

The Promise and Perils of Third-Party
Litigation Funding

WHO'S DRIVING THE BUS?



THE ANTHONY M. KENNEDY
AMERICAN INN OF COURT

10/14/25 | TEAM 2 | 7:15 -8:30P

PROGRAM OVERVIEW

The funding of litigation by a third party who is not the client – also known as third-party (or non-party) litigation funding -- has been described as one of the “biggest and most influential trends in civil justice” by RAND, the New York Times, and others. It is also controversial. Some have raised concerns that third-party litigation funding fuels frivolous lawsuits or forces vulnerable clients to accept unfair deals. Others argue litigation funding is a dynamic new model for expanding access to justice. Regardless of where you stand, it is indisputable that litigation funding arrangements often lack transparency, creating the risk of unwelcome surprises for attorneys and clients alike. There is potential for conflicts between funder(s) and the party funded. And there is serious danger of breaching the attorney’s duties of confidentiality and loyalty.

Team 2’s presentation explores the ethical and practical issues and pitfalls that arise from third-party litigation funding. Using two scenarios – one from the world of corporate/employment law and another from the world of family law – we consider the way in which the funder’s demands on both attorney and client can suddenly and unexpectedly compromise the attorney’s duties to exercise independent professional judgment, zealously advocate for their client alone, and maintain their client’s confidentiality. The presentation also examines recent legislative proposals in this area.

CAST OF CHARACTERS

ACT I

Alex Hardwork.....Jennifer Hemmer

TP Fundworthy.....Bill Di Capo

Stephanie Steppenin.....Destiny Simpson

Chase DaJaub.....Michael Shepherd

Sal Ficksitt.....AJ Wipfler

Maxine LeVrage.....Katie Maxwell

ACT II

Jordan Pleadwell.....Michelle Albright

Casey Lender.....Crystal Vizina

Penny Lender.....Jennifer Holdener

ACT I: A FUNDING RELATIONSHIP IS BORN AND FRACTURED

SCENE 1: AN INITIAL PHONE CALL

SCENE 2: A ZOOM CALL SETS UP CHASE'S CASE

SCENE 3: A PRIVATE MEDIATION AND A MORE PRIVATE OFFER TO CHASE

SCENE 4: A PARTING OF THE WAYS

Moderation 1

ACT II: YOURS, MINE AND OURS

SCENE 1: THE PRE-HEARING STRATEGY

SCENE 2: AFTER THE CUSTODY HEARING

Moderation 2

Money, money, money, they're just money
In a funder's world
Money, money, money, can't speak bluntly
In a funder's world
Aha....
They won't listen to you
It is only the money
In a funder's world...



In a funder's world!

TEAM 2

- TEAM LEADER.....Hon. Rei Onishi
- EXCOM LIAISON.....Hon. Jaya Badiga
- SCRIPTWRITERS.....Bill Di Capo/ Jennifer Holdener
Michael Shepherd/ Weiru Wang
- MCLE APPLICATION.....AJ Wipfler
- SONGWRITERS.....Jennifer Hemmer/ Michael Shepherd
- MODERATION.....Hon. Rei Onishi/ Angelina Ray
- TECHNICAL GENIUSDestiny Simpson
- RESEARCH AND HANDOUTS.....Hon. Jaya Badiga/ Angelina Ray
- PLAYBILL..... Angelina Ray
- SUPPORT..... Weiru Wang / Katie Maxwell

Special Thanks:

Murphy Austin Adams Schoenfeld LLP - Michelle Albright and Crystal Vizina
for our weekly practice space