

SENATE COMMITTEE ON JUDICIARY

Hon. Jeff King, Chairman
Hon. Greg Smith, Vice Chairman
Hon. David Haley, R.M. Member

January 28, 2015
10:30 am
Room 346-S

Chief Judge James R. Fleetwood
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WRITTEN TESTIMONY IN SUPPORT OF SB 15

Thank you, Mr. Chairman and this honorable committee for extending the opportunity to present written testimony in support of SB 15. I am Judge James Fleetwood, Chief Judge of the 18th Judicial District. I am also a member of the Executive Board of the Kansas District Judges Association (KDJA.) I also serve with Judge Dan Creitz as the KDJA Legislative Co-Chair. The KDJA supports SB 15, however, based on last years filing statistics in Sedgwick County. I am concerned about the level of projected revenues.

SB 15 amends last year's efforts to develop fees from motions for summary judgments. This legislation would use a broader net that includes all dispositive motions in civil cases requiring filing fees including motions to dismiss, motions for judgment on pleadings, motions for summary judgment partial summary judgment, or motions for a judgment as a matter of law. While this would no doubt increase the filings generated for the operation of the court and efilng development it should be kept in mind that actual revenues may fall short of projections. The results of last year's filing in Sedgwick county are as follows:

1. FEES ASSESSED FROM MOTIONS FOR SUMMARY JUDGMENT.

The present filing fee for motions for summary judgment is \$195.00

From 1-1-13 thru 12-31-13, there were 358 motions for summary judgment filed. Had the fee been in place during this time it would have raised \$69,810.00 from Sedgwick County, constituting one of the largest if not the largest source of such filings from across the State.

Between 1-1-14 and 6-30-14 (the 6 months prior to last years session laws taking affect) we had 138 motions filed. As you can see the average filing rate during this time period dropped approximately 23%. Based on input I have received, some of this decline was the result of attorneys changing litigation strategy due to the new fees anticipated to begin in July of last year.

From 7-1-14 thru 12-30-14 (after the fee took affect), there were 93 motions filed resulting in a drop of approximately 53% in average filings over the second 6 months.

Anticipating the possibility that litigants or counsel might re-characterize a motion for summary judgment as a motion for declaratory judgment, judgment on the pleadings or partial judgment, (those pleadings now being considered in this bill,) court clerks were trained to identify any such questionable pleadings and to bring them to the attention of the civil assignment judge so that attorneys can be directed to re-file their pleadings and pay the filing fee as a motion for summary judgment. Likewise judges are also asked to review any pleadings that may have been missed by the clerks and send all such pleadings back for payment of appropriate fees regardless of how they were titled. The numbers referred to above then include all such pleadings.

It is apparent that there has been a significant reduction in the number of Motions for Summary Judgment an other such dispositive motions in Sedgwick County. I assume this would be representative across the State.

My point is that while I do support SB 15, it should be remembered that such fees constitute an unreliable source of funding and I continue to encourage you to give greater consideration to the use of state general funds for the funding of the judiciary as a branch of the government.

Thank you for your consideration.

James R. Fleetwood