve efficiency:

“Imagine the United States Steel Corporation, or any other industry,
with its scattered plants, each one acting on its own, each one under its

⁶⁸ *Leuschen v. Small Claims Court*, 191 Cal. 133; 215 P. 391 (1923)

own superintendent. Some going full blast and behindhand, others not so busy, no coordination, operation incommunicado from a central office, and no central authority to demand coordination. How long would stockholders stand it? Our judicial plant is in an analogous situation, to a greater or lesser degree... the same system applied to judicial plants produces, in a different way, as noticeable results as the same unified principal applied in industry."

Brown's call to centralize and create a more uniform legal system illustrated an entirely systematic and mechanistic conception of law and society. He wanted to revise how justice was managed to legitimate the court for the public, which he called "stockholders." Brown's representation had implications far beyond basic reorganization. In the same way Smith created a more efficient legal aid by employing "scientific management," so did Brown's suggestion represent an application of Tayloristic principal.

By adjusting the legal machinery, Brown, Smith and other professionals were ultimately engineers of the justice system. Writing about Taylorism and industrialization during the early twentieth century, Charles Maier said, "The engineer, who was central to the new industrial gospel, appeared not so much a master of machines as a potential manipulator of all industrial relationships."⁶⁹ But during the 1920s, the public was oblivious to how professionals manipulated the legal system through small claims court. Instead, small claims court was cloaked in the rhetoric of efficiency. Furthermore, the engineers who managed the court believed much of their own rhetoric. Like the initial

⁶⁹ Charles S. Maier, "Between Taylorism and Technocracy: European Ideologies and the Vision of Industrial Productivity in the 1920s," *Journal of Contemporary History* 5, no. 2 (1970): 28

stirrings of industrialization nearly a century earlier, they understood small claims court as social progress, despite the imbedded elitism in the small claims process. While Brown, Smith and other professionals who managed small claims court engineered the context for small claims court, an administrative body emerged that explicitly consolidated professional authority in the name of efficiency.

Established in 1926, the Judicial Council represented yet another way in which lawmakers sought to consolidate authority over the administration of California justice. Like the small claims law clerk, these professionals added to an increased legal bureaucracy intended to manage the administration of justice. More importantly, the council was essentially a group of legal engineers. From their charter, the second provision instructed the council to manage the process of simplifying and improvement of the administration of justice. The third provision was clear in its intent to create a more uniform and centralized legal system. The fifth provision linked the council to the democratic functions of congress by directing the council to "adopt or amend rules of practice and procedure... that are not inconsistent with the laws that are now or that may hereafter be in force."⁷⁰ The council, then, was designed to examine systemic problems within the legal system and suggest system solutions. Their purpose was clear: they were engineers of the legal machine.

For small claims court, the Judicial Council was important for two reasons. First, it clearly represented the concentration of professional authority indicated and sustained by small claims legitimacy. Second, the council managed much of the small claims business. From its inception, the council initiated research and quantitative analysis of the legal system. Although the council did not recommend any sweeping adjustments to the

⁷⁰ Judicial Council, "Creating the Judicial Council," First Report (1927): 7

small claims court policy, it was significant that the council served as an administrative body for the court. One policy adjustment that was enacted created a filing fee of \$1.⁷¹ The fee was designed to discourage collection agencies from incorporating small claims court into their business procedure. However, there is little evidence that explains to what degree businesses used the court during the late 1920s. Nevertheless, small claims policy adjustments such as this demonstrated how the Judicial Council managed the legal machinery.

By the end of the 1920s, the urbanization of Los Angeles epitomized the mechanization occurring in California. In 1928 Thomas B. Reed reiterated the established rhetoric of efficiency when he argued for a uniform court system in Los Angeles. Reed wrote: "Many parts of this State in sparsely settled communities, where travel is still difficult and decentralized judicial system necessary. But do these conditions exist in Los Angeles County? Surely we are prepared in this county for the establishment of a uniform system of courts of inferior jurisdiction."⁷² Small claims court, then, clearly fit into Reed's conception of uniform justice. His emphasis on centralization was clearly linked the elements of consolidation of authority and efficiency represented in the small claims process and the context into which small claims court emerged.

Reed's call for structural change was met by the spread of small claims court through California. Urbanization concentrated populations in cities and subsequently created new demands for small claims justice. New courts were founded in many different townships to meet the need. In early 1928, one newspaper reported that, "expansion was made necessary by the increase in litigation which has accompanied

⁷¹ Los Angeles Times, "The Watchman: Trend of Political Thought and Action," February 28, 1927

⁷² Thomas B. Reed, "Courts of Inferior Jurisdiction," *The Bar Association Bulletin* (1928): 86

growth and development of the city and country.”⁷³ Small claims court became an increasingly important mode of California justice and continued to shape the way people thought about the broader justice system. Additionally, while small claims court acquired a strong hold on Californian’s conception of justice, criticism of the Judicial Council indicated tempered professionals concentration of authority.

The reason the expansion of small claims court, and the legitimacy that accompanied it, outpaced the Judicial Council was that small claims court subordinated the privileges of poor people, while the Judicial Council challenged professional authority. At the administrative level, the council demonstrated how efficiency could limit democracy. Professionals, such as members of the state bar, criticized the council, claiming that it overreached its duties by consolidating authority over the administration of justice. “The opposition asserts that the council has become autocratic, that it is seizing powers not delegated to it and is fast approaching the position of an oligarchy.”⁷⁴ Simply, the council was criticized for concentrating too much professional power. On the other hand, small claims court did not challenge democracy in the minds of professionals, because it served the purpose of efficiency and only produced limited democracy for poor people. Thus, while the judicial council’s authority to consolidate and centralize authority was tempered in early 1928, small claims court continued as a tour de force of professional engineering.

While the small claims process was an established part of the legal system, by the end of the 1920s, it was not entirely clear whether small claims court was even a court. Small claims court shared elements of other courts: it had a jurisdiction, involved a judge,

⁷³ Los Angeles Times, “Court Systems,” January 1, 1928

⁷⁴ Los Angeles Times, “Measure Criticized,” March 24, 1929

and followed an informal procedure. But *Hughes* had aptly defined small claims as a procedure and not as an independent institution. A key moment that indicated the ambiguous small claims identity unfolded in the last line of the opinion for *Superior Wheeler Cake v. Superior Court*: "The conclusions above announced render unnecessary a consideration of the question as to whether small claims court is an independent court or is a constituent part or department of the justice's court."⁷⁵ A court held the authority of an official public forum, while a department maintained a less autonomous authority. Professional's inability or unwillingness to clearly define small claims court represented how they thought had thought about the informal procedure from its establishment in 1921.

By the end of the 1920s small claims court had two important identities. To poor people, the small claims court was a court. It was a legitimate institution through which they understood the legal system. How poor people used the court determined what it meant for them. But for professionals, small claims court was an instrument that legitimated their authority. The expansion of the court and the public's increased participation spoke to public satisfaction with the informal procedure. Thus, for professionals, small claims court was exclusively an instrument of public policy. That is, small claims court was always a procedure more than a court, and professionals who managed the court sought to legitimate the legal system. Consequently, professionals did not accept the same kind of legitimacy from the small claims court procedure. These court identities indicated how an elitist assumption was an intrinsic element of the California small claims court.

⁷⁵ *Superior Wheeler Cake Company v. Superior Court*, 203 Cal. 384; 264 P. 488 (1928)

Conclusion

This history of the California small claims court examined the court as a window into the legal system during the 1920s. During these years professionals and poor people etched the modern small claims court identity. In turn, how professionals and poor people shaped the court reflected their relationship to the broader legal system. On the surface, small claims court was an effective solution to the problems created by an industrial age; namely, expense and delay. It expanded access to justice through an inexpensive, fast, and efficient informal procedure. However, below the surface, elitist assumptions permeated the small claims court concept. These assumptions expressed themselves in the informal procedure, central to the small claims process. The "poor man's court," then, was better understood as a poor man's bread and circus. It was designed to convince poor people that justice was fair and it sought to legitimate professional authority during a time of increasing inequality.

The history of the California small claims court began with Reginald Heber Smith's *Justice and the Poor*, which rooted the history of the court in the legal aid movement. Examining small claims court in the context of the legal aid movement revealed the court's many layers. On the surface, small claims court and the legal aid movement were a part of a reform movement increasingly concerned with access to justice. However, beneath the surface, small claims court and legal aid were stabilizing institutions meant to prop up the existing legal structure. By legitimating the legal system, small claims court and legal aid also legitimated the authority of legal professionals. Professionals sought to legitimate the system because they were not willing to accept that notion that the substance of justice was unfair. Furthermore, to

acknowledge that justice was unfair would have necessitated real change that potentially threatened professional authority.

Because professionals did not want to challenge the status quo they approved of small claims court because it was inexpensive, fast, efficient, and created the appearance of expanding access to justice. Small claims court was a way that professionals preserved the traditional "principals" celebrated by Pound. These principals were not democratic principals, but elitist principals that perpetuated professional authority. Thus, why professionals chose small claims court indicated the limited democracy intended through the informal procedure. By effectively creating the impression of fair justice, small claims court was a powerful stabilizing institution. The relationship between professionals and poor people portended in the establishment of small claims court was further illustrated by the way professionals defined poor people.

The elitist assumptions imbedded in the small claims concept were revealed through the way that professionals defined poor people. Poor people were a diverse group that included immigrants and non-immigrant. These people were the middle and lower class. The poor were most commonly marked by their inability to afford legal services. In essence, they were people whose labor fed the same industrial machine in which they were caught. But to professionals, poor people not only suffered the problems of an industrial age, they *were* a problem of the industrial age. Poor people were a problem because they represented societal inequality during a period of economic growth. They were cogs in the legal machinery. In small claims court, professionals found a way to deal with poor people by convincing them that justice was fair. However, while

professionals established and managed the court, the public used the court for unintended purposes.

By using the court, the public shaped small claims justice. They used the court to settle everything from small debts to seemingly trivial personal disputes. For many poor people, small claims court was one of the few times they knowingly participated as part of legal system. By seeking and obtaining small claims justice, poor people collectively defined the legitimacy produced by the court. However, to some professionals, the cases waged in small claims court appeared superfluous. For them, absurd small claims cases reaffirmed the perceived professional superiority. Thus, whether they recognized the inequality or not, by participating in small claims court poor people reinforced professional privilege. In this respect, small claims court was a successful instrument of public policy intended to legitimate traditional structures of power.

It was the informal procedure, however, upon which the small claims process depended for legitimacy. The feudal analogy, adopted by Judge Hinshaw the first small claims court judge, indicated how one form of legal theater replaced another. Whereas lawyers previously managed the legal process and legitimacy, in small claims court, where lawyers were prohibited, authority was concentrated in the judge. Like a legal aid attorney, the small claims judge applied more arbitration than objective adjudication in deciding small claims. Whereas formal legal procedure tried to appear objective, the small claims court judge essentially represented judicial activism. Especially in an informal process, legitimacy appeared dependent on the opinion of a judge playing the "virtuous knight." Thus, the legitimacy propped up by the limited democracy produced in

small claims court relied on the public not seeing through the small claims theater and remaining oblivious to the inherent inequality in small claims court.

The limited democracy produced by small claims court was underscored by doubts voiced by Reginald Heber Smith and Elihu Root in *Justice and the Poor*. While Root suggested that small claims court mismanaged the legal process, Smith doubted whether small claims court was an appropriate solution to the problems created by an industrial society. However, even though the informal procedure threatened to reveal the arbitrariness of adjudication, most professionals accepted the informal procedure as a progressive remedy that turned small claims justice from charity work done by legal aid, into a right of citizenship. But beneath the rhetoric, small claims court was the best solution for professionals because it limited poor people's democracy and did not threaten professional privilege. Nevertheless, the fundamental small claims concept was challenged in two important revisions to small claims procedure.

When small claims court policy was challenged two issues showed how professionals had trouble legitimating the informal procedure. First, small claims court did not have provisions for a jury trial, nor did the court provide access to the appeals process to both the litigants. Instead, the small claims concept was that the plaintiff gave up his right to appeal in exchange for a speedier process. However, in an effort to create a uniform system, appeals were denied to both litigants in 1927. This created a situation in which due process was obstructed for the defendant because they did not choose the small claims venue, but were still bound by the decision. Debates concerning the appeals process showed how professionals disagreed about the validity of the basic small claims concept.

The second challenge to the court expanded small claims court jurisdiction. In *Leuschen v. Small Claims Court* (1923) State Supreme Court Justice Wilbur declared that small claims court jurisdiction included tort law. Wilbur reaffirmed that the small claims was only limited by monetary jurisdiction. The *Leuschen* decision was important because it determined that small claims court jurisdiction would not be limited by the complexity of a case. The decision also indicated the increasing importance of small claims court as part of the legal system. In fact, while small claims court was shaped in the courtroom, outside the courtroom small claims court was an increasingly important part of the California justice system.

The establishment of the municipal court system in 1924 represented an increasingly mechanized legal context into which small claims court was emerged. In essence, the municipal court represented a structural adjustment to the California that intended to centralize authority. Municipal courts were intended to eliminate overlapping jurisdiction and to create a more efficient, uniform system. In fact, there was some confusion about whether municipal court took over small claims jurisdiction. In *Hughes v. Small Claims Court*, however, small claims court survived because it was considered a procedure rather than an independent court. Defining small claims court as a procedure revealed how professionals and poor people thought about the court. It suggested how professionals disregarded small claims justice, while poor people considered a legitimate form of American justice.

Like the municipal court, the judicial council also reflected the centralization of the legal machinery. While inside the court, authority over small claims court was concentrated in the judge, outside the court the Judicial Council represented a group of

professionals who played the part of engineers of the justice system. Their job was expressly to improve efficiency by collecting data and recommending modifications to the legal machinery. However, the authority and legitimacy of the small claims court outpaced the Judicial Council because the council overreached its intended purpose and concentrated too much professional authority in the name of efficiency.

This history evaluated the California small claims court of the 1920s as "the poor man's court." Although superficially the court expanded access to justice, it did not really represent poor people's interests. Instead, small claims court represented an elitist intent to legitimate the legal system. Furthermore, small claims court reflected broader changes to the legal system that were marked by the concentration of professional authority. The rhetoric espoused by professionals centered their focus on expanding access to justice and efficiency. But the history of small claims court showed how access to justice meant many things including sacrificing democracy for efficiency. In sum, the legal machinery engineered and managed by professionals did not intend to produce equality as much as legitimate existing inequalities. It did not centralize authority, as much as it consolidated professional authority. And it did not create new rights for poor people, but instead successfully convinced them that justice was fair. Thus, in small claims court, the poor man's court, the public received poor people's justice. It was a form of justice marked by elitist undertones that cared little for the many lives affected by an informal legal space that undeniably defined American justice.

Primary Sources

Brown, Henry Hugh. "The Administration of Civil Justice." *State Bar Journal* (1926): 10

California Code of Civil Procedure

Galbreth, Morgan. "The Small Claims Court." *Los Angeles Bar Bulletin* (1930): 113-14

Hughes v. The Municipal Court of the City of Los Angeles, 200 Cal. 215; 252 P. 575 (1926)

I.H.R. "Court: Jurisdiction of Small Claims Courts." *California Law Review* 11 (1922): 279

Judicial Council. "Creating the Judicial Council." First Report (1927): 18

Leuschen v. Small Claims Court, 191 Cal. 133; 215 P. 391 (1923)

Los Angeles Times: July 30, 1921 through August 26, 1936, <http://www.proquest.com>.

Municipal Court Act of 1924

Pound, Roscoe, "The Administration of Justice in the Modern City," *Harvard Law Review* 26: 318, quoted in Reginald Heber Smith *Justice and the Poor* (New York: The Carnegie Foundation, 1919)

Reed, Thomas B. "Courts of Inferior Jurisdiction." *The Bar Association Bulletin* (1928): 86

Smith, Reginald H. *Justice and the Poor: A Study of the Present Denial of Justice to the Poor and of the Agencies making More Equal Their Position Before Law With Particular Reference to Legal Aid Work in the United States* New York: Carnegie Foundation, 1919

Superior Wheeler Cake Company v. Superior Court, 203 Cal. 384; 264 P. 488 (1928)

Secondary Sources

Auerbach, Jerold S. *Unequal Justice* New York: Oxford University Press, 1976.

Barrett, Margaret. "The Constitutional Right to Jury Trial: A Historical Exception for Small Monetary Claims." *Hastings Law Journal* 39, no. 1 (1988): 125-63.

California Law Review 56 "Small Claims Court." (1968)

Conner, Lindsay. "Night Small Claims Court: 'The People's Court' Reaches Out to the People." *University of West Los Angeles Law Review* 10 (1978)

Friedman, Lawrence. *A History of American Law* New York: Simon and Schuster, 1985.

---. *American Law* New York: W.W. Norton Company, 1984.

Hammer, Douglass L. "Constitutional Law: Application of Procedural Due Process Standards to Small Claims Court Judgment Appeal Bond Requirement," *California Law Review* 62, no. 1 (1974): 421-434

Maier, Charles S. "Between Taylorism and Technocracy: European Ideologies and the Vision of Industrial Productivity in the 1920s." *Journal of Contemporary History* 5, no. 2 (1970): 27-58. <http://www.jstor.org>.

McCollam, Douglas. "Reginald Heber Smith (1889-1966)." *The American Lawyer*, December 1999, 115.

Ruhnka, John C., and Steven Weller and John A. Martin, "Small Claims Court: A National Examination." *National Center for State Courts Research Essay Series* No. R0039 (1978)

Spiegel, Mark. "The Boston Legal Aid Society: 1900-1925." *Massachusetts Legal History* 9 (2003)

Starr, Kevin. *Endangered Dreams: The Great Depression in California* New York: Oxford University Press, 1996.

---. *Material Dreams: Southern California Through the 1920s* New York: Oxford University Press, 1990.

Steele, Eric H. "The Historical Context of Small Claims Court." *American Bar Foundation Research Journal* 6, no. 2 (1981)

Weller, Steven and John C. Ruhnka, "Small Claims Courts: Operations and Prospects." *National Center for State Courts Research Essay Series* No. E006 (1978)

Yngvesson, Barbara and Patricia Hennessey. "Small Claims, Complex Disputes: A Review of Small Claims Literature." *Law and Society* 9, No. 2 (1979)

Zucker, Bruce and Monica Herr. "The People's Court Examined: A Legal and Empirical Analysis of the Small Claims Court System." *University of San Francisco Law Review* 37 (2003): 315-50 <http://web.lexis-nexis.com>.