

March 13, 2012

8:00-9:00 Registration and Continental Breakfast

9:00-9:15 Administrative announcements and opening remarks by the Conference

Session 1: Commercial Litigation Finance in the United States—Status and Outlook
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9:15-10:30 Panel Discussion: **Commercial Litigation Finance—Business Models, Deal Structures and Underwriting Principles**

Third Party Litigation Finance is a relatively new phenomenon in the US having migrated from its origins in Australia and continued evolution in the UK. Major corporate plaintiffs and their law firms are now turning to commercial litigation funders as a way to offload litigation risk while shifting corporate resources. Litigation funding takes various forms from non-recourse financing secured solely by the claim to recourse law firm lending secured by the firm's assets inclusive of its claims. This panel of leading commercial litigation finance entities will share their current approaches to litigation funding, discuss existing funding models and opportunities for the development of new funding models, and reveal their growth predictions for this fairly nascent industry.

10:30-11:30 Panel Discussion: **Role of Loans and Lines of Credit for Law Firms in Today's Legal Economy**

The great recession hit the legal economy hard: many firms have had to look to outside sources of finance to maintain or expand their litigation and dispute resolution practices. This panel will explore the means that law firms can find financing to meet their capital demands, including providing liquidity for working capital or expenses, partial or full alternatives to contingency fee arrangements, and risk hedges. The panelists will discuss typical recourse/non-recourse loan arrangements to law firms, and potential future directions.

11:30-12:00 Networking break

Session 2: Practitioners' Perspectives on Using Third-party Finance

12:00-1:00 Panel Discussion: **Perspectives on the Utility of Third Party Financing in Today's Legal Economy**

Law firms are facing a perfect storm for litigation finance—clients are challenging the billable hour model, while high expenses coupled with

low revenues are limiting the budget for affirmative litigation. This panel will discuss the use of third party financing of commercial litigation by clients, and the potential use of outside finance by law firms to facilitate the ability to invest time/overhead without adding the risk and cash drain of funding the hard costs associated with litigation. They will also discuss what they might consider to be a credible profile for a third-party funder.

1:00-2:30 Group Luncheon

2:30-3:30 Panel Discussion: **Corporate Counsels' Perspectives on the Utility of Third Party Financing for Risk Mitigation and Legal Cost Containment**

A decrease in the amount of corporate funding available for patent enforcement and litigation claims has squeezed the ability of corporate counsels to protect their companies' interests. This panel will discuss the issues involved in using outside financing as a way of achieving greater cost efficiencies, lowering transaction costs and providing better predictability.

3:30-4:00 Networking Break

Session 3: Litigation Finance in the United States—Current and Potential Issues

4:00-5:00 Panel Discussion: **Perspectives on Ethical, Social, and Moral Issues in Financing Litigation**

This panel of legal experts and scholars will examine the use of litigation finance in the U.S. legal system, weighing its benefits such as increased access to justice and risk-sharing, with perceived risks of violating principles of champerty and maintenance, introducing conflicts of interest and confidentiality in the lawyer-client relationship, and its potential to encourage/ discourage settlements.

March 14, 2012

8:00-9:00 Continental Breakfast

Session 4: Litigation Finance as an Investment
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9:00-10:00 Panel Discussion: **Structuring an Investment Fund Investing in Litigation Finance**

- Certain commercial considerations for structuring a litigation finance fund: Private Equity Funds vs. Hedge Fund models:
 - Structuring a litigation finance fund in light of: maturity and liquidity of specific underlying asset and realism of managing liquidity for redemptions
 - Realistic and robust NAV calculations that satisfy both investment community and US GAAP
- Marketing considerations for structuring a litigation finance fund
 - Institutional vs. high net worth and retail style investors
- Investing international/offshore capital in litigation finance: strong tax challenges, and some solutions
- Treatment of litigation finance from the standpoint of US tax and the terms of investment vehicles to hold them

10:00-10:30 Networking Break

10:30-11:30 Panel Discussion: **Perspectives on Investing in Litigation and Legal Finance Companies**

This panel of funds, institutional investors and other potential investors will discuss the drivers for investing in litigation finance, including expected returns, assembling a portfolio, and risk assessment/risk mitigation.

Session 6: Litigation Finance in the US—Regulatory and Policy Considerations
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11:30-12:30 Panel Discussion: **Are Additional Protections and Policy Changes Needed—And Likely?**

Litigation finance has generated criticism from business groups and consumer advocates, who have called for policy changes that might have a chilling effect on investment. What functions might require additional regulation? Should such regulation be provided through financial services

regulation, legal services regulation, consumer protection regulation, or a combination thereof? And if regulation is increased in either commercial or consumer litigation finance or both, how can it be designed so that it accomplishes its specific purpose without engendering unanticipated consequences?