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February 13, 2022

To: The Senate Judiciary Committee

Re: S.178

Dear Committee Members:

Kindly allow me to express my concerns about proposed senate bill no. 178 which will abolish the long- standing requirement of unanimous verdicts in civil jury trials in Vermont.

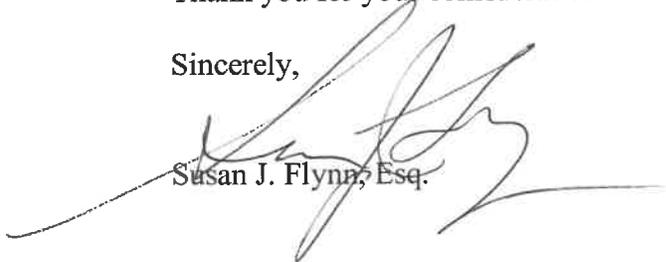
I have been practicing as a civil litigator in Vermont for over 30 years. The majority of the cases that I handle come from insurance companies which retain me to represent the interests of those insured under their policies, although I also represent personal injury plaintiffs on occasion. Over the years, my law partner Lisa Werner and I have also developed something of a niche practice in employment and civil rights law. In connection with that work, we have represented a number of historically marginalized individuals in discrimination cases. As you might imagine, it is difficult to find jurors whose backgrounds and experiences are similar to, for example, a black man who is a plaintiff in a civil rights case. Abolishing the requirement of a unanimous verdict only increases the likelihood that the voice of a juror who shares important characteristics with a civil rights plaintiff is silenced.

I would also like to offer the following based on my experience as an attorney who is often retained by insurance companies, as I understand that proposed legislation is supported by the Vermont Attorneys for Justice, an organization primarily comprised of plaintiffs' personal injury attorneys. Many personal injury cases are settled by insurance companies before they ever come across my desk. This is because most insurance companies make considerable effort to understand the merits of a case and attempt to resolve it before sending it out to an attorney. The great majority of the cases that do come across my desk are settled through mediation, which is mandatory in all civil cases. Here in Vermont, we are fortunate to have the services of some very talented mediators. Still more cases are settled after suit is filed but outside of the mediation process. It is therefore only a small percentage of personal injury cases that end up going on to trial, and they do so typically because they present some unusual issues that render them difficult to resolve. This significant change in the way juries in Vermont reach a verdict, if intended to address the needs of personal injury plaintiffs, only serves address the needs of very few.

Finally, we live in a highly polarized world, and decision making by consensus as occurs in civil jury trial strikes me as more important now than it has ever been.

Thank you for your consideration of these matters and the work you do for our state.

Sincerely,



Susan J. Flynn, Esq.