Bob Goodlatte Answers to Questions for the Record

House Judiciary Committee, Subcommittee on Courts, Intellectual Property, and the Internet, Hearing on "*The U.S. Intellectual Property System and the Impact of Litigation by Third-Party Investors and Foreign Entities*"

June 12, 2024

Questions from Chairman Issa:

1) What is portfolio litigation funding, how does it differ from single-case funding (including as an investment), and what effect does it have on the types and strength of lawsuits filed?

Answer: Portfolio litigation funding involves financing a group of cases rather than a single lawsuit. This approach spreads the financial risk across multiple cases, making it more attractive to investors who seek to mitigate the risk of any single case filing. Unlike single-case funding, where the investment is tied to the outcome of one lawsuit, portfolio funding allows funders to balance losses in some cases with gains in others. This can lead to an increase in the number of lawsuits filed, including those with weaker merits, as the diversified risk encourages funders to support a broader range of cases. It also can prolong litigation, increase frivolous litigation, and disincentivize settlements, further straining judicial resources.[1] According to Westfleet Advisors, a financial consulting firm for the litigation funding industry, 66% of new litigation funding capital commitments is being directed toward portfolio funding arrangements and the average portfolio deal size was $9.9 million in 2023 versus $4.8 million for single-matter deals.[2]

2) How could a plaintiff losing strategic control over a lawsuit as a consequence of a third-party funder's influence potentially change the course of litigation and impact the court system?

Answer: When a plaintiff loses strategic control due to the influence of a third-party funder, the litigation strategy may shift to prioritize the funder's financial interests over the plaintiff's objectives. Funders may push for aggressive litigation tactics, higher settlement demands, or prolonged litigation to maximize their return on investment. This can lead to increased legal costs, longer case durations, and potentially higher damages awards. Such dynamics can burden the court system with more complex and contentious cases, reduce the likelihood of early settlements, and undermine the fairness and efficiency of judicial proceedings.

[1] *See* U.S. Chamber of Commerce Institute for Legal Reform, "What You Need to Know about Third Party Litigation Funding," https://instituteforlegalreform.com/what-you-need-to-know-about-third-party-litigation-funding/.

[2] Westfleet Advisors, "The Westfleet Insider: 2023 Litigation Finance Market Report," https://www.westfleetadvisors.com/wp-content/uploads/2024/03/WestfleetInsider2023-Litigation-Finance-Market-Report.pdf.

We have seen exactly that happen when food service company Sysco entered into an agreement with Burford Capital to fund a series of antitrust lawsuits against Sysco's meat suppliers. Sysco clearly had a different approach to the cases than its funder, Burford. Sysco has an ongoing business relationship with the defendant companies supplying beef, pork and poultry to meet the needs of Sysco's customers. Settling the cases reasonably and moving forward with the ongoing business relationships was a strategic priority. That was obviously not the interest of Burford which sought to maximize the profits on its litigation investment which in antitrust cases could include treble damages. Burford's amended funding agreement with Sysco prohibited Sysco from settling its own cases without Burford's approval. When Sysco tried to settle its litigation, Burford obtained an order in arbitration preventing it from doing so. Burford then sought to substitute itself for Sysco in these matters, being allowed to do so in one case but being denied the ability to do so in another. The federal judge in the latter case denied Burford's motion, saying its "conduct is precisely the kind of conduct of which courts are wary."[3]

Contrast this with what Burford publicly states it does. In a December 2022 segment of 60 Minutes the CEO of Burford stated that "clients are free to run their litigation as they see fit. They work with their lawyers and we don't interfere with that relationship. It's not uncommon for the client to seek our advice. But it is advice and the client is free to disregard it." That clearly was not the case with Burford's amended agreement with Sysco.

All of this points to the need for greater transparency in third party litigation funding (TPLF) lawsuits. The agreement between the funder and the plaintiff should be disclosed to the court and to the other parties to the lawsuit much like insurance policies which are subject to mandatory discovery by the plaintiff under Federal Rule of Civil Procedure 26 and its state-level corollaries. There are longstanding public policy reasons why courts and the attorneys who are officers of the court should have information about coverage limits, obligations of the insurer to defend litigation and other information useful to the court and the parties to promote settlement. Similar information is available in TPLF agreements and disclosure would help promote settlement and the fair and efficient administration of justice by our often-overburdened judges and courts.

While TPLF agreements are almost always secret, the problems to our civil justice system posed by this secretive industry broke out into the open when Sysco and Burford sued each other. The result of this dispute and its considerable follow-on litigation has not been the efficient use of our legal system due to the secrecy that shielded an underlying complication for our courts in that there were in effect two different plaintiffs with very different motives, goals and strategies.

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[3] *See* Mike Scarcella, "US Judges Split Over Litigation Funder Burford's Role in Sysco Cases," Reuters, June 4, 2024, https://www.reuters.com/legal/litigation/us-judges-split-over-litigation-funder-burfords-role-sysco-cases-2024-06-04/.

3) How does the typical secrecy of third-party litigation funding agreements contribute to the goals and activities of patent-assertion entities?

Answer: The secrecy surrounding TPLF agreements allows patent-assertion entities (PAEs), to operate without disclosing their financial backers. This lack of transparency can obscure potential conflicts of interest and strategic motivations behind the litigation. PAEs can leverage TPLF to finance extensive litigation campaigns against multiple defendants, aiming to extract settlements rather than resolve legitimate patent disputes. The hidden involvement of funders can also complicate defendants' ability to assess the true nature of the litigation and negotiate settlements, potentially leading to more aggressive and prolonged legal battles.

The concern discussed in the answer to question (2) is also evident in patent litigation where entities that have neither invented anything nor manufactured a product buy weak patents and then set out to try to obtain payments from businesses accused of violating the alleged patent rights. If the PAEs, also known as trolls, have secret litigation funding agreements, they can roll the dice and bring very expensive lawsuits where the likelihood of ultimate success is very low but the jackpot on those few cases that succeed can be extraordinarily high. This manner of gambling in our nation's court comes at a very high cost not only to the businesses large and small that are dragged into these suits but also to the courts themselves that are already overburdened. Our judiciary is being quietly, secretly and steadily transformed by investors who do not follow the rules of ethics that lawyers must but are using the courts as vehicles for investment and are negatively impacting the ability of courts to fairly and efficiently administer justice.

4) Who are some of the biggest players in this space, and what do we know about their goals with litigation funding?

Answer: According to rankings from Chambers Litigation Support and Legal 500, the top five dedicated litigation funders are recognized for their exclusive focus on litigation finance. These rankings consider factors such as the availability of capital, diversity of funding solutions, and other relevant criteria.

- **Burford Capital**: As the largest litigation finance firm globally and the only publicly traded U.S. litigation finance company, Burford Capital has invested at least $5 billion into lawsuits. According to 60 Minutes, most individual lawsuits receive sums of at least $5 million from Burford.

- **Parabellum Capital**: In January 2024, Parabellum Capital opened a $754 million litigation fund, making it one of the largest funds in the industry.

- **Longford Capital Management**: Launched in 2013 with less than $60 million in assets, Longford Capital Management has grown to manage over $1.2 billion in assets as of 2021. The firm recently committed up to $40 million to Quinn Emmanuel's private equity clients.

- **Omni Bridgeway**: With an estimated portfolio value of $30.5 billion in 2023, Omni Bridgeway reported revenue of AUS $188.8 million for the first half of 2024.

- **Therium Capital Management**: Therium has funded claims with a total value of £54 billion, with individual funding commitments regularly exceeding £30 million.

In addition to these top funders, the Westfleet Advisors 2023 Litigation Finance Market Report highlights other significant players in the litigation financing space:

- **Other Leading Dedicated Litigation Finance Firms**: These funders specialize in litigation finance and account for most of the capital and deals in the industry. Some enjoy full autonomy to invest in deals that fit their mandate, while others manage investors' capital with limited autonomy. Examples include Bench Walk Advisors, Delta Capital, and Woodsford Litigation Funding.

- **Multi-Strategy Funders**: These entities, usually hedge funds, invest in various markets and asset classes and have established dedicated litigation finance areas. These areas operate similarly to dedicated funders but often face greater sensitivity to business conflicts and capital markets compliance issues due to their broader activities. Examples include Fortress Investment Group and Gramercy Funds Management.

- **Ad Hoc Funders**: These entities, such as hedge funds or family offices, occasionally participate in the litigation finance space without dedicated litigation finance desks. While they have an appetite for litigation finance deals, they do not publicize their participation, making it difficult to measure their investment activity. Examples include sovereign wealth funds, pension funds, endowments, and family offices.

As to what their goals are, litigation funders are primarily motivated by the potential for high returns on investment. They seek to finance large-scale, high-stakes litigation that can yield substantial financial rewards. Their goals often include maximizing the return on their investments by supporting cases with the potential for significant settlements or damages awards, regardless of the underlying merits of the claims. While the primary motivation for TPLF is earning profit, other goals which can drive funding decisions in some instances include: a preferred market/policy outcome in the funded litigation area, the desire to influence particular pending lawsuits, and in the case of some foreign funding entities, potentially accessing confidential information relevant to national security and/or achieving other strategic objectives.

5) Have any state legislatures taken action to address concerns about third-party litigation funders? If so, what have been the results?

Answer: Yes, several states have enacted legislation to address concerns about TPLF. These actions aim to increase transparency, regulate interest rates and fees, and

impose various requirements on litigation funders to mitigate potential conflicts of interest and undue influence on litigation.

A 2021 study from the Florida Committee on Banking and Insurance found that eight states require registration or licensure of some types of litigation funding entities such as those lending directly to consumers to cover living expenses during litigation: Indiana, Maine, Nebraska, Nevada, Oklahoma, Tennessee, Vermont, and West Virginia. Additionally, five states—Arkansas, Indiana, Nevada, Tennessee, and West Virginia—have enacted laws regulating TPLF interest rates or fees – especially in the consumer lawsuit lending context. In February 2024, an analysis from the LexisNexis State Net legislative tracking system identified pending legislation dealing with litigation funding in at least ten states, including Arizona, Kansas, Oklahoma, Iowa, Missouri, Indiana, Ohio, Georgia, Florida, and Rhode Island. Recent legislative actions include:

- **Wisconsin**: Passed Act 235 in 2017, which requires the disclosure of financing agreements where any person, other than an attorney permitted to charge a contingent fee, has the right to receive compensation contingent on and sourced from any proceeds of the civil action, whether by settlement, judgment, or otherwise.
- **Montana**: Passed SB 269 in 2023, mandating the disclosure of TPLF agreements and requiring litigation funders to register with the Montana Secretary of State. The legislation also makes litigation funders jointly liable for costs and establishes a 25% cap on the amount a funder may receive from any judgment, award, settlement, or verdict obtained in the lawsuit.
- **Louisiana**: Passed SB 355 in 2024, which requires the disclosure of foreign TPLF agreements, with a copy of the agreement sent to the Louisiana Attorney General. The law also mandates that foreign funders disclose certain information to the Attorney General and requires the Attorney General to file an annual report with the President of the Senate and Speaker of the House providing information about foreign litigation funding. All litigation funding in civil cases is subject to discovery and prohibitions on influence or control of litigation strategy. Non-profit organizations funded by private donors that represent clients on a pro-bono basis are exempt from the act and do not need to disclose their funding agreements.
- **West Virginia**: Passed SB 850 in 2024, updating existing TPLF statutes by removing commercial tort claims from statutory exclusions, excluding certain non-profit organizations from the definition of litigation financing, and expanding requirements for the disclosure of attorney-financing agreements, including those entered into by law firms.
- **Indiana**: Passed HB 1160 in 2024, expanding the existing TPLF statute to include commercial litigants. The law precludes some foreign person or entities from lending money to plaintiffs pursuing litigation against companies in Indiana and prohibits plaintiffs from sharing any proprietary information received during the course of litigation with lenders. Other foreign funding must be disclosed, and any domestic funding is subject to discovery.

These legislative measures aim to enhance transparency and accountability in the TPLF industry, ensuring that all parties involved in litigation are aware of the financial arrangements and potential influences behind the scenes. The effectiveness of these laws in curbing the influence of TPLF and protecting the integrity of the judicial process is still being evaluated, but early indications suggest that increased transparency can help ensure the integrity of the judicial process and reduce the undue influence of funders on litigation strategy.

Questions from Congressman Fitzgerald:

Chairman Goodlatte: Opponents of disclosure argue that there is no problem with TPLF because funding frivolous lawsuits wouldn't be profitable unless it creates a return. Can you discuss how a handful of large damages awards or settlements can make investing in a large portfolio of cases economically advantageous, even where most or all of the cases are of dubious merit?

Answer: Funding frivolous lawsuits can and does create a profitable return due to the lottery or jackpot nature of funding a large number of long shot or frivolous cases that result in a smaller number of large awards that more than pay for the cost of funding the entire portfolio of cases including, those that do not pan out but which add enormously to the litigation costs of defendants as well as the burden on the courts of carrying more cases in a more prolonged manner.

The litigation funding industry's movement towards more "portfolio funding" will further increase this problem. Portfolio litigation funding involves financing a group of cases rather than a single lawsuit. This approach spreads the financial risk across multiple cases, making it more attractive to investors who seek to mitigate the risk of any single case failing. Unlike single-case funding, where the investment is tied to the outcome of one lawsuit, portfolio funding allows funders to further balance losses in some cases with gains in others. This can lead to an increase in the number of lawsuits filed, including those with weaker merits, as the diversified risk encourages funders to support a broader range of cases. Consequently, this can strain judicial resources and potentially lead to an increase in frivolous litigation.[4] According to Westfleet Advisors, a financial consulting firm for the litigation funding industry, 66% of new litigation funding capital commitments is being directed toward portfolio funding arrangements and the average portfolio deal size was $9.9 million in 2023 versus $4.8 million for single-matter deals.[5]

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Mr. Taylor and Chairman Goodlatte: While the focus of our hearing was largely on the impact that TPLF is having on U.S. Intellectual property, I also sit on the House Financial Services Subcommittee on Housing and Insurance, and I have been hearing from a number of property casualty insurance companies about the impact that TPLF is having on their business operations and the policyholders they serve. As you know, property casualty insurers provide personal and commercial lines insurance contracts that include coverage against liability for losses suffered by third parties. Often, those coverages include a defense obligation as well when claims turn into litigation. What can you share with us about the impact TPLF is having on consumers.

Answer: TPLF, and the litigation it drives, is having a significant impact on the property and casualty insurance industry and, consequently, on consumers. Property casualty insurers provide personal and commercial lines insurance contracts that include coverage against liability for losses suffered by third parties, often with a defense obligation when claims turn into litigation. The impact of TPLF on this sector is profound and multifaceted.

The multi-year underwriting losses in medical liability, directors and officers (D&O) liability, commercial auto, and general liability insurance are strong evidence of the pressure placed on the insurance industry due to prolonged litigation, including litigation supported by TPLF. This pressure creates a serious stability problem for the industry. Even when the insurance industry manages to work through this exposure, the end result is the passing of substantial increased costs onto businesses and consumers. For instance, the average personal injury verdicts rose from $39,300 in 2010 to $125,366 in 2020, representing an unsustainable 319% increase in these judgments.[6]

According to the Swiss Re Institute's report “US litigation funding and social inflation,” TPLF is a contributing factor to the trend of social inflation in the U.S. The report highlights a strong rise in the frequency of multimillion-dollar claims over the past decade in areas such as trucking accidents, bodily injury, product liability mass torts, and medical liability claims. TPLF-backed cases push up costs by taking longer to resolve, and plaintiffs often do not see the benefit of higher awards. The report estimates that in U.S. TPLF cases, up to 57% of legal costs and compensation go to lawyers, funders, and others, compared with an average of 45% in typical tort liability cases. This diversion of funds contributes to higher insurance premiums, reduced availability of liability coverage, and higher uninsured legal liability risks for U.S. businesses. Consequently, U.S. casualty insurers have incurred many years of underwriting losses linked to outsized legal awards and have been forced to raise premium rates. For example, umbrella policies, particularly exposed to large claims, saw average rate increases of 20% in the first half of 2021. Trucking firms in particular,

[6] American Property Casualty Insurance Association, Testimony Before the House Committee on Financial Services, October 24, 2023, https://www.congress.gov/118/meeting/house/116462/witnesses/HHRG-118-BA04-Wstate-GordonR-20231024.pdf.

face a reduction in the affordability and availability of insurance, with these costs ultimately being paid by consumers.[7]

The CRC Group's analysis, drawing from Swiss Re data, underscores that significant verdicts paid out by companies with deep pockets and high limits of insurance increase hardship for many consumers and insureds. As loss ratios climb higher, insurance premiums are increasing. D&O rates have increased by 15.8%, umbrella rates by 22.6%, general liability by 7.3%, and medical professional liability by 8.8% from 2010 to 2019. Insurance companies charge prices today that are intended to cover the claims they'll pay tomorrow. As insurance companies pay for outsized awards, they balance the loss by narrowing coverage terms, expanding deductibles, and raising premiums until they achieve a profit or leave the line of business altogether, further reducing the availability of liability coverage. All these costs are ultimately borne by consumers and insureds who must find a way to pay for rate increases, bigger deductibles, and assume uninsured liability risks.[8]

The American Property Casualty Insurance Association's testimony before the House Financial Service Committee in October 2023 highlights that legal system abuse, including TPLF, is a significant factor increasing rates in many lines of insurance. Over the five-year period from 2014-2018, the annualized increase in insured losses for commercial auto, product liability, and other commercial liability lines vastly outpaced general economic indicators. The testimony also notes the rise of "nuclear" verdicts—verdicts over $10 million—which can threaten a company's viability and lead to bankruptcy. The median nuclear verdict increased by 27.5% over a ten-year period, far outpacing inflation. Even average verdicts have seen outsized growth, with personal injury verdicts increasing by 319% from 2010 to 2020. TPLF is a key driver of these adverse changes, making it harder and more expensive to settle cases.[9]

The Insurance Information Institute explains that TPLF drives social inflation, encapsulating the ways in which insurers' claims costs rise above general economic inflation. Unlike general economic inflation, which insurers can mitigate using pricing models and loss reserves, social inflation arises from factors that are challenging to forecast, such as rising legal costs and an increase in outsized jury awards. TPLF erodes the incentive to litigate efficiently, as the billing agreement structure with funders decreases the impetus to minimize litigation time and costs. This can sometimes make

[7] Swiss Re Institute, "US litigation funding and social inflation," https://www.claimsjournal.com/app/uploads/2021/12/swissre.litigation.funding2021.pdf.pdf.

[8] CRC Group, "Rapid Growth of TPLF Impacts Insurance Affordability," https://www.crcgroup.com/Tools-Intel/post/rapid-growth-of-tplf-impacts-insurance-affordability.

[9] American Property Casualty Insurance Association, Testimony Before the House Committee on Financial Services, October 24, 2023, https://www.congress.gov/118/meeting/house/116462/witnesses/HHRG-118-BA04-Wstate-GordonR-20231024.pdf.

it more profitable for firms to keep litigating, employing more novel and expensive tactics.[10]

In summary, TPLF significantly impacts the property casualty insurance industry by driving up litigation costs, prolonging legal proceedings, and contributing to social inflation. These effects lead to higher insurance premiums, reduced availability of coverage, and increased financial burdens on consumers and insureds. The industry's response to these pressures includes raising premiums, narrowing coverage terms, and expanding deductibles, all of which ultimately affect consumers.

Questions from Congresswoman Lee:

The role of massive increases in the number of litigated insurance claims and verdict amounts are not well known in the state of Florida. Third-party litigation funding, shrouded in secrecy and potentially including foreign funders, is a contributor to these increases, as funders seek returns on their investments. According to research conducted by the Insurance Information Institute (III) in 2022, Florida accounted for 15% of all homeowners claims nationwide and 71% of lawsuits, with litigated claims being six-times more expensive than non-litigated claims. Can you speak to how this litigation affects premiums and are there potential policy proposals to prevent frivolous litigation?

Answer: TPLF and the litigation it drives is having a significant impact on the property and casualty insurance industry and, consequently, on consumers. Property casualty insurers provide personal and commercial lines insurance contracts that include coverage against liability for losses suffered by third parties, often with a defense obligation when claims turn into litigation. The impact of TPLF on this sector is profound and multifaceted.

The multi-year underwriting losses in medical liability, directors and officers (D&O) liability, commercial auto, and general liability insurance are strong evidence of the pressure placed on the insurance industry due to prolonged litigation, including litigation supported by TPLF. This pressure creates a serious stability problem for the industry. Even when the insurance industry manages to work through this exposure, the end result is the passing of substantial increased costs onto businesses and consumers. For

[10] Insurance Information Institute, What is Third-Party Litigation Funding and How Does it Affect Insurance Pricing and Affordability?,"
https://www.iii.org/sites/default/files/docs/pdf/triple_i_third_party_litigation_wp_07272022.pdf?_gl=1*11q6ekp*_ga*MTM5MDg2MjMyNi4xNzE5OTQ1MTM0*_ga_RLMX21NG0L*MTcxOTk0NTEzNC4xLjEuMTcxOTk0NTg3OC42MC4wLjA.

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The CRC Group's analysis, drawing from Swiss Re data, underscores that significant verdicts paid out by companies with deep pockets and high limits of insurance increase hardship for many consumers and insureds. As loss ratios climb higher, insurance premiums are increasing. D&O rates have increased by 15.8%, umbrella rates by 22.6%, general liability by 7.3%, and medical professional liability by 8.8% from 2010 to 2019. Insurance companies charge prices today that are intended to cover the claims they'll pay tomorrow. As insurance companies pay for outsized awards, they balance the loss by narrowing coverage terms, expanding deductibles, and raising premiums until they achieve a profit or leave the line of business altogether, further reducing the availability of liability coverage. All these costs are ultimately borne by consumers and insureds who must find a way to pay for rate increases, bigger deductibles, and assume uninsured liability risks.[13]

The American Property Casualty Insurance Association's testimony before the House Financial Service Committee in October 2023 highlights that legal system abuse, including TPLF, is a significant factor increasing rates in many lines of insurance. Over the five-year period from 2014-2018, the annualized increase in insured losses for commercial auto, product liability, and other commercial liability lines vastly outpaced general economic indicators. The testimony also notes the rise of "nuclear" verdicts—

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[12] Swiss Re Institute, "US litigation funding and social inflation," https://www.claimsjournal.com/app/uploads/2021/12/swissre.litigation.funding2021.pdf.pdf.
[13] CRC Group, "Rapid Growth of TPLF Impacts Insurance Affordability," https://www.crcgroup.com/Tools-Intel/post/rapid-growth-of-tplf-impacts-insurance-affordability.

verdicts over $10 million—which can threaten a company's viability and lead to bankruptcy. The median nuclear verdict increased by 27.5% over a ten-year period, far outpacing inflation. Even average verdicts have seen outsized growth, with personal injury verdicts increasing by 319% from 2010 to 2020. TPLF is a key driver of these adverse changes, making it harder and more expensive to settle cases.[14]

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In summary, TPLF significantly impacts the property casualty insurance industry by driving up litigation costs, prolonging legal proceedings, and contributing to social inflation. These effects lead to higher insurance premiums, reduced availability of coverage, and increased financial burdens on consumers and insureds. The industry's response to these pressures includes raising premiums, narrowing coverage terms, and expanding deductibles, all of which ultimately affect consumers.

As to policy proposals to help address these concerns. There are numerous litigation-reform proposals to help with various aspects to these problems. Focusing on TPLF, however, there are several legislative proposals that have either been formally introduced or otherwise proposed. First, HR 5488, the "Protecting Our Courts from Foreign Manipulation Act" would, among other things, require disclosure of foreign investors in U.S. federal civil litigation as well as prohibit foreign governments and entities controlled by those governments from investing in civil litigation in the U.S. federal courts. Second, Chairman Issa recently circulated a discussion draft of proposed legislation called the "Litigation Transparency Act." That draft bill would require disclosure to the court and to all the parties of the presence of litigation funding, and it would require the production of the underlying funding agreements in all U.S. federal court civil litigation.

Also, HR 3535, the Advancing America's Interest Act would prevent misuse of the International Trade Commission (ITC) by patent assertion entities and third-party

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[15] Insurance Information Institute, What is Third-Party Litigation Funding and How Does it Affect Insurance Pricing and Affordability?," https://www.iii.org/sites/default/files/docs/pdf/triple_i_third_party_litigation_wp_07272022.pdf?_gl=1*11q6ekp*_ga*MTM5MDg2MjMyNi4xNzE5OTQ1MTM0*_ga_RLMX21NG0L*MTcxOTk0NTEzNC4xLjEuMTcxOTk0NTg3OC42MC4wLjA.

funders. The bill would do so by reforming the ITC's Section 337 review process and mandating full transparency for all petitioners at the ITC.

In addition, Congress should protect its landmark legislation, the Leahy-Smith America Invents Act (AIA), which instituted a series of reforms to mitigate frivolous patent infringement lawsuits. Recent legislative efforts including S. 2220, the Prevail Act, and S. 2140, the Patent Eligibility Restoration Act, would undermine the AIA and should be opposed.