Statement of the U.S. Chamber of Commerce Institute for Legal Reform

Before the United States House of Representatives
The Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet

"Foreign Abuse of U.S. Courts"

July 30, 2025

The U.S. Chamber of Commerce Institute for Legal Reform ("ILR") supports federal legislation that would increase the transparency of third-party litigation funding ("TPLF") usage.

As a program of the U.S. Chamber of Commerce (the "Chamber"), ILR's mission is to champion a fair legal system that promotes economic growth and opportunity. The Chamber is the world's largest business federation, representing the interests of millions of businesses of all sizes, sectors and regions, as well as state and local chambers and industry associations, and it is dedicated to promoting, protecting and defending America's free enterprise system.

TPLF is a rapidly growing business model in which non-parties invest in litigation by paying money to a plaintiff or his/her counsel in exchange for an interest in proceeds or fees flowing from the lawsuit. At present, virtually all TPLF activity in U.S. courts occurs in secrecy because there is no generally applicable statute or rule requiring disclosure.[1] Moreover, to the extent defendants seek this information through discovery, plaintiffs generally resist strenuously, and courts typically do not compel production of the requested information. Thus, the existence of TPLF in a particular civil action typically becomes known to the court and the parties only if there is compliance with a local rule or standing order requiring disclosure (or a public dispute emerges between the plaintiff and the funder).

Despite this secrecy, it is clear that the amount of litigation being funded by non-party investors has grown by leaps and bounds over the last decade. According to one industry report, during 2024, commercial litigation funders had $16.1 billion

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[1] *See* James Anderson, *Is Increased Transparency into Litigation Financing on the Horizon?*, National Law Review (Jan. 15, 2020), https://www.natlawreview.com/article/increased-transparency-litigation-financing-horizon.

in assets under management in the U.S.[2] An analysis by Texas A&M University shows that from 2015-2021, almost 25% of patent lawsuits in the U.S. were funded by third parties,[3] a commentator estimates that figure to be around 30%,[4] and a Government Accountability Office ("GAO") study suggests that the percentage could be significantly higher.[5]

Of greatest relevance to this hearing, the ubiquity of TPLF in our legal system has raised serious concerns about whether foreign actors are using this clandestine business model to invest in the U.S. civil justice system. Because of the lack of transparency, it is impossible to pinpoint the extent of such foreign investment. This type of funding is undoubtedly occurring, however, as sovereign wealth funds ("SWFs"), state-owned and operated investment funds, are becoming increasingly involved in TPLF.[6] For example, Burford Capital ("Burford"), one of the largest litigation funders, has entered into a long-term partnership with an undisclosed SWF.[7] And PurpleVine IP, a China-based company that touts itself as a

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[2] The Westfleet Insider, *2024 Litigation Finance Market Report*, at 3, https://www.westfleetadvisors.com/wp-content/uploads/2025/03/WestfleetInsider-2024-Litigation-Finance-Report.pdf. Presumably, this figure substantially understates the total current investment in U.S. litigation finance activity as it includes only transactions "between commercial entities in which the financier's repayment is contingent upon the outcome of one or more legal matters." *Id.* at 8. "Other forms of finance—including consumer litigation finance, law firm finance (including mass tort and personal injury firms), receivables factoring, and other legal finance in which repayment is not contingent on the outcome of legal matters—are excluded . . . ." *Id.*

[3] Joshua Landau, *IP Litigation Financing Protects Investors, Not Inventors*, Bloomberg Law (Oct. 31, 2022), https://news.bloomberglaw.com/us-law-week/ip-litigation-financing-protects-investors-not-inventors.

[4] Jonathan Stroud, *Third-Party Litigation Funding: Disclosure to Courts, Congress, and the Executive*, PatentlyO (Feb. 22, 2023), https://patentlyo.com/patent/2023/02/litigation-disclosure-executive.html#_ftn5.

[5] GAO, *Report to the Ranking Member, Subcommittee on Intellectual Property, Committee on the Judiciary, U.S. Senate – Intellectual Property: Information on Third-Party Funding of Patent Litigation*, GAO-25-107214, at 14 (Dec. 2024), https://www.gao.gov/assets/gao-25-107214.pdf.

[6] GAO, *Third-Party Litigation Financing: Market Characteristics, Data, and Trends*, GAO-23-105210, at 10 & n.24 (Dec. 2022), https://www.gao.gov/assets/gao-23-105210.pdf.

[7] *See* Press Release, Burford Capital, *Burford extends life of sovereign wealth fund arrangement and comments on fund management business* (May 26, 2022), https://www.burfordcapital.com/shareholders/announcements-container/burford-extends-life-of-sovereign-wealth-fund-arrangement-and-comments-on-fund-management-business/.

provider of "one-stop" patent solutions, has funded at least four patent cases in the U.S. against Samsung Electronics and a subsidiary.[8]

The possibility of foreign entities using TPLF in U.S. litigation as a tool to compromise American interests is exceedingly troubling. As the Center for Strategic and International Studies ("CSIS") has explained, "[t]he lack of transparency [around TPLF] . . . adds uncertainty to the kinds of entities accessing the legal system, potentially giving nefarious actors" the ability to manipulate litigation for improper, self-serving purposes.[9] In particular, CSIS has expressed concern about allowing foreign entities "undue exposure to sensitive information belonging to U.S. firms that is critical to national security."[10] A uniform TPLF disclosure law (either in the context of foreign-sourced funding or all types of TPLF) is essential to minimize these risks.

1) Potential National And Economic Security Risks Posed By TPLF

While TPLF usage poses multiple risks to the integrity of our civil justice system, one that has only recently begun to receive meaningful attention is whether TPLF threatens U.S. national and economic security. As Professor Maya Steinitz of the Boston University School of Law cautioned over a decade ago, foreign sources, such as SWFs like the China Investment Corporation, could file "suit against an American company in a sensitive industry such as military technology" and over the course of that litigation, receive "highly confidential documents containing proprietary information regarding sensitive technologies from the American defendant-corporation."[11] More recently, in 2023, Senator John Kennedy (R-LA) highlighted similar concerns in a letter to Chief Justice John Roberts and former

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[8] Emily R. Siegel, *China Firm Funds US Suits Amid Push to Disclose Foreign Ties*, Bloomberg Law (Nov. 6, 2023), https://news.bloomberglaw.com/business-and-practice/china-firm-funds-us-lawsuits-amid-push-to-disclose-foreign-ties.

[9] Thibault Denamiel, Matthew Schleich & William Alan Reinsch, *Is Third-Party Litigation Financing a National Security Problem?*, CSIS (Feb. 23, 2024), https://www.csis.org/analysis/third-party-litigation-financing-national-security-problem.

[10] *Id.*

[11] Maya Steinitz, *Whose Claim Is This Anyway? Third-Party Litigation Funding*, 95 Minn. L. Rev. 1268, 1270 (2011). Another early warning on this score came from an ILR publication: Michael E. Leiter, John H. Beisner, Jordan M. Schwartz & James E. Perry, *A New Threat: The National Security Risk of Third Party Litigation Funding*, ILR Briefly (Nov. 2022), https://instituteforlegalreform.com/wp-content/uploads/2022/11/TPLF-Briefly-Oct-2022-RBG-FINAL-1.pdf ("[A] foreign adversary could encourage and exploit commercial disputes involving U.S. companies to advance their national interests in a variety of ways.").

Attorney General Merrick Garland, warning that "by financing litigation in the United States against influential individuals, corporations, or highly sensitive sectors, a foreign actor can advance its strategic interests in the shadows since few disclosure requirements exist in jurisdictions across our country."[12] Senator Kennedy's expressed concerns are not limited to foreign-controlled litigation funders operating in the U.S., but also to ***indirect*** foreign financiers—that is, foreign entities (e.g., SWFs) that may funnel cash through U.S.-based litigation funders and thereby potentially exercise behind-the-scenes direction as to certain lawsuits.[13]

Several other prominent federal legislators have also voiced concerns regarding the risk of foreign influence exerted through litigation funding activity, including Senators John Cornyn (R-TX) and Thom Tillis (R-NC). In a July 11, 2024 letter to the Committee on Rules of Practice and Procedure of the U.S. Judicial Conference, those Senators warned that "[l]itigation funding is an available weapon for foreign investors to attack domestic businesses" and that "[f]oreign adversaries could use litigation funding mechanisms to weaken critical industries or obtain confidential materials."[14]

U.S. Senators Rick Scott (R-FL) and Marco Rubio (R-FL) (now U.S. Secretary of State) echoed these concerns in letters to the chief judges of Florida's federal district courts in November 2023. In those letters, they "highlight[ed] the dangers of foreign [TPLF] and the need for more transparency in the federal judiciary as it relates to this matter."[15] They explained that litigation funding can

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[12] Press Release, U.S. Senator John Kennedy, *Kennedy Urges Roberts, Garland to Take Action to Protect National Security From Foreign Actors Meddling in U.S. Courts* (Jan. 9, 2023), https://www.kennedy.senate.gov/public/press-releases?ID=1FBC312C-94B8-409B-B0A3-859A9F35B9F5; Letter from Senator John Kennedy to Honorable Merrick Garland & Honorable John Roberts (Jan. 6, 2023), https://www.kennedy.senate.gov/public/_cache/files/0/7/077acc52-6622-453b-b9a5-bbecd358e136/32C50A661400A5B670DC1D48B8D75E73.letter-to-ag-garland-cheif-justice-roberts.pdf.

[13] *See* Press Release, U.S. Senator John Kennedy, *Kennedy, Manchin Introduce Bipartisan Protecting Our Courts from Foreign Influence Act to End Overseas Meddling in U.S. Litigation* (Sept. 14, 2023), https://www.kennedy.senate.gov/public/2023/9/kennedy-manchin-introduce-bipartisan-protecting-our-courts-from-foreign-manipulation-act-to-end-overseas-meddling-in-u-s-litigation.

[14] Letter from Senators John Cornyn & Thom Tillis to H. Thomas Byron III (July 11, 2024), https://www.uscourts.gov/sites/default/files/24-cv-m_suggestion_from_senators_cornyn_tillis_-_rule_26_tplf.pdf.

[15] Press Release, U.S. Senator Marco Rubio, *Rubio, Scott Push for Transparency for Foreign Third Party Litigation Funding in U.S. Courts* (Nov. 3, 2023), https://web.archive.org/web/20250111011234/https://www.rubio.senate.gov/rubio-scott-push-for-transparency-for-foreign-third-party-litigation-funding-in-u-s-courts/.

originate from several foreign sources, including SWFs, and may influence both the nature and direction of a litigation through often undisclosed financial contributions. They further noted that the most concerning outcome would be that "these foreign funders have the potential to provide hostile foreign actors with sufficient sway to exert undisclosed influence on litigation moving through the federal judiciary."[16]

These concerns were discussed in a December 2023 report by the bipartisan House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party. In that report—*Reset, Prevent, Build: A Strategy to Win America's Economic Competition with the Chinese Communist Party*—the Select Committee recommended that Congress "[d]etermine, and then establish, what guardrails are needed" to prevent foreign entities from "obtaining sensitive IP [intellectual property] through funding third-party litigation in the United States."[17] The Select Committee also recommended "enhanced disclosures."[18]

Executive branch personnel at both state and federal levels have also voiced growing concern about the risks spawned by foreign-sourced financing of U.S. litigation. For example, in December 2022, fourteen state attorneys general submitted a letter to the U.S. Department of Justice, bemoaning the secrecy surrounding TPLF and questioning what former U.S. Attorney General Merrick Garland and other top officials were doing to ensure that the practice is not threatening U.S. national security interests.[19]

During a December 2023 speaking engagement, Evan Turgeon, the Chief of the Foreign Agents Registration Act ("FARA") Unit at the Department of Justice, addressed this important topic in detail.[20] Among other things, Mr. Turgeon discussed FARA's application to foreign-sourced funding of litigation in the U.S.

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16 *Id.*

17 House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party, *Reset, Prevent, Build: A Strategy to Win America's Economic Competition with the Chinese Communist Party*, at 21 (Dec. 12, 2023), https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/reset-prevent-build-scc-report.pdf.

18 *Id.*

19 *See generally* Letter from Honorable Christopher M. Carr (GA), Honorable Jason Miyares (VA) et al. to U.S. DOJ re: Threats Posed by Third-Party Litigation Funding (Dec. 22, 2022), https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2022/pr22-55-letter.pdf.

20 *See generally* Robert Kelner, Brian Smith & Alexandra Langton, *DOJ Officials' Remarks Signal New Trends In FARA Activity*, Law360 (Dec. 14, 2023), https://www.law360.com/articles/1776917/doj-officials-remarks-signal-new-trends-in-fara-activity.

And quite critically, he specifically identified three potential risks of "undisclosed and undiscoverable" foreign-sourced funding of U.S. litigation:

- Foreign entities doing business in the U.S. may seek to create a competitive advantage as compared to their U.S. competitors by tying up U.S. companies in lengthy and expensive court cases.

- Foreign funders of U.S. litigation may gain access to proprietary and sensitive commercial information through litigation discovery.

- Foreign adversaries may fund litigation on political issues that are divisive within the U.S. public.[21]

The second risk noted by Mr. Turgeon was echoed by several witnesses who testified at this hearing. In his written testimony, Prof. Jacques deLisle, who was invited by the minority Subcommittee members, observed that "the U.S.'s broad discovery rules" may be used "to gather information from persons and entities in the United States" and that "[t]his process for acquiring information can be abused in ways that include information that CCP or PRC authorities might use to serve their interests, or the interests of Chinese competitors of targeted U.S. (or other) parties (including concerning sensitive business information or intellectual property or companies' relations with the U.S. government)."[22] Moreover, Prof. Emily de la Bruyère noted in her written remarks that Beijing "[b]oth directly through litigation funds and indirectly through general government grants, subsidies, and investment" provides backing for "intellectual property (IP) lawsuits that, through discovery, give China access to valuable technology – and, on the flip side, with government funding for IP litigation defense that protects Chinese companies from facing consequences

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[21] *Id.*

[22] Testimony of Jacques deLisle, Stephen A. Cozen Professor of Law, Professor of Political Science, Director, Center for the Study of Contemporary China, University of Pennsylvania, before the Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet of the Committee on the Judiciary, at 5 (July 22, 2025), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/delisle-testimony.pdf. Prof. deLisle asserts that U.S. courts "have available to them the ordinary mechanisms of protective orders and the like to deny problematic discovery requests," *id.*, but he never explains how a court or opposing parties are supposed to know of the need to fully invoke and carefully craft such mechanisms if disclosure of the involvement of foreign governmental entities through TPLF activity is not required.

for their theft."[23] While the secrecy typically surrounding TPLF makes it impossible to ascertain the precise extent and objectives of foreign-sourced litigation funding in the United States, recent examples make clear that the influx of cash is creating precisely the sorts of national security concerns about which academics and public officials have warned. These examples also highlight that the threats posed by TPLF are not limited to so-called "countries of concern."

A lawsuit against ExxonMobil provides a recent example of how foreign interests can exploit the U.S. legal system to advance their own economic and political agendas through the use of TPLF. In *ExxonMobil*, an Australian billionaire and owner of Fortescue Energy allegedly used his nonprofit subsidiary, the Intergenerational Environment Justice Fund ("IEJF"), to fund litigation in the United States against ExxonMobil to benefit his rival business ventures. That case accused ExxonMobil of misleading the public about its plastics recycling initiatives. In response, ExxonMobil filed a countersuit in the U.S. District Court for the Eastern District of Texas against the parties to the initial action, alleging defamation, business disparagement, tortious interference, and civil conspiracy.[24] The countersuit alleges that the private domestic entities, whose lawsuits allegedly are funded and influenced by the IEJF, have engaged in a coordinated smear campaign against ExxonMobil to undermine its advanced recycling initiatives and harm its business reputation. It also accuses the IEJF, a subsidiary of the Australian billionaire's Minderoo Foundation, of orchestrating this campaign to serve his own business interests. According to the complaint, the IEJF hired the California law firm Cotchett, Pitre & McCarthy to sue ExxonMobil and to recruit U.S.-based environmental nonprofits to serve as the named plaintiffs in the case and thus act as proxies for its agenda. The complaint further alleges that in an advisory opinion, the DOJ FARA Unit concluded that the Cotchett firm was required to register as a foreign agent under FARA, an action that ultimately revealed the foreign influence and foreign funding behind the lawsuit. Notably, IEJF's involvement would not have been known but for the transparency resulting from the plaintiffs' law firm asking DOJ for an advisory opinion about whether they had to disclose their funding under FARA.

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[23] Testimony of Emily de la Bruyère, Senior Fellow, Foundation for Defense of Democracies, before the Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet of the Committee on the Judiciary, at 3 (July 22, 2025), https://docs.house.gov/meetings/JU/JU03/20250722/118511/HHRG-119-JU03-Wstate-deLaBruyreE-20250722.pdf.

[24] Complaint, *ExxonMobil Corp. v. Bonta*, No. 1:25-cv-00011, ECF No. 1 (E.D. Tex. filed Jan. 6, 2025), https://s3.amazonaws.com/jnswire/jns-media/09/bd/20843388/ExxonMobil_v_Bonta.pdf.

In this case, the IEJF's funding of the suit against ExxonMobil raises significant concerns about the motivations underlying the litigation. As ExxonMobil's complaint points out, the IEJF is closely tied to the Australia-based Fortescue Energy, a company that directly competes with ExxonMobil in the hydrogen energy market. By funding litigation that could harm ExxonMobil's business, the complaint alleges that IEJF is using the U.S. legal system as a tool for Fortescue Energy to gain a competitive advantage. In addition, this example highlights how foreign-sourced TPLF can have significant economic and national security implications. If successful, and as the complaint points out, the litigation against ExxonMobil could force the company to scale back its advanced recycling operations, disrupting supply chains, harming American workers, and increasing costs for American consumers. Moreover, the case could set a dangerous precedent for other foreign entities to use TPLF to target U.S. companies in strategic industries, such as energy and technology.

In another example, Purplevine IP Operating Co., Ltd. ("Purplevine"), a China-based firm that markets itself as a one-stop IP service provider, is financing at least four intellectual property lawsuits in U.S. courts against Samsung Electronics Co. and a related subsidiary.[25] Despite the absence of broadly applicable TPLF disclosure requirements, Purplevine's role in the Samsung litigation was involuntarily disclosed during litigation due to a particularized standing order that the judge overseeing the case—Chief Judge Colm Connolly of the U.S. District Court for the District of Delaware—had instituted, which required certain basic disclosures about TPLF usage.[26] That required disclosure, plus follow-up inquiries and facts that emerged at trial, revealed a tangled relationship between Purplevine and the patent claims at issue and suggested that Purplevine may have received and relied upon privileged, confidential and highly sensitive trade secret-type information from Samsung in bankrolling Staton Techiya, LLC's patent infringement claims against Samsung.[27] Although the patent technology at issue related to sound systems and thus did not directly implicate national security

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[25] Emily R. Siegel, *China Firm Funds US Suits Amid Push to Disclose Foreign Ties*, Bloomberg Law (Nov. 6, 2023), https://news.bloomberglaw.com/business-and-practice/china-firm-funds-us-lawsuits-amid-push-to-disclose-foreign-ties; https://www.purplevineip.com/en/.

[26] *See* Plaintiff's Statement Regarding Third-Party Litigation Funding Arrangements, *Staton Techiya, LLC v. Harman Int'l Indus., Inc.*, No. 1:23-cv-00801-JCG, ECF No. 7 (D. Del. filed Aug. 24, 2023).

[27] *See* Samsung's Motion for Leave to Amend Answer & Counterclaims to Join Purplevine & PV Law as Counterclaim Defendants at 5-6, 14-15, *Staton Techiya, LLC v. Samsung Elecs. Co.*, No. 2:23-cv-00319-JRG-RSP, ECF No. 65 (E.D. Tex. filed June 13, 2024).

concerns per se,[28] the alleged misappropriation of discovery and other confidential litigation materials in the case illustrates the kind of misconduct that could unfold when a foreign entity chooses to fund litigation involving sensitive technology (e.g., semiconductors) critical to U.S. national security. It further illustrates that the theft of intellectual property is not a hypothetical concern; it is a very real threat.

VLSI Technology LLC v. Intel Corp. is another example of foreign government-owned entities using TPLF to launch litigation against U.S. companies for possible competitive advantage.[29] The lawsuit involved complex patent disputes between Intel Corp. and VLSI Technology LLC that were filed in a variety of forums, including federal district courts, appeals courts, and an administrative tribunal.[30] Fortress Investment Group, a litigation funder owned by Mubadala, a UAE SWF, provided funding for the lawsuits against Intel. Notably, Mubadala also owns 82% of Global Foundries, one of Intel's main competitors. The most recent trial involving VLSI and Intel centered around the question of whether VLSI was an affiliate of Finjan Inc., another company controlled by Fortress, and whether Intel's 2012 patent license agreement with Finjan extended to cover VLSI's patents. Intel presented evidence that two of VLSI's three board members are Fortress employees, and the majority of Finjan's board members are also Fortress employees. A Texas jury found that Fortress controls both VLSI and Finjan, supporting Intel's position that the companies are affiliates. This verdict strengthens Intel's defense in the other pending litigations and could lead to the overturning of more than $3 billion in patent infringement verdicts previously awarded to VLSI, including a $949 million verdict from November 2022 and a $2.2 billion verdict from an earlier trial.

Finally, the *New York Post* recently reported that members of the international gang MS-13 have been working with Russian gangsters to orchestrate

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[28] *See generally* Complaint, *Staton Techiya, LLC v. Harman Int'l Indus., Inc.*, No. 1:23-cv-00801-JCG, ECF No. 1 (D. Del. filed July 25, 2023). An apparent relationship between Purplevine and Chinese consumer electronics giant TCL Corp. raises further questions about whether it or any other foreign actors are investing in U.S. litigation for questionable purposes—i.e., to undermine competitors, including in sensitive industries. *See* Emily R. Siegel, *China Firm Funds US Suits Amid Push to Disclose Foreign Ties*, Bloomberg Law (Nov. 6, 2023), https://news.bloomberglaw.com/business-and-practice/china-firm-funds-us-lawsuits-amid-push-to-disclose-foreign-ties.

[29] *VLSI Technology LLC v. Intel Corp.*, No. 1:19-cv-00977-ADA (W.D. Tex.).

[30] Lauren Castle, *Intel Convinces Jury Fortress Runs VLSI in $3 Billion Fight*, Bloomberg Law (May 29, 2025), https://news.bloomberglaw.com/ip-law/intel-convinces-jury-fortress-controls-vlsi-in-3-billion-fight.

fraudulent personal-injury lawsuits in U.S. courts.[31] According to that article, MS-13 members have been recruiting plaintiffs—often undocumented Hispanic migrants—to fake workplace injuries. Reportedly, some of these plaintiffs come to the United States for the sole purpose of serving as plaintiffs in these lawsuits. Those plaintiffs are then subjected to unnecessary surgeries performed by surgeons involved in the conspiracy, all to create damages and place settlement pressure on defendants. Russian gangsters are suspected of running litigation lending firms that finance those fraudulent lawsuits. The lawsuits have generated lucrative settlements, often over $1 million each, the bulk of which ends up in the hands of the MS-13 operatives and Russian gangsters, who presumably use those funds to advance various nefarious activities across the U.S. Such activity thus creates unprecedented and extraordinary threats to national security and the U.S. economy.[32]

In short, it is clear that foreign actors, including those with ties to regimes that are hostile to the United States, are using TPLF for various purposes that are adverse to multiple U.S. interests.

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[31] Brad Hamilton & Georgia Worrell, *MS-13, Russian Mobsters Use Migrants in Elaborate Injury Scam — Even Getting Spinal Surgery to Pull it Off*, N.Y. Post (June 16, 2024), https://nypost.com/2024/06/16/us-news/ms-13-russian-mobsters-use-migrants-in-elaborate-injury-scam-even-getting-spinal-surgery-to-pull-it-off-sources.

[32] Published reports also indicate that certain Russian billionaires with ties to Russian President Vladimir Putin have financed lawsuits through their investment firms in an effort to evade international sanctions. According to a Bloomberg Law investigation, a company named A1, a subsidiary of a Russian investment company called Alfa Group, has spent about $20 million in ongoing bankruptcy cases in New York and London on behalf of a Russian agency seeking to recover assets that were embezzled from a Moscow bank. In fact, after three A1 directors were sanctioned in the United Kingdom, the three sanctioned directors sold A1 for about $900 to another A1 director who had not been sanctioned. The director who purchased A1, Alexander Fain, admitted in a bankruptcy proceeding that he purchased A1 because of a "'complicated geopolitical situation' potentially affecting the litigation." Emily R. Siegel & John Holland, *Putin's Billionaires Dodge Sanctions by Financing Lawsuits*, Bloomberg Law (Mar. 28, 2024), https://news.bloomberglaw.com/litigation-finance/putins-billionaires-sidestep-sanctions-by-financing-lawsuits. The Bloomberg investigation led to questions in Congress, and then-Deputy Treasury Secretary Wally Adeyemo testified at a Senate hearing that careful scrutiny should be given to the use of litigation finance in the U.S. by foreign actors. Adeyemo noted that "[o]ne of the challenges we have . . . is that these Russian oligarchs have become quite expert at trying to avoid our sanctions . . . [a]nd from what I've seen, [TPLF] is one of the several ways they're trying to do that." Emily R. Siegel, *Russian Use of Litigation Finance Needs Scrutiny, Treasury Says*, Bloomberg Law (Apr. 10, 2024), https://news.bloomberglaw.com/business-and-practice/russian-use-of-litigation-finance-needs-scrutiny-treasury-says.

2) The General Need For Increased TPLF Transparency

As Prof. Julian Ku observed in his written testimony: "The opacity surrounding third-party litigation funding presents another critical vulnerability that foreign state actors can exploit to wage covert legal warfare against American interests."[33] Multiple federal district courts and individual judges are also recognizing the need to make this secretive practice more transparent. For example, the U.S. District Court for the District of New Jersey has adopted a local rule requiring disclosure of the identity of each investor in a litigation matter (name, address, place of formation), whether the investor's approval is necessary for litigation and settlement decisions, and a description of the nature of the financial interest.[34] And, as mentioned above, Chief Judge Colm Connolly of the U.S. District Court for the District of Delaware has adopted a standing order applicable to cases on his docket that largely mirrors the District of New Jersey's approach.[35] However, because Judge Connolly's order applies only to cases pending before him, a significant number of cases pending in the District of Delaware (including a bevy of patent cases) are unfortunately not subject to any TPLF-specific disclosure requirements.[36] Furthermore, some plaintiffs' counsel apparently are choosing not to file new patent cases in the Delaware federal court, presumably to avoid being

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[33] Testimony of Julian G. Ku, Maurice A. Deane Distinguished Professor of Constitutional Law, Hofstra University, before the Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet of the Committee on the Judiciary, at 6 (July 22, 2025), https://docs.house.gov/meetings/JU/JU03/20250722/118511/HHRG-119-JU03-Wstate-KuJ-20250722.pdf.

[34] *See* D.N.J. L. Civ. R. 7.1.1(a).

[35] *See* Standing Order Regarding Third-Party Litigation Funding Arrangements, https://www.ded.uscourts.gov/sites/ded/files/Standing%20Order%20Regarding%20Third-Party%20Litigation%20Funding.pdf.

[36] The Executive Branch has also recognized the importance of TPLF disclosure. For example, most recently, the chief of the DOJ FARA Unit, Evan Turgeon, highlighted the concerns regarding foreign investment in U.S. litigation. He also announced the DOJ's intention to scrutinize foreign litigation funding as well as the activities of SWFs that promote the political or policy goals of foreign governments. *See FARA Officials Preview Major Regulatory Changes and Identify New Areas of Focus*, Lexology (Dec. 6, 2023), https://www.lexology.com/library/detail.aspx?g=06449b32-a4ab-45d1-b623-6c9f157db21c. Similarly, the Securities and Exchange Commission adopted a rule requiring private equity firms to disclose the percentage of their capital targeted for litigation funding. *See* Andrew Ramonas, *SEC Tells Private Equity Firms to Report on Litigation Finance*, Bloomberg Law (May 3, 2023), https://news.bloomberglaw.com/esg/sec-tells-private-equity-firms-to-report-on-litigation-finance.

subject to the disclosure requirements required by Judge Connolly's order in cases assigned to him.[37]

An increasing number of states are also enacting laws that require disclosure of TPLF agreements in actions filed in their respective state courts. For example, in 2023, Montana enacted a TPLF law that requires disclosure of all TPLF agreements in civil cases, requires TPLF companies to register with the Secretary of State, prohibits usury fees, and limits the funders' share of a plaintiff's recovery.[38] West Virginia and Wisconsin likewise mandate automatic disclosure of TPLF agreements in all civil cases.[39] Indiana enacted a law that dictates the disclosure of TPLF usage, prohibits funders from accessing proprietary data, and bans them from influencing or controlling lawsuits.[40] In 2025, Georgia passed legislation that requires the funder to register, restricts the influence of the funder in actions where the funder provided funding and makes any litigation financing agreements discoverable in the underlying lawsuit.[41]

While these examples of disclosure requirements reflect a growing recognition of the importance of TPLF transparency, they are inadequate to address this national problem. As pointed out in a December 2022 GAO Report, "[t]here is no nationwide requirement to disclose litigation funding agreements to courts or opposing parties in U.S. federal litigation."[42] And to the extent individual federal courts or judges have required some form of disclosure, they have taken widely divergent approaches.[43] In particular, courts differ on who must disclose a financial interest, who is entitled to access the disclosed information, what details must be disclosed, and in what kinds of cases disclosure is mandated.

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37 Emily R. Siegel, *Disclosure Order Targeting Funders Stunts Delaware Patent Suits,* Bloomberg Law (Dec. 6, 2024), https://news.bloomberglaw.com/business-and-practice/disclosure-order-targeting-funders-stunts-delaware-patent-suits (noting that Delaware federal court patent "[f]ilings fell 41% in the two-year period after [Judge Connolly] issued his standing order").

38 Mont. Code Ann. § 31-4-108.

39 W. Va. Code Ann. § 46A-6N-6; Wis. Stat. Ann. § 804.01(2)(bg).

40 Ind. Code Ann. § 24-12-3-1.

41 Ga. S.B. 69 (effective Jan. 1, 2026).

42 GAO, *Third-Party Litigation Financing: Market Characteristics, Data, and Trends*, GAO-23-105210, at 26 (Dec. 2022), https://www.gao.gov/assets/gao-23-105210.pdf.

43 *See id.*

For these reasons, two pending House bills that would establish standardized federal court disclosure requirements should be considered and advanced promptly. The first is the Protecting Our Courts from Foreign Manipulation Act of 2025 ("POCFMA"), H.R. 2675, which was introduced by Rep. Ben Cline (R-VA) to combat foreign interference in the U.S. legal system. This legislation would require disclosure of any foreign persons or entities funding litigation in the United States, prohibit SWFs and foreign governments from funding U.S. litigation, and require the DOJ to submit to Congress an annual report on the scope of foreign TPLF in the federal courts.

The second bill is H.R. 1109, the Litigation Transparency Act of 2025 (the "LTA"), which has been introduced by Rep. Darrell Issa (R-CA). That bill would require certain types of third-party litigation funding agreements to be disclosed and produced in federal civil litigation.

Together, these bills would take crucial steps towards ensuring the integrity of our civil justice system and mitigating the potential national and economic security risks posed by TPLF. Indeed, in the absence of such legislation, there remains a real risk that foreign competitors (indeed, potential adversaries) may be trying to use U.S. courts to undermine U.S. national or economic security.

At the outset of this hearing, Ranking Member Hank Johnson (D-GA) expressed in his prepared statement concerns about TPLF disclosure requirements, suggesting that they would hinder the filing of lawsuits because "[y]ou can only file a case if you disclose all of the funders to your cause."[44] But neither bill would have such effects. POCFMA focuses exclusively on ***foreign*** funders and investors who may be seeking to improperly manipulate the U.S. litigation system. And the LTA requires disclosure of only certain types of litigation funding arrangements (not "all of the funders of your cause"). Rep. Johnson does not explain how mere disclosure of ***certain*** types of outside litigation funding would hinder ***all*** access to financial support.[45]

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[44] Opening Statement of Ranking Member Hank Johnson, Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet, Hearing on "Foreign Abuse of U.S. Courts" (July 22, 2025), https://democrats-judiciary.house.gov/media-center/press-releases/subcommittee-ranking-member-johnson-s-opening-statement-at-hearing-on-safeguarding-america-s-justice-system.

[45] Rep. Johnson also submitted for the record two purportedly relevant articles, but because they are outdated, they do not meaningfully contribute to the discussion. In the first, a commentator, writing in mid-2023, asserts that "[t]hose raising the alarm" about efforts by foreign entities to use TPLF to manipulate the U.S. litigation system "acknowledge a dearth of hard evidence of any such effort." Andrew Strickler, *A 'Boogeyman' National Security Threat in Litigation Funding*, Law360

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In sum, the funding arrangements that have become public demonstrate that foreign-sourced TPLF has the potential to undermine national and economic security. The only way to know whether a particular litigation funding arrangement is raising any of these serious concerns is for the existence and terms of the agreement to be disclosed to all parties and to the court. Because a uniform federal TPLF disclosure law would do just that, ILR urges that such legislation be enacted as soon as possible.

We appreciate the Subcommittee holding this hearing on such an important topic.

(July 21, 2023), https://www.congress.gov/118/meeting/house/116346/documents/HHRG-118-GO00-20230913-SD008.pdf. Of course, as outlined above, there is ample evidence of such activity. In the second article, a practitioner, also writing in mid-2023, contends that concerns about foreign entity access to sensitive materials produced in litigation is unfounded, asserting an unawareness of any instance in which a "litigation funder [has] even inadvertently [gained] access to such material." Adam Mortara, *Litigation Finance Doesn't Pose a Security Risk: Legal Insight*, Bloomberg Law (May 3, 2023), https://docs.house.gov/meetings/JU/JU03/20250722/118511/HHRG-119-JU03-20250722-SD001.pdf. That would not be surprising since such access would have been secured surreptitiously, given the absence of any disclosure requirements. Moreover, as detailed above, evidence of such improper access now exists.