

HOUSE COMMITTEE ON APPROPRIATIONS

Representative Marc Rhoades, Chair
Representative Kasha Kelley, Vice Chair
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Room 346-S

Judge James F. Vano
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TESTIMONY IN SUPPORT OF SB 425

Thank you, Mr. Chairman and this honorable committee for extending the opportunity to offer testimony in support of SB 425. I am Judge James F. Vano of the District Court in Johnson County. I urge this committee to support the Judicial Branch budget requests and, specifically, urge special full-funding provisions for the establishment of a statewide electronic document management and a statewide electronic filing system.

We have been using imaged documents, i.e., hearing cases without the use of a paper filing system, since approximately November of 2002. We have not looked back. After the completion of imaging for all cases, and convincing our judges to “go paperless,” we began the development of e-filing for civil cases. That system is today running smoothly. We are now developing criminal and juvenile

offender case e-filing. We will then move to CINC and probate. We have received positive feedback from the bar and see increasing use of the system. It is incredibly simple and efficient to use. I urge each of you to take a look at our e-filing system.

We continue to make adjustments and develop new ideas based upon input from the users. The platform thus far has proven itself exceptionally adaptable to changing technologies and new demands. Down the road we will have e-filing available for self-represented litigants and batch filing for collection attorneys. There are several obstacles to deal with, including the self-represented need for “legal advice” and balancing obvious efficiencies of batch filing with a lawyer’s responsibility to individually sign and submit pleadings in compliance with KSA 60-211. We continue to move forward with those developments. Each step along the way is carefully reviewed and considered.

So, what do we have in Johnson County and why?

Several years ago, we obtained the source code for what was initially a poorly designed and not well-received data management system, *i.e.*, JIMS or the Justice Information Management System. Through substantial investments of time and resources committed by the Johnson County Commissioners over the years, JIMS was refined and integrated to include the Sheriff’s Department, the District Attorney’s Office, Court Services, and the County Corrections Department, along

with the Court system, including our attorney registration records, to simplify case data management.

From that platform, we have been able to engineer, in-house, the document management system, imaging old documents, and our eventual e-filing system with electronic returns of process service and e-notifications to litigant counsel, and e-signed orders and uploaded decisions from the judges. We had significant design input from system users including members of the bar. The hope and vision of the County investment was to make e-filing and our document management, i.e., access to the courts, open and free for the public generally.

Others have mentioned, and you can easily imagine, the tremendous cost savings for all taxpayers occasioned by electronic document management and e-filing availability. There is, of course, the lowered cost of paper and copying, less paper handling and occasions for lost or misplaced files, reduced foot traffic in the courthouse, increased security and lowered security risk, opportunities to reduce or re-assign staff, reduction in storage space, and the list continues. You can quantify all of those governmental savings, and include the savings in gasoline, time, and parking for court users, including litigants. Most importantly, we have increased the opportunities for public access to the courts and court outcomes by electronic means. The sooner the state goes to electronic document management and e-filing, the sooner our state and local governments will see the cost savings compounded

each year thereafter. The upfront costs, as seen in the example of Johnson County government, will lead to significant future savings. For these reasons, I urge you to approve the Supreme Court's requested funding for development, implementation and maintenance of both statewide electronic document management and statewide electronic filing systems.

That being said, I strongly oppose the notion of special e-filing fees and fees to access electronic documents. We should never discourage the use of e-filing by imposing any increased fees for e-users. Beside that, all of our citizens will benefit from electronic system development and access to the courts, not just court users. Therefore, the state general fund and local governments should finance e-filing development. A plan to fund electronic filing with user fees beyond a low nominal filing fee applicable to all filers is inappropriate.

Why is free and open access to the courts' documents, decisions, and records important? Why is full-funding for the Judicial Branch budget and for development of a statewide electronic filing system from the state general fund or in cooperation with local governments essential?

It is simply because the Judicial Branch does not exist solely for the benefit of the users of the courts. The Judicial Branch serves all of Kansas by the fair and independent application of law to the varied facts of the individual litigants' cases coming to the courts and in the interpretation of the laws for situations that were

never envisioned or considered during their enactment proceedings. Kansas courts operate under the principle of equal protection under the law just like every other branch of state government, and that operation is best seen in the concept of *stare decisis*, where we are controlled by our precedents. Lawyers and the public study decisions of the courts in order to advise their clients to avoid contrary results or to hold the courts accountable for their rationale and for the consistent, clear, accurate applications of law. Without free and open access you may increase litigation for those who might otherwise see the futility of their claims. Without open and free access the public is unable to guide its conduct or predict the likely outcomes of its disputes in order to conduct its affairs accordingly. I urge you without hesitation to avoid the temptation to fund judicial operations with user fees as though we were serving the users only. They should not be required to fund the forum. The court is not simply another private arbitration or alternate dispute resolution organization. We are also the government of the State of Kansas. We should not step back from our accountability or in any way discourage the free and open access to records electronically stored or otherwise. We should rather encourage the development of state and locally funded electronic document management and e-filing systems so that the entire state of Kansas can uniformly enjoy access to all of its government and facilitate transparency. Judicial transparency is critical for attorneys and every Kansas citizen.

In the absence of full funding by the state general fund and in combination with local budgets, the Supreme Court's suggestion of a need for some authority to impose fees, funding for all to benefit on the backs of the users of the court, is the only other option. You will leave no other choice. I urge against turning the courts into the revenue raising entities. Please do not create an electronic toll booth. If we must generate the revenue, let it be from a portion of the nominal filing fees for all cases, not singling out a special charge for electronic data access or e-filing.

Thank you most sincerely for your consideration of these remarks, and for your service to the people of Kansas. I am happy to answer any questions you may have about e-filing or about the Judicial Branch operation, particularly in the trial divisions of our District Court, any time you want to call upon me.

Yours very truly,

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