



**KANSAS  
TRIAL LAWYERS  
ASSOCIATION**

To: Sen. Kellie Warren, Chair  
Members of the Senate Judiciary Committee

From: Callie Jill Denton, Executive Director

Date: March 21, 2024

Re: HB 2510 As Amended Concerning the code of civil procedure; relating to regulation of litigation funding by third parties (OPPOSE)

On behalf of KTLA members, thank you for the opportunity to provide you with KTLA's concerns regarding HB 2510 as amended. KTLA has consistently opposed third-party litigation funding bills because legislation is unnecessary.

- Litigation financing, meaning provision of capital to law firms as non-recourse investments in the outcome of the case, may be a business practice that is more usual in other states. It is not an arrangement that KTLA members engage in and does not appear to be prevalent in Kansas.
- Litigation financing, meaning a loan to a plaintiff to pay personal household expenses while they await the outcome of their case, is not regular in the experience of KTLA members. KTLA members report that they advise their clients against seeking such loans because the lender may want the attorney to sign the loan agreement, which poses an ethical conflict with Rule 1.8(e) of the Rules of Professional Responsibility.<sup>1</sup>
- If there is a litigation financing agreement in a case, Kansas law already permits a party to discover any non-privileged matter that is relevant to the claims and defenses in the case.
- Disclosure of one party's litigation financing agreement to the opposing party creates an unlevel playing field. It puts the plaintiff at a strategic disadvantage and gives the defendant and their insurer information about plaintiff's financial position and willingness to settle.
- The personal financial information in a consumer agreement may be completely irrelevant to the arguments in the underlying case. But it is valuable to defendants and insurance companies whose goal is to settle for as little as possible.
- HB 2510 as amended will add greater complexity and additional cost for all parties to a claim, including to the judicial branch.

Thank you for the opportunity to provide you with KTLA's concerns.

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<sup>1</sup> A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that: (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.