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This program contains 30 minutes of Substantive Content

Litigation Funding for Commercial Claims in Canada

followed by a wine & cheese soiree

Tuesday, April 17, 2018

Nutshell 5:15 – 7:00 p.m. (Registration at 5:00 p.m.) Soiree 7:00-8:00 p.m.

TLA Lawyers Lounge, 2nd Floor, 361 University Avenue Court House

A series of recent decisions have opened the door to funding of commercial litigation in Canada. Litigation funding is long established in Australia, the U.K. and the U.S. In the wake of *Schenk v. Valeant* (2015) and decisions that build on its reasoning, clients and counsel are exploring it as a way of advancing commercial litigation, including breach of contract, oppression, intellectual property, breach of duty, securities, insolvency and other business disputes.

Clients see litigation funding as a means of advancing claims, while sharing or offsetting the risk and cost. Litigators can use funding to attract clients who could not otherwise afford their services, to help large clients manage cost and risk, and to offer creative fee arrangements, all while ensuring that meritorious cases are properly resourced through to trial.

The panelists include litigators from both large and small firms, and counsel for a litigation funder. They will discuss what litigation funding is and how it works in practice, what the courts have had to say about, and why counsel are increasingly thinking about funding now.

Our agenda will cover:

- Updates of recent case law;
- The mechanics of a funding agreement, including ensuring that the litigation funder's terms are fair and adequately deals with any conflicts of interest that may arise;
- Why litigation funding permits lawyers to take on cases they might not otherwise be able to accept and how this might help with a law firm's succession planning;
- How litigation funding provides access to justice for those who cannot properly fund their litigation;
- How litigation funding enables corporate clients to more effectively manage cost and risk, while generating more efficient and reliable revenue sources for law firms;
- Professional and ethical issues, including the doctrines of maintenance and champerty, control and disclosure, and
- Issues surrounding privilege with respect to the exchange of documents.

Speakers: **Naomi Loewith**, Investment Manager/Legal Counsel – Bentham IMF Capital Limited
Margaret Waddell, Partner, Waddell Phillips
Lauren Tomasich, Partner, Osler, Hoskin & Harcourt LLP

Moderator: **Christina Porretta**, Partner, Dentons Canada LLP