

An LFJ Conversation with Michael Kelley, Partner, Parker Poe

Parker Poe dates back to 1884 when it was founded by Heriot Clarkson. In the 1950s, World War II veterans Francis Parker and Bill Poe became partners. Their names and commitment to public service have been part of the fabric of the firm ever since.

Litigation Finance Journal Conversations

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For more than a century, Parker Poe has represented many of the Southeast's largest companies and local governments in transactions, regulatory issues, and complex litigation. The business law firm has more than 250 attorneys serving clients from eight offices in Charlotte and Raleigh, North Carolina; Charleston, Columbia, Greenville, and Spartanburg, South Carolina; Atlanta, Georgia; and Washington DC. Parker Poe uses a cross-disciplinary, collaborative approach to provide comprehensive solutions to their clients.

What led you to make the move to Litigation Finance?

My move to Litigation Finance was coincidental. In 2012, I was retained by a litigation funder to assist with the structuring and formation of its second international fund. Shortly thereafter, they offered me the opportunity to work on all their litigation funding transactional work. In the past ten years, my litigation funding practice has grown exponentially such that it represents over 90% of my professional time.

Litigation funding allows me to practice and to use both areas of my background in finance and law. Moreover, the bespoke nature of litigation finance transactions requires creativity in order to achieve the right mix of aligned incentives for all parties involved in the transaction.

I appreciate that I have been given this remarkable opportunity to foster the growth of and to help define this maturing asset class. And I love working with all my clients, whether they are litigation funders, law firms or claimants.

ABOUT THE SPEAKER



Michael P. Kelley
Partner, Parker Poe

With more than 10 years of experience assisting US and International litigation funders, law firms, and claimants, Kelley is considered a thought-leader in the industry. He has been recognized by Lawdragon as a "Top 10 Global Advisor in Litigation Finance," and is a frequent speaker on key issues involving the industry.

Kelly has over 25 years experience in the legal finance industry. He is the former general counsel of EMP Global where he oversaw \$8 billion in assets across different investment funds in emerging markets.

He has a JD from Antonin Scalia School of Law, George Mason University and a PhD from the the London School of Economics and Political Sciences.

How does your experience in non-profits and social impact investments inform your work in Litigation Finance?

People ask me all the time as to the body of corporate-related work I rely on for structuring litigation finance transactions. More than M&A, I rely on my investments funds formation background for finding creative solutions to unique structuring challenges. I have especially drawn on my work with social impact investment funds and transactions.

For example, I have created mini-funds of pooled capital that play a first-loss capital tranche roll, providing those investors an opportunity for out-size return while paving the way for raising traditional litigation finance on top of that. The traditional litigation funders have appreciated having that first-loss cushion to mitigate the risk of loss on their investment (a form of insurance). For the funded party, the first-loss pooled capital tranche unlocked the door to receiving an aggregate \$60 million of financing for financing a portfolio of claims. I have also drawn on my fund formation work for structuring innovative waterfall structures to balance incentives among participants in the litigation funding transaction.

"Money alone should not be the sole barrier to pursuing meritorious claims."

Can you talk about the interplay between Litigation Funding and social justice?

It is often cliché that litigation funding provides access to justice. However, everyday I see highly meritorious claims that would otherwise not be able to be advanced but for litigation finance. I have seen this in individual claims as well as portfolios of claims across a wide-range of types of cases, including intellectual property, international arbitration, corporate disputes and, of course, in the personal injury and mass tort space.

Money alone should not be the sole barrier to pursuing meritorious claims. Litigation Finance helps level the financial playing field for claims prosecution/monetization.

Can you talk about the interplay between Litigation Funding and social justice?

I was a GC for over 17 years and wish I had access to litigation finance during that time. The value proposition for GCs and in-house legal departments is clear: legal claims are assets that can and should play a key role in the financial health and growth of a company. Litigation finance permits GCs to turn dormant claims or claims they cannot otherwise pursue due to financial budgets into sources of revenue.

Instead of in-house legal teams being viewed solely as cost centers, those departments can become revenue and profit centers for the companies without adding any additional legal risk to the company. In addition, the GCs can become heroes inside their companies! I would even go so far as to say that GCs who are not taking advantage of litigation funding to pursue his/her company's claims are not acting responsibly.

I would further argue the same for law firms who really need to understand litigation funding and what it can do for law firm clients, as well as build contacts in the industry, to properly service law firm clients.

Any predictions for the future of Parker Poe Adams & Bernstein?

Parker Poe is a phenomenal law firm that can and does perform big firm legal work at the same or even higher quality than much larger firms. But it does so with a pricing/value proposition that creates partnerships with its clients and has partners front and center on every project. In addition, we have highly skilled teams of Counsel and Associates that our clients absolutely love.

I am especially proud of those fantastic attorneys at Parker Poe who work with me everyday on litigation finance and investment fund formation. They are top notch and provide an incredible level of service to our clients in these practice areas, among so many others.

[Learn more about Parker Poe.](#)