



MEMORANDUM

Date: June 17, 2008

To: The Honorable Ellen Corbett, Chair
The Honorable Tom Harman, Vice Chair
Members, Senate Judiciary Committee

From: Rex D. Frazier, President
Michael A. Gunning, Vice President
Kimberley Dellinger, General Counsel
Ermelinda Ruiz, Legislative Advocate

Re: AB 1873 (Lieu): Small Claims Court
As Amended 4/01/08
Senate Judiciary Committee Hearing June 24, 2008
PIFC Position: Oppose

The Personal Insurance Federation of California, representing insurers who write approximately 50 percent of the personal lines of insurance sold in the state, including State Farm, Farmers, Safeco, aigdirect.com, Progressive and NAMIC, **is opposed unless amended to AB 1873 authored by Assembly Member Lieu.**

This bill makes several changes to the statutes and process of small claims court actions, including allowing small claims litigants and witnesses to appear by telephone. PIFC opposes AB 1873 based upon this provision.

Fraud is a major concern for the insurance industry and leads to increased costs for consumers. We are concerned this provision in the legislation would increase fraudulent claims by eliminating the safe guards of veracity and credibility afforded through in-person testimony before the finder of fact and cross examination by the opposing party. There is also the potential for fabrication of witness testimony. Additionally, we are concerned that in a situation where a party or witness is out of view of the court, they may be represented and helped by an attorney, in violation of the rules and fundamental purpose behind the small claims court process.

PIFC and other members of the insurance industry were working with the author on potential amendments and had hoped to resolve our concerns, only recently being made aware that the bill would not in fact be amended, leaving us to oppose the bill now. The language we have proposed is as follows:

This language would be inserted on page 5, after line 24:

A court shall not permit a party or witness to appear by telephone if either party to the action objects to such appearances in a hearing in which the defendant is a person or entity who is a party to or an insured under a contract that provides indemnity to that person or entity for some or all of an adverse judgment.

While PIFC supports the stated goal to increase efficiencies in the courts, and we did support the author's bill last year, AB 500, dealing with telephonic appearances in specified civil matters, we believe the risk of increased fraud as a result of the provision in AB 1873 outweighs the potential increased efficiencies.

For these reasons, **PIFC is opposed to AB 1873, unless amended**, and urges your **no** vote. If you have additional questions regarding our position, please do not hesitate to contact Kimberley Dellinger at (916) 442-6646.

cc: Assembly Member Ted Lieu (Author)
Mike Prozio, Chief Deputy, Legislative Affairs Secretary, Office of the Governor
Alexandra Montgomery, Consultant, Senate Judiciary Committee
Mike Petersen, Consultant, Senate Republican Caucus
Kathleen Webb, Office of the Insurance Advisor
Senate Floor Analyses