

An LFJ Conversation with Ed Reilly, Cofounder, Themis Legal Capital

Themis Legal Capital is a Litigation Finance Company that provides capital to corporations and law firms based upon the merits and value of their commercial claims and, in return, receives an interest in the recovery.

Litigation Finance Journal Conversations

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Themis Legal Capital is a commercial litigation firm headquartered in New York, NY. The firm provides funding to claimants, law firms and non-party commercial entities that have an interest in the outcome of commercial cases. Themis' strategy assigns a range of value to types of individual cases or portfolios of commercial disputes based upon an analysis of the merits, damages and collection prospects of the claims and to structure creative financing transactions that serve the commercial objectives of its counter-parties. Themis can fund cases in most jurisdictions and arbitration regimes and offers commitments ranging from the mid six-figure to tens of millions of dollars.

What makes Themis Legal unique in the marketplace? What is your value proposition?

Themis Investment Model - Themis employs a unique market strategy that enables Themis to provide funding to the full spectrum of litigation finance counterparties. Themis has developed a co-investment model by co-funding with six different partners, each of which is actively funding different segments of the litigation funding marketplace.

These partners range from two multi-strategy hedge funds with an appetite for large portfolios and later-stage transactions to a specialty finance company with a desire for early-stage transactions of less than \$1M. Among our partners are funders with experience in various types of claims, including IP, Qui Tam, mass tort, judgment monetization, and law firm portfolio funding.

The Themis business model enables us to satisfy an extensive range of our counterparties' funding needs. Based upon Themis's preliminary evaluation of the opportunity, we can efficiently choose the most appropriate co-investment partner with the investment appetite best suited for the opportunity.

EDWARD A REILLY, JR.



Cofounder, Themis Legal Capital

Before co-founding Themis Legal Capital, Ed Reilly was a corporate partner with several international law firms, including Goodwin Procter; Morgan Lewis & Bokus and LeBoeuf, Lamb, Greene & McRae. Over the course of his career, he represented corporations and financial sponsors including prominent venture capital, mezzanine, private equity and hedge funds for more than 30 years. He is currently of Counsel with the law firm, McDonald Hopkins in the firm's litigation finance legal practice.

Ed routinely acted as his clients' de facto general counsel and advised them on a broad spectrum of issues ranging from the prosecution, defense and resolution of litigation and pre-litigation disputes to the structuring and closing of innovative financial transactions. During his tenure in private practice, Ed enjoyed leadership roles including rotations as a managing partner of a growing regional office, a member of a firm-wide administrative committee and the head of a firm's international private equity initiative.

We then work hand-in-hand with our co-investment partner to diligence, structure, close, and manage the litigation funding transaction to its successful conclusion. Best of all, from the counterparty's perspective, there are no fees to Themis, and Themis' return is seamlessly covered by the prearranged co-investment arrangement that Themis has with each of its partners.

Another unique aspect of the Themis business model arises from my affiliation as of Counsel in the litigation finance legal practice at McDonald Hopkins law firm. While constantly vigilant to avoid conflicts, this relationship has given Themis access to another view of innovations in the litigation finance business and the rise of new players and strategies. These insights enable Themis to integrate these innovations into the structure of transactions that Themis devises for its counterparties.

How are you sourcing clients--are claimants coming directly to you, or are you sourcing through law firm connections? Is the sourcing model developing over time?

Themis has been active in the litigation funding market since its earliest days in 2012 and has established itself as a consistent and reliable player in the marketplace. Over the years, the firm has developed a broad network of contacts in:

- 1) Law firms ranging from the largest AmLaw 100 firms to regional litigation boutiques.
- 2) The litigation finance brokerage community.
- 3) Various professional advisors and service providers are active in litigation finance.

We stay in contact with these referral sources through its monthly publications about various innovations and strategies in the litigation finance space. Themis also actively participates as a panelist and attendee at high-profile litigation finance conferences.

How do you analyze claims for funding? What metrics do you look at, and what takes precedence in your claims evaluation?

To the first question, Themis reviews the potential counterparty's story to understand the overview of the claim. Ideally, Themis has an opportunity to review the contours of the case early on with the counterparty's lawyer. There is an element of art and science to the initial screen; the art component focuses on the narrative and presentation to judge whether the funding request is organized, complete, and thoroughly thought out. The science component checks several variables to assess the investment, including:

- 1) The relationship between the anticipated cost of the litigation and the potential recovery
- 2) The suitability of the law firm and whether they have a partial contingency fee arrangement in the case to demonstrate skin in the game
- 3) A high-level review of the evidence that will be needed to establish liability
- 4) An assessment of the most important documents
- 5) The credit worthiness of the defendant

We can accomplish the preliminary process often within a few days of the initial contact. If the initial review is promising, Themis will engage the most suitable co-investment partner to proceed with formal due diligence.

"There is an element of art and science to the initial screening of a claim."

In this process, Themis works seamlessly and hand-in-glove with its partner to move the full review forward efficiently. The critical elements of the due diligence process are:

- 1) **Liability** Is there evidence to prove the ultimate liability and no apparent defense?
- 2) **Damages** What is the appropriate measure of damages and settlement value?
- 3) **Collectability** Can the defendant pay a judgment or settlement,
- 4) **Duration** How long will it take to get this case to the finish line,
- 5) **Budget** What is the budget for the opportunity, and what is the use of funds
- 6) **Intangibles** Are their red flags in the forum, the parties, the judge, etc.?

How quickly we can get through this process depends largely on the ability of the counterparty to produce documents and answer questions through the process. While it may be possible to move more quickly, it is realistic to assume that the process will take two months from the start through funding.

What are the benefits that Themis provides, beyond capital allocation?

Themis offers a unique one-stop-shop for most parties seeking funding. Because of the diverse funding appetites of our partners, we can direct the funding request to the funder whose interests best match the opportunity. This matchmaking helps to avoid calls to funders who will not be interested based on criteria of size, subject matter, or other characteristics. Themis is also a trusted source for our partners; therefore, opportunities presented to the partners after vetting by Themis have enhanced credibility. Lastly, with its decade of experience in litigation finance, Themis can help craft the presentation that goes to our partners in its best light. We provide these benefits to the parties seeking funding at no cost to them.

What are your future growth plans? How do you plan on scaling your business?

Themis is excited to continue our current business model for the foreseeable future. That said, we are always interested in considering new funding partners who would be interested in joining the Themis network and offering another nuanced funding strategy to the Themis platform.

[Learn more about Themis](#)