



KANSAS BAR
ASSOCIATION

TO: **The Honorable Susan Humphries**
 And Members of the House Judiciary Committee

FROM: **Joseph Molina**
 On Behalf of the Kansas Bar Association

RE: **HB 2510** - Authorizing a party to obtain discovery of the existence and content of an agreement for third-party funding of litigation under the code of civil procedure

DATE: **January 31, 2024**

Madam Chair and Members of the House Judiciary Committee:

The KBA appreciates the opportunity to provide this written testimony in **OPPOSITION** to **HB 2510** - Authorizing a party to obtain discovery of the existence and content of an agreement for third-party funding of litigation under the code of civil procedure.

The Kansas Bar Association has a long-standing policy of supporting access to justice and access to the courts. Access to justice commonly refers to an injury consisting of, or resulting from, denial of access to courts, denial of procedural fairness and due process in relation to court proceedings. Requiring a party to disclose third-party agreements may lead to fewer opportunities for meritorious claims to be heard by the court due to a party's inability to fund the action. HB 2510 may curtail that access by removing a tool the financially underfunded could use to litigate claims. Third party financing promotes equal access to the judicial system by removing the financial barriers. This prevents the legal system from favoring only those with significant financial resources.

HB 2510 is also overly broad because it does not define what types of agreements are subject to mandatory disclosure, nor does it define which types of entities have a right to receive compensation from the civil action. Page two, line 16 of the bill reads as follows:

*"... A party may obtain discovery of the existence and content of **any third-party agreement under which any person**, other than an attorney representing a party, has **agreed to pay expenses directly related to prosecuting the legal claim** and has a contractual right to receive compensation that is contingent on and sourced from any proceeds. Information concerning the third-party agreement is not, by reason of disclosure, admissible as evidence at trial".*

This specific section would require amendment so that a person would know they are required to disclose their agreement. Further, is the intent of HB 2510 to require disclosure of all Medicaid, Medicare and ERISA agreements that impact a civil case.

It is for these reasons the KBA opposes **HB 2510** - Authorizing a party to obtain discovery of the existence and content of an agreement for third-party funding of litigation under the code of civil procedure.

Thank you for your time and attention. I am happy to stand for questions when appropriate.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals. Its more than 5,500 members include lawyers, judges, law students, paralegal students and paralegals. www.ksbar.org