



Today and Tomorrow Third Party Commercial Funding

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Presentation by Selvyn Seidel on May 22, 2012 of LEXIS NEXIS on Third Party Funding

Today

A. The Industry

1. Products

- 1) Retail v. Commercial
- 2) Financial Distress Claimants
- 3) Non Financial Distress Claimants
- 4) Defendants
- 5) Other

2. Service (with Capital and without)

3. Pricing and Returns

4. Countries

1) Common Law

- a) High Stakes Disputes
- b) Highly Developed Commercial Centers

Today (Continued)

- 2) Civil Law
 - a) A Few High Stakes Litigations
 - b) A Number of High Stakes Arbitrations
5. National Disputes
6. International Disputes
 - 1) Litigation
 - 2) Arbitration
7. International as to the Funding
8. Public v. Private
 - 1) The Claimant
 - 2) The Defendant
 - 3) The Funder

Today (Continued)

9. The Lawyer

- 1) Services
 - a) Enhance Value
 - b) Reduce Costs
- 2) Source of Claims
- 3) Ethical Duties
- 4) Duty to Know and to Tell

10. The Issues

- 1) Issues: Champerty, Control, Confidentiality, Conflicts, Class Actions, Capital, Ethics, Size of Return, Sham Claims, Transparency, Other
- 2) Issues as to Claimant
- 3) Issues as to Defendant

Today (Continued)

11. A Closer Look at “Control”
12. The Commercial and other Needs of the Sovereigns
 - 1) Commercial Competition
 - a) Encourage Disputes
 - b) Encourage Business
 - 2) The Catastrophic Economies and Their Fall Out
13. Rules, Regulations, Regulators
 - 1) Judges
 - 2) UK Code
 - 3) NYC Bar Association Opinion

Yesterday

A. Origins and Growth

1. From Australia to the UK to the US (and Some Others)
2. Products (Mainly for Financially Distressed Claimant)
3. Service: “Hands Off”
4. Mostly National Funding
5. Mostly Unknown Industry
6. Limited Information about Market and Industry
7. “Emerging”

B. The Transforming Year: 2011

1. More information
 - 1) Media
 - 2) Conferences
 - 3) Scholarly Articles

Yesterday (Continued)

- 4) Studies
- 5) Industry Publication of Some Data
- 2. Funders Entering Industry
- 3. Funders Expanding in Their Scope
- 4. Market Learning and Expanding
- 5. NY City Bar Association Opinion
- 6. UK Code
- 7. The Issues
 - 1) Changing in Kind and Number
- 8. Legislation

Tomorrow

- A. New and Varied Products
- B. New and Varied Service
- C. Much More Informed, and Expanded, Market
- D. Much More Informed, and Expanded, Industry
- E. Specialization and Combinations
- F. Priority on Capacity, Not Only Capital
- G. Newer Issues
- H. The Lawyer, More Informed, Less conflicted
- I. The Independent Industry Expert
- J. International Funding Expands
- K. International Arbitration Funding Expands
- L. Control, and Higher Industry and Market Requirements
- M. Funding of International Arbitration is among the Fastest Growth Areas

Tomorrow (Continued)

- N. The Economy Improves
- O. The Lawyers Evolve
 - 1. Price Efficiencies
 - 2. Alternative Pricing
 - 3. Law as an Integrated Profession
- P. The ABS
- Q. Rules, Regulations, and Regulators, Expanding
 - 1. Types of Rules and Regulations
 - 2. Litigation Governance, and Compliance
 - 3. Legislation Arrives
 - 4. Fiduciary or Good Faith Duties for the Funder? The Claimant? The Defendant?
- R. Over the Next Five Years, an Established and Constantly Growing Market, a Contributing but Slower Growing Industry, with an Expanding Gap between Demand and Supply

s. Reputation