



KANSAS ASSOCIATION OF DEFENSE COUNSEL

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TESTIMONY

TO: HOUSE COMMITTEE ON JUDICIARY
FROM: KANSAS ASSOCIATION OF DEFENSE COUNSEL (KADC)
RE: Substitute for SB 54
DATE: March 7, 2025

Madame Chair, members of the Committee, thank you for the opportunity to provide written testimony of Substitute for SB 54 relating to the discovery of litigation funding by non-attorney third parties. My name is Samantha Woods, and I am the President of the Kansas Association of Defense Counsel (KADC). KADC is a state-wide organization of lawyers admitted to practice law in Kansas who devote a substantial amount of their time to defending clients, including businesses, in civil litigation cases. In addition to working to improve the skills of defense attorneys and elevating the standards of trial practice, our organization advocates for the administration of justice because our clients depend on it.

KADC supports Substitute for SB 54 in its current form. Third-party litigation agreements are significantly relevant to the defense in civil litigation disputes, but defendants in civil lawsuits have not always successfully obtained these agreements through their discovery efforts. Plaintiffs commonly object to the production of these agreements claiming they are not relevant to the issues and allegations asserted in the case. Under the current discovery rules, disputes regarding litigation funding agreements, which are relevant and should be produced results in increased litigation costs. And, when left to judicial discretion, can lead to inconsistency across the state.

The relevancy of third-party funding agreements is deeper than their mere existence that signals a plaintiff's financial backing. The terms of the agreement itself are relevant to the litigation. Third party lenders are not subject to the same limitations, restrictions, or rules of professional conduct that govern attorneys. The agreement's terms could give rise to material conflicts of interest between plaintiffs and their counsel. For example, the agreements may dictate the amounts and circumstances of settlement of claims. The agreements could also be relevant to the statute of limitation calculations, bad faith claims, or even post-trial motions for fees. Defendants need to know the extent of influence, if any, that the third-party lender has over the litigation to effectively evaluate the case and develop a litigation strategy similar to what currently exists for plaintiffs when defendants disclose insurance coverage. This bill is a step in the right direction to accomplish this, by providing for disclosure of non-attorney third party agreements in litigation along with an oversight component to further study the issue, which KADC supports.

Thank you for the opportunity to provide this testimony.