

United States Senate

WASHINGTON, DC 20510-0908

November 3, 2023

The Honorable Mark Walker
Chief Judge
U.S. District Court for the Northern District of Florida
410 SE First Avenue
Gainesville, Florida 32601

Dear Chief Judge Walker:

We write to highlight the dangers of foreign third-party litigation funding (TPLF) and the need for more transparency in the federal judiciary as it relates to this matter.

As you may know, foreign TPLF is when foreign actors, including hostile foreign actors, who are not directly engaged in a lawsuit provide funds to litigants in exchange for potential monetary returns from such litigation. Foreign TPLF may come from several sources, including the foreign state directly through sovereign wealth funds, as well as de facto arms of the state. These funds are typically not disclosed, and funders are able to exert an exorbitant amount of influence on the nature and direction of litigation through their financial contributions. The potential impacts of allowing unfettered and undisclosed foreign TPLF throughout the judiciary could be severe, unless properly addressed.

Most alarmingly, these foreign funders have the potential to provide hostile foreign actors with sufficient sway to exert undisclosed influence on litigation moving through the federal judiciary, including litigation related to critical infrastructure. Foreign actors attempting to capitalize on such influence may seek to, among other things, advance frivolous lawsuits, needlessly and excessively prolong litigation disputes, exacerbate domestic discord, or seize control of the litigation from the case's original parties. Tactics such as these, which seek to exploit the openness of American institutions and undermine critical infrastructure sectors, are frequently done by foreign adversaries, particularly China, are not in the strategic interest of the United States, and serve as an example of the need to defend the U.S. against hostile foreign actors seeking to undermine our national interests.

Lawmakers have an obligation to preserve the integrity of the judiciary and ensure that hostile foreign actors are not obtaining a strategic advantage over the United States. Preventing foreign actors from exploiting the accessibility of the legal system fits squarely into this obligation. As lawmakers consider measures to combat the looming threats posed by foreign TPLF, federal courts have the ability and responsibility to inform the public about the scope of the issue, including by implementing certain common-sense disclosure requirements. Currently, there is no uniform disclosure requirement for foreign TPLF in federal courts, though the Judicial Conference of the United States has previously discussed similar measures and are currently considering changes to the Federal Rules of Civil and Appellate Procedure aimed

requiring increased disclosure. Further, to date, several individual district courts throughout the country have, to varying degrees, implemented disclosure requirements.

The cost of allowing foreign actors, especially foreign adversaries, to take advantage of the American court system is high. As lawmakers seek to address the issue of foreign TPLF and prevent foreign adversaries from exploiting the justice system, we encourage you and your colleagues to consider adopting disclosure requirements related to foreign TPLF in your jurisdiction.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rubio'.

Marco Rubio
U.S. Senator

A handwritten signature in blue ink, appearing to read 'Rick Scott'.

Rick Scott
U.S. Senator