

FROM THE COURTS

As Litigation Funding Expands, Arbiters Push for More Disclosure

by Alaina Lancaster

Litigation funding and arbitration are colliding on the international stage as the litigation finance industry comes of age.

"There's been an expansion of market entrants that are providing litigation funding," said Teddy Baldwin, a partner at Steptoe & Johnson in Washington, D.C. "When I first started working with litigation funders 12 years ago, there was a very small number of companies doing this, particularly in arbitration. Now, that number is growing constantly."

As litigation funding grows deeper roots into arbitration, lawyers are seeing new trends cropping up in the alternative dispute resolution space.

1. MORE PRODUCTS HIT THE LIT FUNDING MARKET

In the past, law firms would give litigation funders a budget for a particular amount of costs and fees, and then the funders would charge some multiple of that to the client upon a successful reward.

"Now because there are so many additional entrants, litigation funders are becoming more specialized in their product offering," said Baldwin, an expert on international and investor-state arbitration.

Some funders may just take a certain percentage of an award instead, Baldwin said. He's also seen hybrid models, where law firms pay an amount to the funder up front and then another percentage contingency amount for awards that go above that amount. There's also insurance law firms can purchase from funders for an adverse cost award.

2. WIDESPREAD DISCLOSURES

It's not just judges who are getting more curious about lit funding. Arbitrators are also increasingly asking for information on funding.

"A number of arbitral institutions are now changing or looking at changing their disclosure rules," said Lisa Richman, a partner at McDermott Will & Emery in Washington, D.C., and an international dispute resolution specialist. Richman said cross-border arbitration is an area that's seen an explosion of litigation funding activity.

In response, Hong Kong International Arbitration Center now has disclosure requirements. The Milan Chamber of Arbitration has also changed its disclosure rules, and one of the most prominent investment arbitration institutions, The International Centre for Settlement of Investment Disputes, an affiliate of the World Bank Group, is revising its rules and considering disclosures.

For the most part, the fact that someone is funding litigation, and who that funder is, are the most common disclosures, Richman said. "In arbitration one of the big issues is having an arbitral



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tribunal that is independent and impartial," she said. "The thinking behind it has been how would an arbitrator necessarily know that there is this third party that is in a way involved and funding one of the parties."

3. DEEPER LAW FIRM TIES

As the litigation funding industry evolves, lawyers and funders are becoming more entangled. Funders are developing portfolios where they team up with law firms and agree to be the first place a firm goes for potential funding, Baldwin said.

When law firms enter a portfolio agreement, they have a better chance of getting funded because of that relationship. Funders often also have a set time period to consider portfolio cases. In return, the funder is able to spread out the risk across many different cases.

One of the biggest developments Baldwin sees is that law firms are becoming partners with litigation funders.

"The law firms take some degree of the risk as well, instead of the funders taking 100% of the risk," he said. "It puts all the parties in a similar place with respect to risk and aligns their interest."

Funders are also bringing more lawyers in-house because they have a better position to evaluate potential cases to invest in, Richman said.

"Ten years ago, when I was advising clients on this, we were having to do a lot more of the legwork in helping funders with their due diligence," she said. "Having brought on those skilled practitioners, a number of funders now are able to run that due diligence in house, which I think has led to greater efficiencies and a more thoughtful conversation."

Alaina Lancaster, based in San Francisco, covers disruptive trends and technologies shaping the future of law. She authors the weekly legal futurist newsletter What's Next. Contact her at alancaster@alm.com. On Twitter: @a_lancaster3



CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **Zoning Workshop** on **Thursday, June 27, 2019 at 6:00 PM**. This meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53 Terrace, Doral, FL 33166** to consider the following public hearing application:

HEARING NO.: 19-6-DOR-09

APPLICANT: Flightway Ten, LLC (the "Applicant")

PROJECT NAME: Flightway Ten, LLC

PROJECT OWNER: Flightway Ten, LLC

LOCATION: The property is located at 6175 NW 102 Avenue, Doral FL, 33178

FOLIO NUMBER: 35-3017-001-0610

SIZE OF PROPERTY: 4.73± Acres

PRESENT LAND USE: Industrial

PRESENT ZONING: Industrial Commercial (IC) District

REQUEST: The Applicant is proposing to develop a vacant property into three retail buildings with one (3)-story office building and a (3)-story parking garage. The total development will consist of 16,120 square feet of retail, and 91,710 square feet of office.

LEGAL DESCRIPTION: The West ½ of Tract 60, of "Florida Fruit Lands Company's Subdivision No. 1", according to the Plat thereof as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida; said property situated in Section 17, Township 53 South, Range 40 East, Miami-Dade County, Florida.

Location Map



ZONING WORKSHOP PROCESS: The zoning workshop consists of two sessions:

1. **First Session.** The first session of a zoning workshop shall provide a forum for members of the public to learn about proposed developments within the city. Developments may be presented to the public simultaneously, in several locations within the meeting site. During this session, members of the public are encouraged to ask questions and to provide feedback to the applicant about the proposed development. The applicant shall provide visual depictions, such as renderings, drawings, pictures, and the location of the proposed development. In addition, representatives of the applicant shall be available to answer questions that members of the public may have about the proposed development. The members of the City Council shall not be present during the first session of the zoning workshop. No meeting shall start before 6:00 PM Eastern Standard Time and shall take place at a time and date to maximize public participation.

2. **Second Session.** The second session of a zoning workshop shall provide a forum for the City Council to learn about the proposed developments discussed at the first session of the zoning workshop. No quorum requirement shall apply. Developments shall be presented by the applicants sequentially, one at a time, for the City Council's review and comment. The applicant shall again present visual depictions of the proposed development. In addition, the applicant shall be available to answer any questions that members of the City Council may have about the proposed development.

No quorum requirement shall apply nor will any vote on any project be taken, but roll call will be taken, as it is a publicly noticed meeting.

Information relating to this request is on file and may be examined in the City of Doral, Planning and Zoning Department located at **8401 NW 53rd Terrace, Doral, FL 33166**. All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Clerk, **8401 NW 53rd Terrace, Doral, FL 33166**. Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Any persons wishing to speak at a public hearing should register with the City Clerk prior to that item being heard. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes If a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide translation services during the zoning application process or during any quasi-judicial proceeding.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento o durante el proceso de solicitudes de zonificación.

Connie Diaz, MMC
City Clerk
City of Doral

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