

Testimony of Jack Kelly
American Legal Funding Association
On
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House Committee on Judiciary,
3/24/2022

Chairman Craven and members of the House Judiciary Committee, thank you for allowing me to address the committee. I am Jack Kelly and I am the Managing Director of the American Legal Finance Association (ALFA)

By way of introduction, ALFA is a trade association consisting of 32 of the nation's leading consumer legal funding companies that do business throughout the United States. One of ALFA's first actions was establishing industry standards for the Consumer Legal Funding industry. The cornerstone of these best practices is transactional transparency and transparent disclosure to consumers. As a result, all ALFA members ascribe to the ALFA Best Practices.

It is critical for the committee to know that ALFA members do not provide funds to individuals for any costs, fees, or expenses related to the prosecution of litigation. Therefore, a plaintiff can solely use the funds provided by ALFA member companies for their personal life needs like rent, food, or other such expenses.

ALFA Best Practices include:

- Prohibiting any of the funds being used for the costs of the litigation or attorney fees

- Prohibiting the funding company from being involved in any decisions relating to the litigation
- Prohibiting funding companies from paying any referral fees
- Prohibiting funding companies using false or misleading advertising, and
- Requiring attorney acknowledgment of all fundings.

ALFA shares the same interest as you in protecting consumers who need funds to pay for their bills, buy food or any other day to day need while involved in pending litigation. It is important that legislation acts to protect consumers, and allow litigation funding companies to continue to provide these services.

ALFA too desires to establish laws to protect consumers and welcomes working with you to address your concern. ALFA has led the charge in helping adopt sound consumer protections law in numerous states, including Indiana, Oklahoma, Utah, Nevada, Tennessee, Vermont, Ohio, Maine, and Nebraska.

So, what issues do we currently have with this legislation? It's simple. This bill if passed would categorize litigation funding contracts as loans and subject them to the same regulations. These funding transactions are not loans because unlike loans they do not have an absolute requirement of repayment. In the case of these transactions, they are only repaid if the victim receives funds as a result of their claim

The financial risk is entirely on the funding company. 12 to 20% result in no recovery or settle for substantially less than expected. If the plaintiff loses their case, the consumer owes nothing, and the legal funding company loses its money. If the case settles for substantially less than expected, adjustments

are made to the obligation. A consumer cannot be required to pay back more than they receive in their case. Thus, consumer legal funding is a nonrecourse funding transaction and not a loan.

If this committee seeks true consumer protection, we encourage you to consider the laws adopted in Oklahoma, Utah and Vermont. As written, this legislation would effectively eliminate the ability of Rhode Island consumers to access this crucial life line. ALFA and our members stand ready to work with the committee to adopt true consumer protection legislation that allows for this option to be available when needed.

Consumer legal funding provides consumers with a lifeline when they have nowhere else to turn. It enables a plaintiff to obtain the settlement they deserve and not be forced to accept an unfair offer. If you have questions or concerns about this industry, the ALFA members and I stand ready to work with you to address those concerns.