

HB1844

HD1

**SENATE COMMITTEE
ON
JUDICIARY AND LABOR**

March 14, 2014

House Bill 1844, HD1 Proposing an Amendment to the Hawaii Constitution to Change the
Threshold Value in Controversy Requirement for Jury Trials in Civil Cases at Common Law
from \$5,000 to \$10,000

Chair Hee and members of the Senate Committee on Judiciary and Labor, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm).

State Farm opposes and has concerns with HB 1844, HD 1:

The right to a jury trial in the United States originates in English common law, and is preserved in the United States Constitution in the Seventh Amendment. Our federal Constitution reads thusly:

“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”

Most scholars agree that the intent was to afford jury trials in all cases and that the twenty dollar limitation was intended to eventually fade away as a requirement. The Seventh Amendment is not directly applicable to the states although states have adopted monetary limitations as evidenced by the provisions in Hawaii’s own Constitution.

Our system of justice is based on the notion that the ordinary people that make up a jury are best able to hear the evidence and come to a reasonable decision based on their everyday experiences. This is no less true in cases where the amount in controversy is less than \$5,000.

The right to a jury trial, even in cases where the claimed damages are less than \$5,000 is fundamental to our sense of justice. Taking away this right will deny those with lesser claims the chance to have their matters fairly heard. This would be telling these individuals that their rights are worth less just because the amount in controversy is less.

Likewise, those who are contesting these claims have a fundamental right to have the issues decided by a jury. Just because the amount they stand to lose is \$5,000 or less does not mean that this right has less value.

In checking the requirements across the 50 states and D.C., only two states have a jury trial threshold greater than Hawaii: Louisiana (\$50,000) and Maryland (\$15,000). The vast majority (41 jurisdictions) have no threshold (although in some of these it might be \$20,

depending on case law interpretation of what existed at common law before the state's constitution was enacted). Certainly anything over \$250 is out of the ordinary.

- 1 state \$50,000: Louisiana
- 1 state \$15,000: Maryland
- 2 states have \$1,500: New Hampshire, Oklahoma
- 3 states have \$250: Alaska, Connecticut, Kentucky (in the Fayetteville District Court)
- 2 jurisdictions specifically state \$20: D.C., West Virginia

Thank you for the opportunity to present this testimony.

Testimony in Support of an Amendment to the Hawaii State Constitution and the Hawaii Revised Statutes Regarding Increasing the Jury Demand Limit from \$5000 to \$10,000. (HB 1844 and HB 1845).

I am a trial lawyer and served as a reporter at two conferences of attorneys and judges in 2012 and 2013. These meetings are called Bench-Bar conferences and were held at the same time as the Hawaii State Bar Association conventions.

During these sessions, it was suggested that the jurisdictional limit for jury trials be raised to reflect inflation, and, perhaps more importantly, not burden the Circuit Courts with matters not involving large sums of money.

If a jury trial is demanded in District Court at the current limit of \$5000, the case is transferred to Circuit Court. Circuit Court is much slower and more expensive process than District Court. Further, if a jury has to be assembled, it is costly and involves many of our citizens being summoned to possibly sit on the jury.

In a word, the minimum jury demand should be raised to a more meaningful level. Thus, the recommendation to raise the jury demand level to \$10,000.

I have no information about the position of the Judiciary on this matter.

I am currently off island and cannot appear personally at the hearing.

Edward Kemper