

LegalMetric[®]

Effect of KSR on Summary
Judgment Decisions on
Obviousness

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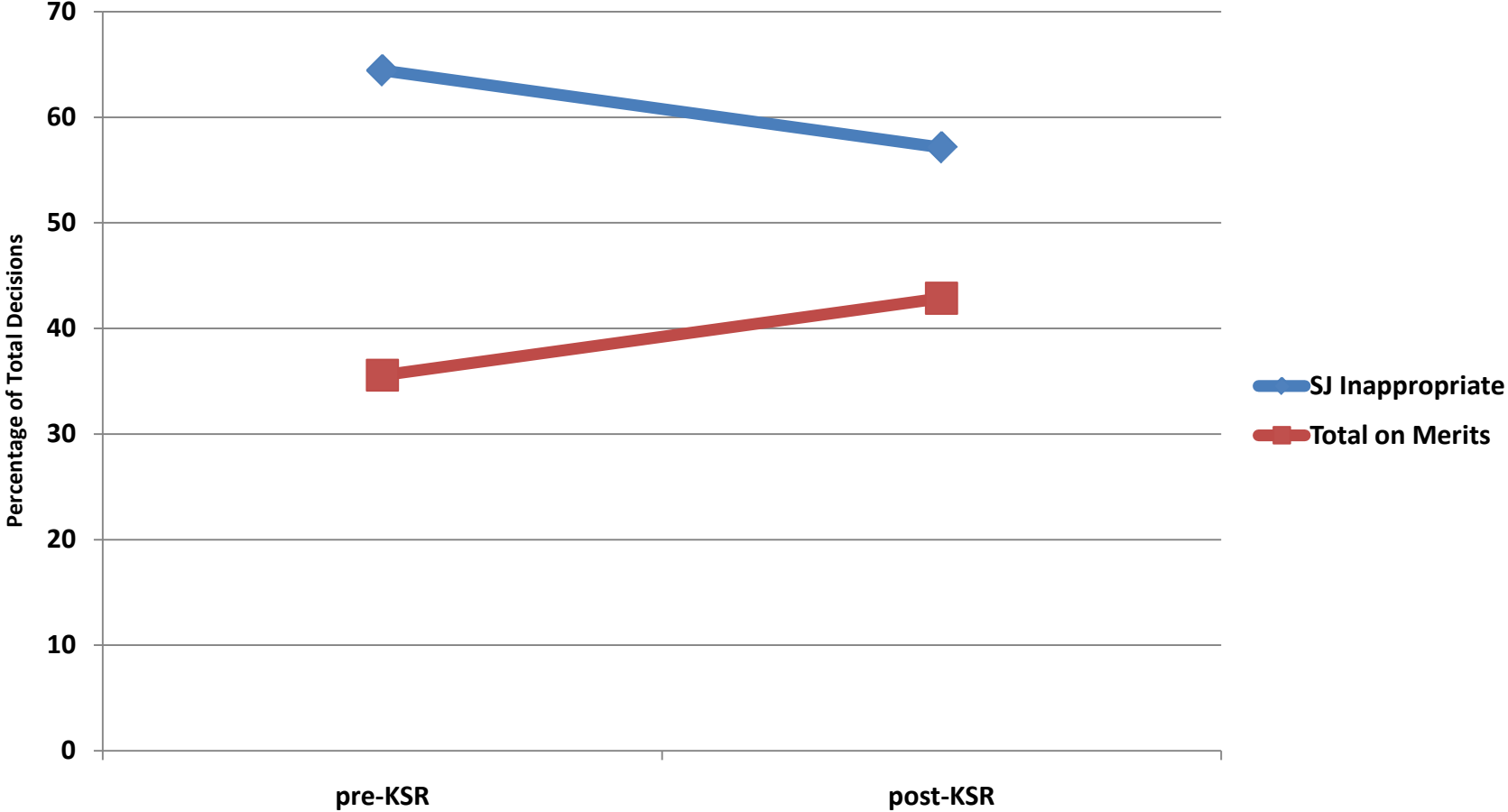
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Possible Effects of KSR

- Change in Percentage of Obviousness Summary Judgment Motions Decided on the Merits--Valid (Not Invalid) or Invalid as Opposed to Genuine Issue of Material Fact, Failure of Proof, etc.
- Change in Percentage of Motions Where One or More Claims is Held Valid (Not Invalid) or Invalid

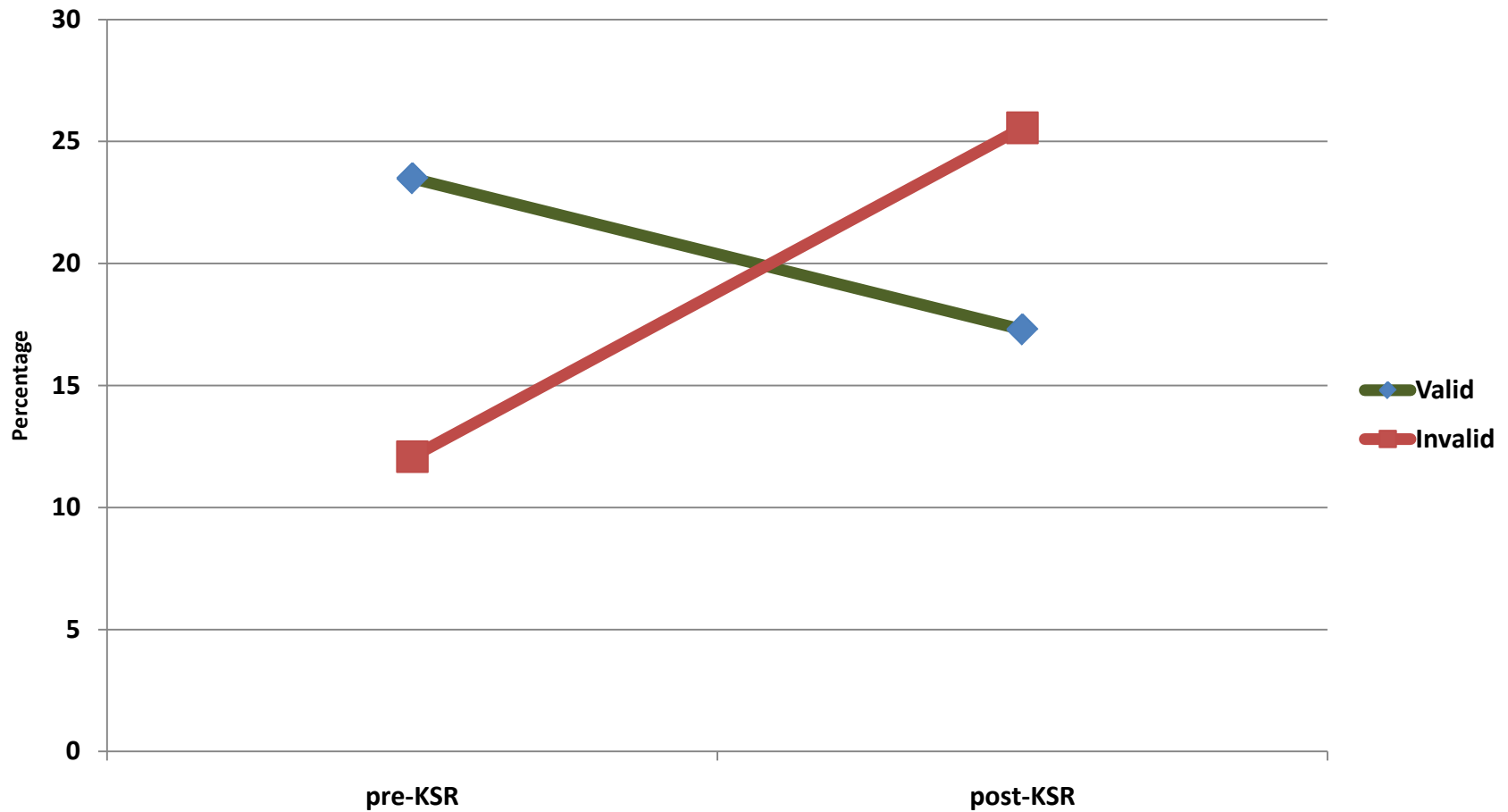
Percentage of Decisions Holding At Least One Claim Valid (Not Invalid) or Invalid



Percentage of Decisions Holding At Least One Claim Valid (Not Invalid) or Invalid

- The percentage of decisions deciding obviousness motions on the merits (valid or invalid) increased from 36% (pre-KSR) to 43% (post-KSR)
- The percentage of decisions not on the merits (genuine issue of material fact, etc.) decreased from 64% (pre-KSR) to 57% (post-KSR)

Valid (Not Invalid) v. Invalid Obviousness Rulings

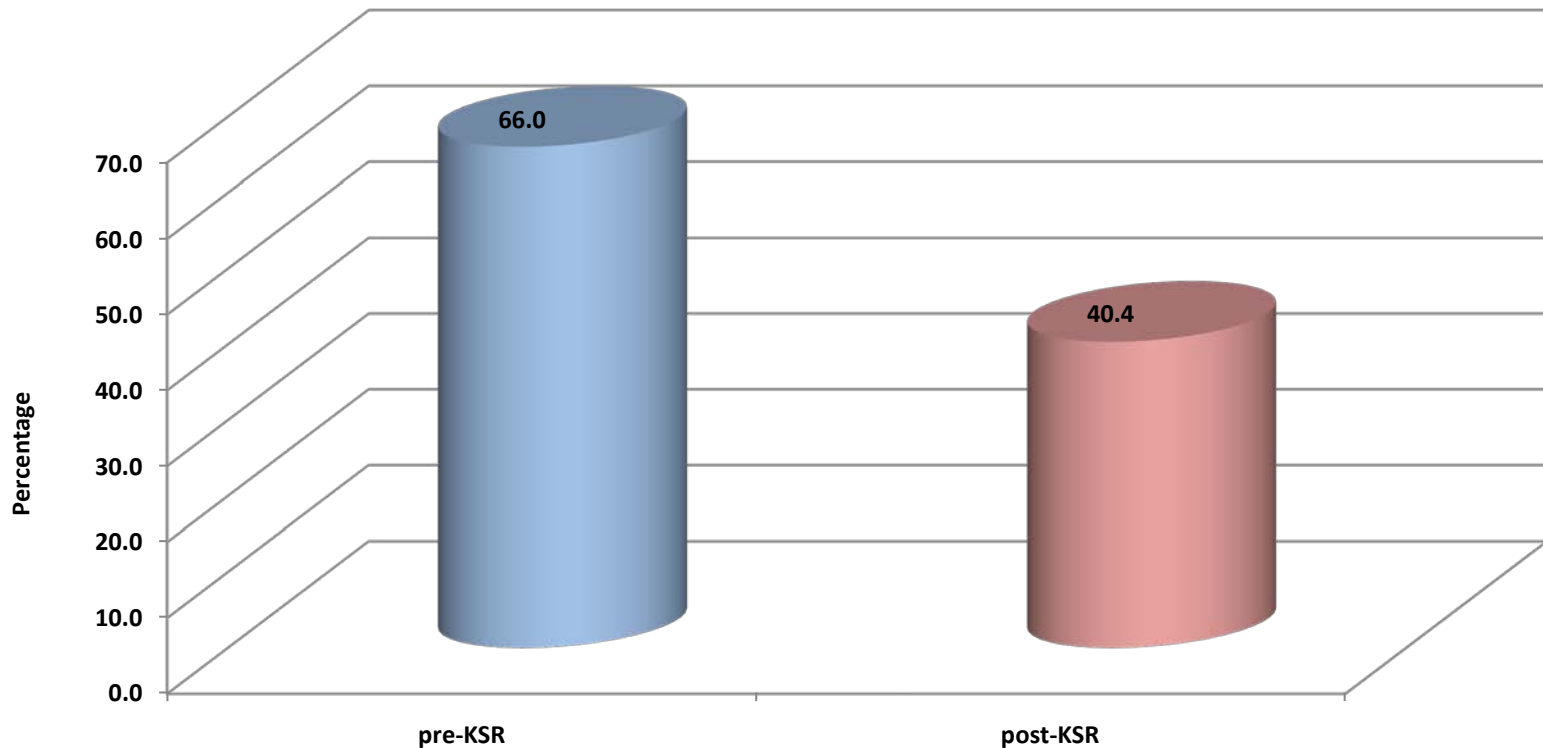


Valid (Not Invalid) v. Invalid Obviousness Rulings

- Validity Rulings (as a percentage of all obviousness summary judgment decisions) fell from 23% (pre-KSR) to 17% (post-KSR)
- Invalidity Rulings rose from 12% (pre-KSR) to 26% (post-KSR)

Valid (Not Invalid) v. Invalid Obviousness Rulings

Validity (Not Invalid) Summary Judgments as a Percentage of All
Summary Judgments Holding Claims Invalid or Not Invalid



Valid (Not Invalid) v. Invalid Obviousness Rulings

- The percentage of validity rulings as a fraction of all validity/invalidity rulings fell from 66% to 40%

Source

- Data Extracted from the Decisions in LegalMetric's Obviousness Decisions Library (2010)(over 270 decisions on obviousness from the district courts nationwide since 2004)