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February 7, 2025

The Honorable Kellie Warren
Chair, Senate Judiciary
300 W. 10th, Room 419-E
Topeka, KS 66612

RE: SUPPORT of SB54, Third Party Litigation Financing Disclosure – WRITTEN TESTIMONY ONLY

Dear Madame Chair Warren and members of the Committee,

Representing nearly 67% of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. In Kansas, APCIA's members write more than 70% of all property and casualty policies. We respectfully submit the following comments in **SUPPORT** of **SB54**.

TPLF is estimated to be a multi-billion global industry, with the U.S. portion exceeding \$15 billion. This financing model treats lawsuits as investment opportunities, which undermines and exploits our civil justice system. By nature, TPLF increases litigation costs by introducing unknown third parties whose sole interest is to maximize their returns on investment. Additionally, TPLF diverts monetary awards—meant to compensate claimants for their injuries—away from the actual injured parties and toward unrelated financiers.

The economic interests of these financiers rely heavily on prolonged litigation and the discouragement of amicable settlements. This dynamic favors the third-party funders while complicating the pursuit of justice for all involved. It is essential and fair for all parties engaged in litigation to have access to these funding agreements, ensuring both plaintiffs and defendants are equally equipped to seek justice.

TPLF typically claims a large share of claimants' settlements and judgments, often inflating the amounts necessary to account for funders' returns. **This practice deprives claimants of due compensation and complicates the prompt resolution of cases. For instance, plaintiffs may reject reasonable**

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settlement offers due to the obligations they owe to the funders. One prominent funder has publicly acknowledged that they intentionally complicate case settlements. Increased transparency is crucial for ensuring quicker and more efficient resolutions in these matters.

Moreover, litigation funding can leave consumers with greater debts to lenders than the amounts awarded by the court once a lawsuit concludes. This scenario effectively places unknown third parties in control of the litigation, making it significantly more difficult and costly to settle disputes. By transforming the civil justice system into a profitability-driven enterprise, TPLF discourages amicable resolutions and promotes aggressive, drawn-out litigation of marginal or frivolous claims. This ultimately increases costs for products, services, and potentially insurance.

As if hidden money in civil litigation was not enough of a concern, there have been multiple recent reports of serious national security concerns with this practice, as it is well known that foreign nations are investing in these lawsuits, including in patent litigation.³ This is a significant enough concern that U.S. Senator John Kennedy wrote Attorney General Garland and Chief Justice Roberts in January regarding the need for disclosure of this practice based on the national security implications of foreign sovereign wealth investment in U.S. civil litigation.⁴

Disclosure is required of insurance agreements during litigation, not only in federal cases but in virtually all states, including Kansas. **These agreements should be no different.** By requiring disclosure and discovery of TPLF to all parties in litigation, balance can be restored to the legal system.

This is a commonsense solution that enjoys great support from the American public. In a recent survey conducted by the Harris Poll, **88 percent of respondents said there should be transparency of all parties involved in a civil lawsuit.**

We support **SB 54** to help maintain a fair, efficient, and transparent civil justice system. We believe it will facilitate transparency in litigation and limit the damage the unregulated and secret world of TPLF has on the fair and efficient administration of justice.

We appreciate the opportunity to express our support. Please contact me directly at 512-461-1964 or via e-mail at scot.kibbe@apcia.org or APCIA's local counsels Larrie Ann Brown at (785) 640-2747 via e-mail at larrieannbrown@gmail.com and Brad Smoot at 785-224-1200 or via e-mail at bradsmoot@smootlawoffice.com with any questions.

Sincerely,

Scot Kibbe

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