

## A Show of Industry Strength at the IMN Litigation Finance Conference

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### Information Management Network

On Wednesday May 30th, funders, attorneys and investment professionals convened at the Union League Club in Manhattan for IMN's inaugural litigation finance conference. The standing-room only crowd illustrated the growing prominence of an industry that has rightfully come of age, and signaled to all in attendance that future litigation finance-focused events will soon be the norm.

The conference featured two keynote addresses – the first by William Strong, Chairman of [Longford Capital](#), and the second by Eric Blinderman, CEO of [Therium Inc.](#) – as well as eight panels hosted by prominent law firms and funders.



Andrew Langhoff, Founder of [Red Bridges Advisors](#), an industry advisory and brokerage service, led the initial discussion on 'The Fundamentals of Commercial Litigation Finance,' which covered a broad swathe of industry topics and concepts. One of the more intriguing takeaways from Langhoff's discussion revolved around the emergence of litigation finance for defense purposes. William Weisman, Investment Officer at Therium, highlighted an example of how such financing could be structured: Say a growth-stage firm is looking to initiate a new business line, but is hampered by pending litigation. A funder could finance the litigation and take a percentage of the new business line's revenue as collateral.

The utilization of litigation finance products for defense spending, the emerging secondaries market, and the growing percentage of cases that are being brought to funders (as opposed to those which funders have to actively pursue), are all harbingers of a fledgling industry that is slowly but surely (actually, rapidly but surely) being woven into the fabric of the American legal system.

Any nascent legal/financial instrument such as litigation finance will naturally engender questions, concerns, even outright confusion. Subsequent panels, led by key industry players such as Marcus Green and Daniel Saval of law firm [Kobre & Kim](#), Ed Truant of litigation finance fund-of-funds [Balmoral Wood](#), and Charles Agee of litigation finance advisory firm [Westfleet Advisors](#), addressed those very concerns head-on. Panel discussions ranged from 'Dispelling Myths and Misconceptions' to 'Structuring the Contract' to 'Regulatory and Ethical Concerns.'



The 'Legal Perspectives' panel – led by [Orrick](#) Senior Associate Allison Citron – perhaps dove deeper than any other, with a blow-by-blow account of the famous RenCo deal (famous in litigation finance circles, that is). Nicholas Kajon of [Stevens and Lee](#), who worked on the deal, and Lee Buchwald of [Buchwald Capital Advisors](#), who acted as MagCorp's trustee and sued billionaire Ira Rennert for looting MagCorp's trust, recounted the specifics of the deal, including fees and dollar amounts – all publicly available information – to illustrate exactly how a litigation funding deal is reached. Buchwald recalled meeting in Kajon's office subsequent to a federal jury's decision to award MagCorp trustees a \$118M verdict. RenCo announced plans to appeal, and Buchwald was faced with the decision of whether to settle with RenCo or continue the fight. The problem facing Buchwald was the dwindling funds in MagCorp's bank account – less than \$1M at the time. That's when the subject of litigation finance came up.

Buchwald and Kajon decided to test the market prior to the 2nd Circuit's hearing of oral arguments, because depending on how those arguments transpired, that could change the risk profile of the investment. After an hours-long meeting where a pair of funders sat in Kajon's office up-bidding and out-maneuvering one another, Buchwald settled on a Gerchen Keller bid to pay \$26.2M in exchange for a \$50M interest in the judgment. Six months later, the 2nd U.S. Circuit Court of Appeals affirmed a \$213 million judgment against Ira Rennert and RenCo, and Buchwald, Kajon, and Gerchen Keller all reaped huge rewards.

Buchwald credits litigation finance with providing a lifeline to MagCorp during a time of desperate need, and insists that – at the very least – consideration of the instrument is a fiduciary duty of any trustee or legal advisor acting in their client's best interest.

While the aforementioned yarn may be old news to those firmly entrenched in litigation funding circles, many lawyers and investment professionals were riveted by the details of the case and the complexities facing Buchwald and Kajon as they made their decision on whether to pursue funding, at what point in the appeal's life-cycle to do so, and how exactly they chose to negotiate with funders.

Sure, it was but a single anecdote – and as several panelists noted, this is a bespoke industry; no two funding contracts or partnerships are alike. That said, given litigation finance’s abrupt appearance on the global stage, detailed accounts such as these help shed light on what many in attendance were searching for: How a funding transaction actually takes place.

All-in-all, IMN’s conference brought together a broad array of funders, brokers, legal service providers, litigators, arbitrators and investors in a single location to learn and network and engage.



During the various networking breaks, I met an international human rights lawyer exploring the benefits of litigation funding, a Chinese Ph.D. student at an American University looking to increase awareness of third party funding in mainland China, and a well-known policy advisor for the Donald Trump presidential campaign who was... well... I’m not entirely sure what he was doing there. But he seemed to be heavily engaged.

Peter Gilfillan, Program Manager of IMN told me after the event that “IMN was pleased to host the first major gathering of the commercial litigation finance community, and as the industry continues to grow, we’re excited to be a place where all of the major players convene to learn, network and stay updated on what is sure to be an evolving industry landscape.”

Indeed, at the event’s conclusion, I found myself eagerly awaiting the next installment – and doubtless there will be more. We’re in maybe the top of the 2nd inning of the litigation finance ballgame, and already the industry is hitting homeruns.