

2020 **WAW**



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ARBITRATION WEEK

**WAW**

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Monday, November 30th

## **Third-Party Funding: Developments, Pitfalls and Looking to the Future (4:00PM - 5:30PM)**

Presently, international arbitration is the preferred means of settlement of international commercial and investment disputes. As a result, third-party funding has become a multimillion-dollar industry, as it offers innovative ways to finance arbitrations and allows parties with limited funds or corporations that simply want to de-risk the investment in their own cases, to receive financing and ensure appropriate representation. Both private parties and sovereign clients, including State-owned companies, may seek funding for international commercial arbitrations and investment-contract arbitrations. In investment-treaty arbitrations, foreign investors are the primary candidates that seek third-party funding. With regard to financing the enforcement of awards, both private parties and State-owned companies have sought enforcing awards in their favor. As a result of their role in international arbitration and proceedings on enforcement of awards, private parties, sovereign States and State-owned companies may be seeking financing from third party funders.

This Panel will be a hands-on workshop for counsel for claimants and respondents, including counsel for private parties, States and State-owned companies, on how to navigate the waters of third-party funding. The panelists will explain the process involved in seeking financing for an international arbitration and enforcement of a favorable award. The Panel will discuss the practical steps that counsel and the client need to take concerning the information, memoranda and analysis on quantum that must be provided to the potential funder; as well as the traditional expectations of return—either a multiple of the investment made by the funder, or a percentage of the expected award—that exist in the industry. In addition, the Panel will also discuss how the process to receive funding for the enforcement of an award may differ from the funding of a full arbitration proceeding.

## Speakers

### Michael Kelley

Michael Kelley has more than 25 years of experience assisting U.S. and international companies and funds with all of their investment needs. He has supplemented his investment funds work as a transaction attorney and thought leader in the realm of litigation finance. He advises on the structuring and documentation of litigation finance transactions between and among funders, claimants, and law firms. He is also a frequent speaker at litigation finance conferences. He has been recognized this year by Lawdragon as one of the top 10 global advisors in litigation finance.



### Ty Ludbrook



Ty is Managing Director and Founder of Allegiance Capital. In his role, Ty leads the business, its deal sourcing and acts as the principal liaison between claimants and legal advisers. Prior to Allegiance Capital, Ty was Investment Officer of Tenor Capital, a leading arbitration fund headquartered in New York. In his role at Tenor, Ty was responsible for sourcing new claims, managing key stakeholders and leading the financial modeling side to the business.



## Speakers

### William C. Marra

Investment Manager at Validity Finance. A former law clerk at the United States Supreme Court, Will has been recognized as a Global Leader in Litigation Finance by Lawdragon. He has written and spoken widely on litigation funding, and his article The Shadows of Litigation Finance will be published by the Vanderbilt Law Review in Spring 2021.



### Michael Perich



Michael Perich is Vice President and Legal Counsel at Westfleet Advisors, a Chambers-ranked firm specialized in providing litigation finance advisory services. Michael uses his experience in negotiating and executing litigation finance agreements as both a lawyer and at two leading funders to help his clients navigate the litigation finance market. He frequently writes on litigation finance and has been recognized as one of the ten advisors in the Lawdragon Global 100 Leaders in Legal Finance.

## Moderator

### Timothy Feighery



Timothy Feighery is head of Washington DC International Arbitration and Dispute Resolution Practice at Arent Fox. Tim's practice focuses on international arbitration, international claims, and dispute resolution work, including the representation of sovereign states, investors, and private parties in international commercial transactions. Tim has been named to the ICSID Panel of Arbitrators and Conciliators, and the Institute for Energy Law's Energy Arbitration List.



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