

What is the Evolution of Third-Party Funding in China in Litigation and Arbitration? *

Summary

*** Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

The session at the Washington Arbitration Update focused on the evolution of third-party funding (TPF) in litigation and arbitration in China. The discussion was moderated by Dr. Jose Antonio Rivas, a co-founder of X Strategy LLP and an expert in international arbitration and investment disputes.

Key participants included Miss Hang Wong from Global Law Office, Chi Chung Lao from Omni Bridgeway, Amy Wen Wei from CMS, and Tao Kuang from King & Wood Mallesons. The panel provided insights into the growing significance of TPF in China, noting that while TPF is often perceived as a new concept, it has existed in various forms for years.

The panel emphasized that TPF can take different forms, including institutional funding, law firm contingency fees, or personal loans. They discussed recent landmark cases that highlight the evolving legal landscape regarding TPF in China, illustrating how Chinese courts are increasingly recognizing the legality of TPF in both arbitration and litigation settings.

Key points included:

- The emergence of local TPF firms in China has been significant since 2015, driven by legal professionals with extensive experience.
- The panel noted that while there are positive developments regarding TPF in arbitration, litigation funding faces challenges, particularly regarding enforceability and judicial scrutiny.
- The introduction of specific provisions in arbitration rules, such as those by the China International Economic and Trade Arbitration Commission (CIETAC) and the Shanghai International Arbitration Center, reflects a proactive approach to integrating TPF into the arbitration framework.
- The discussion also highlighted the importance of understanding the financial viability and merits of cases from the perspective of funders, who assess potential recovery before agreeing to fund a case.

The panelists agreed that TPF presents significant opportunities for Chinese enterprises, especially as they expand internationally. However, they also noted that challenges remain, particularly in terms of legal knowledge, expertise, and the asymmetries faced by Chinese companies in international disputes.

In conclusion, the session underscored the potential for TPF to transform dispute resolution in China, with a growing acceptance by courts and an increasing number of firms entering the market to provide funding solutions. The panelists encouraged ongoing dialogue and education about TPF to ensure its effective integration into the Chinese legal landscape.

Authors

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Topics

Third-Party Funding, China, Litigation, Arbitration, Evolution, International Arbitration, Arbitration in China, Litigation in China

Category

WAU

Full Transcript

00:00:12

every gun Good. I think

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we can get started now.

00:00:34

Welcome back everyone. I hope

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you had a good coffee

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and we're able to meet

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some new folks during our



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networking session. So we're here

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for the last session World

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arbitration update 2024 China insight

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and for any of those

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folks who are just connecting

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online new or this is

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part of the world arbitration

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update conference, which will be

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going on for the next

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week in various locations around

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the world. But for now,

00:01:13

we have our 8 session,

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which is titled. What is

00:01:17

the evolution of third-party funding

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in litigation and arbitration in

00:01:22

China now third-party funding is

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has been a major topic

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of conversation in the international

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arbitration community. For a number

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of years. It really is

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an innovation and how to

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finance international disputes and has

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resulted in the growth of

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a number of firms who

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provide this kind of support

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whether for litigation or arbitration

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or even investor-state dispute settlement

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and we have the privilege

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today of a of an

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excellent panel. We're going to

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talk to this issue. Our

00:02:00

moderator is the co-founder and

00:02:05

my colleague. Dr. Jose Antonio

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Rivas Jose is the founding

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partner of X strategy LLP.

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He's a professor at Georgetown.

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He did his LOL man.

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Sjd at Georgetown law school

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has it was a former

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negotiator trade treaties and Investments.

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Dispute Provisions for the Colombian

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government and also spent some

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time working in the third

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party party funding field a

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few years ago. So he's

00:02:47

a perfect person to do

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this panel and I'll thank

00:02:51

him and pass over the

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microphone to begin our Section

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8 on third-party funding. thank

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you Ian and this is

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our new our last last

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panel and we we have

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the great privilege of being

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with a steamed number of

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school are petitioners, but also

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third-party funding for Andrews and

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I know before going into

00:03:37

introducing our panel. I would

00:03:41

like to give a little

00:03:44

bit of background in terms

00:03:46

of of of third-party funding.

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VM third-party funding is is

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seems to be quite a

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novel in India. In investment

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arbitration also in in in

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international commercial arbitration and and

00:04:08

also in litigation the truth

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of the matter is that

00:04:11

third-party funding is not that

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new it has been there

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for a while. It has

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been there with different names

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and and the and part

00:04:24

of the of the issue

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8 and I'm part of

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the the the job went

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when one is educating about

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third-party funding is to domestify

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this notion that that that

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it's obscure or strange third-party

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funding Can Happen by an

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Institutional funder. Which would be

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a company that funds litigations

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or cases in exchange for

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a percentage of the award

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or of the damages that

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the tribunal or or that

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a judge decides to rule

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on and grants to the

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claimant but third-party funding can

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also happen by law firm

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that has science with a

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claimant a contingency fee where

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you can happen. Also by

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the end of the claimant

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that gives his nephew or

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or or or nephew some

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loan either for interest or

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without interest. So third-party funding

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is not a strange and

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the Extra-Terrestrial notion it it's

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way more simple to understand

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that anything else at with

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that I I'm very honored

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to represent our our speakers

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and and I will take

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some some few seconds at

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first of all, we have

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Miss hang Wong who is

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a partner of the global

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law office and she has

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had experience in cases and

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written about third-party funding and

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our collection here of experts

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is such that the that

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many of them have written

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on third-party funding and they

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have analyzed the issues on

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third-party funding both related to

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litigation funding and in China,

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but also into arbitration funding

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in China and The interesting

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bit is that because it's

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such a vast economy. I

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believe that this final will

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be one that is an

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incredibly educating not only for

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Chinese lawyers, but also for

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lawyers that are abroad as

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we have Chi Chung Lao

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and who is an investment

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manager of omni Bridgeway and

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hopefully teaching your you're with

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us. and also we have

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Amy Wen Wei who is

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a council at CMS who

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has also had experience in

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the subject matter and we

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are incredibly lucky to have

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Amy with us and the

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following Amy. We also have

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Partner you how from Walmart

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and green goo law firm

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and the like are other

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speakers you are is a

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partner that has practical experience

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and knowledge in third-party funding

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and and things about this

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issue from a practical perspective

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and also a theoretical perspective

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and finally we'll have a

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Senior Vice-President of how Sue

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Capital which were extremely lucky

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to to to have him

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basically because there is like

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our other speakers practical experience

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on how to use capital

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of for litigation and arbitration

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and without further Ado. I

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would like to give the

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floor to our present. You're

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so welcome. Good afternoon. Everyone

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is my owner to heat.

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It should be here to

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present on this topic the

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department of the party funding

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in China to BF has

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a very long has long

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been a Hot Topic in

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this resolution. Especially International dispute

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resolution. Well you can You

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can see from the you

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keep your key. That's what

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I will cover in the

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next few minutes including a

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brief introduction the bar the

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the rights of local Founders

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than the sum of the

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landmark case involving tpf and

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also a brief introduction of

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tpf the introduction PDF into

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arbitration rules right of Entry

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by D at Houston's in

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2024 this year and they're

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also some of my personal

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thoughts about this topic if

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the times of love Just

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a base. A body rise

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of local Founders actually to

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David we have the the

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specialized to be a professional

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4 in the local Founders.

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And so I will just

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to cover their bodies pot

00:10:39
the emergence of local professional

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Sanders in Maine and shine.

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There can be traced back

00:10:44
to 2015 because he then

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there are several the famous

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local fun. There's no such

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as how to catch Throh

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DSD go Capital adding song

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that we should see litigation

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Investment Banking and he's a

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draw most of these local

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Founders established to buy Chinese

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lawyers and other legal professionals

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and business intelligence video about

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these parents in this year's

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resolution. Well for the next

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five like to make her

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introduction about those landmark case

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in additional litigation in recent

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years, which illustrates Chinese Courts

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position only be got in

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our children and application. Nope,

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as a patrician proceeding a

00:11:38

computational is quite difficult to

00:11:40

determine which case I actually

00:11:43

found 8, unless the word

00:11:45

a subject that you National

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Court judicial review in 2022

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to Sea-Tac Awards involving tpf

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the challenge and subject to

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Chinese codes for judicial review

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enforcement proceeding as well. And

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is the setting aside for

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City in proceeding activity security

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TF2 initiated application and the

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party had already argued on

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the legality of TP act

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during the adoption proceedings and

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the tribunal concluded that the

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claimant has not violated any

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laws or Rules by security

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after initial application. I didn't

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hear any judicial review proceedings

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because also have that Chinese

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law does not prohibit a

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tvf for application and parties

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are entitled to secure such

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funding. This case demonstrates that

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Chinese called take a similar

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approach to if you have

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for arbitration as International practice

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indicating that a tvf for

00:12:57

arbitration is permissible in mainland,

00:13:00

China. 30 Gotti for cheap

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PS4 edition case has been

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confirmed by the court. The

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legality of litigation is dispute

00:13:12

is it you get some

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Clues it's not conclusion from

00:13:18

the recent case in 2022

00:13:20

and 2023. We can see

00:13:22

that the legality of TV

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app for the dedication has

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been seriously challenge. Amanda's case

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the most the famous one

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is DK's try to buy

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some high costs in 2022

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with the others and their

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Scott's case in this light.

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This one has been selected

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as one of the representative

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case for 2022 by the

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song High high court has

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tried to claim from the

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funky the party of the

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payment of prices of the

00:13:58
funky the case which should

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be payable and of the

00:14:01
litigation funding agreements some high

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court recognized that litigation litigation

00:14:08
funding is a new mattress.

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And that is no Korea

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Provisions prohibiting. All permitting is

00:14:15
an attorney's law because dim

00:14:18
the TV caitian funny agreement

00:14:20
contrary to public order having

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a party and a good

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morals and that's invalid. Before

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the founder was not entitled

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to to the process of

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the funky the case. I

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bought these case the cop

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actually made a very comprehensive

00:14:37
anasura atomizer. But if you're

00:14:39
42 station and its judgment

00:14:41
and the rest is yours

00:14:43
concern about the nature of

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GPA do this case is

00:14:47

not one of the guiding

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case or the gas of

00:14:52

case of selectivity under-reported by

00:14:55

the Supreme People's Court Beach

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have the reports on the

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future case, but the findings

00:15:01

and their conclusions to my

00:15:03

and sending still likely to

00:15:06

have a very profound impact

00:15:08

on future Court decisions regarding

00:15:11

education funding. Well, I bought

00:15:14

these case I just stopped

00:15:15

here. And I think my

00:15:16

my my dear calling panel

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members will discuss more later

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than windy falling panel discussion.

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Despite of this case of

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vertigo. If you have 42

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gation a Tuesday night, they

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have been other cases in

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which other courts have reviewed

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the idea of such agreements

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with similar nature and the

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complete completely different conclusions in

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earlier years. For instance in

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2021. The that one of

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these songs a record of

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some high review the legality

00:15:56

of Education funding agreement contract

00:15:59

dispute filed by the founder

00:16:02

against the defendants hottie the

00:16:05

court issued a favorable judgment

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should to Defender affirming to

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the base of the evolved

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is evidence that the Chinese

00:16:18

called habit of Divergent reproaches,

00:16:22

which is respect that you

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have in the account. Arbitration

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and litigation for arbitration is

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growing breasts valve bank accounts

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to TV have 40 station

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the accident case. I split

00:16:39

on the questions of legality.

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In addition to those land

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markers here the next one.

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I would like to cover

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AZ the introduction of Kiev

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into a decision ruled by

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a decision. You should see

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me in a in mainland

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China in 2020 for searches.

00:17:01

We can see that's a

00:17:02

tax. Rule Sandra s h

00:17:04

i a c Rose Bunda

00:17:08

OD notable features of Sea-Tac

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2024 arbitration rules, which have

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already took effect since the

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first of January 2024 is

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the explicit version of Provisions

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concerning tpf in his article

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of 4th. You can see

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the four paragraph of article.

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Well at school 48 address

00:17:38

many two aspects to concerning

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tpf. The first one needs

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the disclosure obligations, the these

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rules distinguish between proactive and

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the upon request through disclosure.

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And the second one is

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a consideration of TGIF in

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Costa a location. You can

00:17:59
see the second the second

00:18:02
paragraph of the arbitral tribunals

00:18:05
to can see the TV

00:18:06
I have decided I shouldn't

00:18:08
cause and Associates In addition

00:18:14
International arbitration Center a while.

00:18:17
So I thought you didn't

00:18:18
you a decision rule in

00:18:20
this year and the Article

00:18:23

15 address the TV app

00:18:26

as well. But just from

00:18:28

the disclosure of Scots e

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s h i a c

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a n s t t

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r Lucian skier in mainland

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China have also recognized the

00:18:41

importance of birth of addressing

00:18:44

to The Abbey in the

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arbitration wrote about such such

00:18:48

as vtac the Zodiac China

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Maritime arbitration commission the song

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high top shoes in commission,

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and because I drop this

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trend reflects a proactive approach

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by our decision is Houston's

00:19:03

in mainland China to add

00:19:05

that to the evolving landscape

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of dispute resolution and provided

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guidance in TV of related

00:19:12

matters. The laptop I would

00:19:20

like to address to Little

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Beach actually is my my

00:19:22

personal thoughts on this topic

00:19:24

actually reflecting on already. We

00:19:29

have represented clients in relation

00:19:31

to arbitration case involving TV

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as well this including acting

00:19:36

for claimants seeking tvf and

00:19:39

also defending respondents in case

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were the claimant had secured

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the tdf to initiate these

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proceedings, but I think for

00:19:51

the time due to the

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time constraints I can leave

00:19:56

it to the the panel

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discussion later, and now I

00:20:02

will give the floor to

00:20:03

two panel members for for

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further introduction or the inside

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and sharing. Thank you. Thank

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you. Thank you very much.

00:20:16

So now now we turned

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it into the question of

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a little bit more deeply

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what what is 35 third

00:20:26

party funding and how how

00:20:27

does it work? How does

00:20:29

it work to actually reach

00:20:33

a funder make as counsel

00:20:36

or as a client that

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has a case. How do

00:20:40

you go to them? And

00:20:42

what is the process of

00:20:45

litigation funding and also of

00:20:48

the arbitration funding if you

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are the lawyer also a

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company that may have any

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deviation and for specific reasons.

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Your science is looking for

00:21:02

funding either because they want

00:21:03

to diversify the risk or

00:21:05

because there is some need

00:21:08

of capital How Could You

00:21:11

conduct that processes and for

00:21:12

that we have in Singapore?

00:21:17

Mr. Chi Chung Lao and

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please take the floor. Thank

00:21:28

you, Jose. Can you hear

00:21:29

me? We can hear. Alright,

00:21:34

thank you very much. So

00:21:36

I think it's this quite

00:21:37

a lot of ground to

00:21:38

cover and I I no

00:21:39

longer usually has also spoken

00:21:42

about the recent developments biting

00:21:43

baby. What I want to

00:21:45

get today is a bit

00:21:46

more of the third-party vendors

00:21:48

perspective and also all all

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perspective of funding cases in

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the PRC and 4 PRC

00:21:55
client. So, I mean just

00:21:58
just taking one step back

00:21:59
and talking about what the

00:22:01
party funding is in that

00:22:03
Jose is has very rightly

00:22:04
pointed out it existed for

00:22:06
very long time Lords have

00:22:08
acted and contingency fees, you

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know, someone that might lend

00:22:12
her nephew money and charge

00:22:15
interest on that do that.

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So so that party funding

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but I think more than

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commercial contacts and it ended

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in the global industry contacts.

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It's basically the concept of

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a third-party A non interested

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party who is not a

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party to the educational Appreciation

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are providing the capital and

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the financing to pursue a

00:22:38

litigation with you in arbitration

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and the subsequent enforcement and

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recognition if necessary and in

00:22:44

exchange that you find out

00:22:45

what typically ask for a

00:22:46

fee account access the arrangement

00:22:50

at Foremost find us and

00:22:51

that's all I Call Music

00:22:52

tree is provided on the

00:22:55

financing is provided on the

00:22:56

Nabi cost basis. So that

00:22:58

means if you don't win

00:23:01

the case and winning means

00:23:02

you must collect the money,

00:23:03

they will be no see

00:23:05

that's terrible. So even if

00:23:07

you saw him if if

00:23:08

I came and lose that's

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the case then what happens

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is that he found out

00:23:14

past the entire course of

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the experience and maybe even

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a cost depending on what

00:23:18

the agreement specifies so and

00:23:23

I'm an NSX successfully only

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means when a child or

00:23:27

claim and actually receive money

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in the bank. Campo anything

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it's just an expensive piece

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of paper unless you actually

00:23:36

successfully got money in the

00:23:37

bank. So in most cases

00:23:40

funding is provided on a

00:23:43

fool basis is the fender

00:23:45

covers 100% of the cost

00:23:47

legal costs arbitration fees a

00:23:51

coffee expert cost. We can

00:23:56

provide funding. Sometimes guys just

00:23:58

one half of the amount

00:23:59

due just wanted to risk

00:24:00

a little bit and then

00:24:01

for the fund has returned

00:24:02

to know what so so

00:24:05

the concept of stuff. I

00:24:07

know Jose mentioned a tool

00:24:11

that companies can use and

00:24:13

lawyers can should you see

00:24:14

the clients as to to

00:24:16

help tech-science risk-managed magicant to

00:24:21

do an insurance product to

00:24:23

some extent because you are

00:24:26

having a tough party pay

00:24:27

for the the cost of

00:24:29

the new arbitration and litigation

00:24:31

and they are very nervous.

00:24:33

Right and if it sucks

00:24:34

that you're showing me the

00:24:35

fruits of the litigation arbitration

00:24:40

with them. So I think

00:24:43

that covers what the party

00:24:46

funding is anting Jose also

00:24:48

mention a question earlier about

00:24:50

me know what do third-party

00:24:53

vendors look at when assessing

00:24:55

any case to decide whether

00:24:57

or not to find a

00:24:57

case and so has been

00:25:00

doing this for the past

00:25:00

38 years are globally and

00:25:03

we've been also doing it

00:25:04

and I think one of

00:25:06
the global litigation funders who

00:25:09
have taken the Chinese market

00:25:11
very seriously. So I would

00:25:16
like to say that there

00:25:16
is no one-size-fits-all criteria to

00:25:20
determine whether or not we

00:25:21
want to find a case

00:25:22
every case is different that

00:25:24
has to be assessed on

00:25:25
its individual facts about there

00:25:27
are three main criteria that

00:25:30
we would assess. Want the

00:25:34
merits of the case to

00:25:37

the recovery ability and Authority

00:25:38

economic viability of a claim.

00:25:41

If so, obviously that party

00:25:48

find the only received 15

00:25:52

minutes access fee upon the

00:25:54

successful outcome. So we were

00:25:58

all you want to find

00:25:59

cases that we expect to

00:26:01

win that we expect based

00:26:03

on assessment of all the

00:26:05

different factors legal advice provided

00:26:07

by the lawyers and factual

00:26:08

circumstances the documentary that caught

00:26:11

that we've been provided with

00:26:12

that the man has a

00:26:15

More than 70% chance of

00:26:17

success. Although this might seem

00:26:20

very Kia in most cases

00:26:21

lawyer's firm to us a

00:26:23

brief visit her prospects of

00:26:24

success success is sometimes not

00:26:28

that easy to assess particularly

00:26:32

you could win the case.

00:26:33

Actually got title to damage

00:26:35

us but a lot of

00:26:37

the time to question is

00:26:38

how much do you win

00:26:40

by because a 10 million

00:26:42

judgment on what is very

00:26:45

different from a 50100000000 times

00:26:47

more than what I just

00:26:48

typed into my next exit.

00:26:50

I will talk about later

00:26:51

which is the economic Value

00:26:52

Village of a of a

00:26:54

claim s criteria to consider

00:27:00

is the recover bility. This

00:27:03

is something that sometimes the

00:27:04

clients are not very aware

00:27:06

of lawyers. Sometimes don't think

00:27:09

about this at the outset

00:27:10

of the case. Although I

00:27:11

do have the same more

00:27:12

and more. So if this

00:27:13

is something that is top

00:27:15

of mind, this is something

00:27:17

that can be quite tricky

00:27:19

to assess Insight mention Nadia

00:27:22

a good Churchman or the

00:27:24

word for 50 million hundred

00:27:26

million. USD doesn't really mean

00:27:28

anything. It's just an expensive

00:27:29

piece of paper and then

00:27:30

she can extra cash from

00:27:31

the counterparty. So at Auggie

00:27:35

Beach Wave you have an

00:27:35

in-house asset racing came across

00:27:38

the globe in Europe Singapore

00:27:40

as well as in North

00:27:41

America who helps to assess

00:27:43

that. We also sometimes rely

00:27:46

on third-party as a trading

00:27:48

companies to assist with DSS

00:27:50

racing process to identify potential

00:27:53

assets of the counterparty want

00:27:58

to consider in every case

00:27:59

on the issue of speaker.

00:28:01

Ability. One is better the

00:28:04

counterparty can pay and to

00:28:06

whether they will pay the

00:28:09

first one is real. Can

00:28:11

okay. I think that's why

00:28:12

I asked you if you

00:28:13

had installed and toast and

00:28:14

solvency that that's something that

00:28:16

we will probably not be

00:28:16

able to fight. But if

00:28:18

they can pay me but

00:28:19

won't take that something that

00:28:20

we can probably come up

00:28:22

with strategic solutions to consider

00:28:25

whether not we can get

00:28:26

them to k. I, I

00:28:27

sometimes they might think that

00:28:28

they are Untouchable and their

00:28:29

own backyard, but what you

00:28:31

can do is to assist

00:28:33

clients to Weather guy sets

00:28:35

in more enforcement friends jurisdiction

00:28:37

that can assist in getting

00:28:38

down to the satellite cable

00:28:40

guy ability and the typical

00:28:45

time for most litigation funders

00:28:48

around the waist what time

00:28:50

are you don't spend more

00:28:51

than 10% of the realistic

00:28:53

claim value on pursuing the

00:28:55

claim and the rule is

00:28:57

in place with you because

00:28:58

we don't want to end

00:28:58

up having a situation where

00:29:00

your father takes up the

00:29:01

majority of any recovery receipts.

00:29:05

So if you spent more

00:29:07

than 10% of the claim

00:29:08

that you are that you

00:29:08

end up only getting our

00:29:10

end up having to stay

00:29:11

at that other piece you

00:29:13

say 20% of the Cambridge

00:29:15

way and then find us

00:29:16

successfully study for said that

00:29:18

you end up in a

00:29:18

situation where the kind only

00:29:21

get 50% or less of

00:29:22

the came in. So that's

00:29:23

something that we want to

00:29:24

avoid. That's why it's very

00:29:25

important to assess. The two

00:29:28

points Dimension area demerits and

00:29:30

the Quantum of the team

00:29:31

and also the recovery ability

00:29:33

how much should I expect

00:29:34

to be able to at

00:29:35

the end of the day

00:29:35

extract from the counterparty know?

00:29:39

I think I've done specifically

00:29:41

to the PRC market and

00:29:43

why it's interesting to tell

00:29:44

Patty front desk as one

00:29:46

of the world's largest economies.

00:29:48

I thought the largest economy

00:29:50

them Chinese market is always

00:29:51

going to be interesting to

00:29:52

any legal practitioner order Party

00:29:55

founder of how to clean

00:29:56

the last 10 years with,

00:29:57

you know, the initiative you

00:30:00

seem any PRC companies investing

00:30:02

see if somebody's outside the

00:30:05

PRC jurisdictions that are very

00:30:07

difficult are very different from

00:30:09

the local currency Market in

00:30:10

the developing world and Africa

00:30:12

land in Southeast Asia in

00:30:15

Central Asia and We hadn't

00:30:19

even sure if I should

00:30:19
say that we are one

00:30:21
that really takes the Chinese

00:30:22
market very seriously, we have

00:30:24
found that multiple cases in

00:30:27
the PRC for Pierce and

00:30:31
also we can end the

00:30:34
case that I want you

00:30:35
to talk about Aria the

00:30:37
one before he bitching for

00:30:40
intermediate people caught and he

00:30:41
and you will see carts

00:30:43
that was the case. I

00:30:44
was actually founded by Oliver

00:30:46

tree then I am a

00:30:47

phantom and so we we

00:30:49

are willing to to to

00:30:50

to break new markets because

00:30:52

we see that there's a

00:30:52

huge potential in this market.

00:30:54

And so the Chinese market

00:30:57

is definitely one that we

00:30:59

we we we do not

00:31:00

want to ignore and bbbpc

00:31:02

actually that the recent Trends

00:31:04

in The Piazza Market actually.

00:31:07

Point in that direction and

00:31:08

the proof is in the

00:31:10

pudding with call Manny Loco.

00:31:12

She found us coming out

00:31:13

in the market, but I'm

00:31:15

also very large PRC corporate

00:31:18

like a so he's pushing

00:31:20

us for assistance in in

00:31:22

in in in Zapata finding

00:31:25

4 cases outside the PRC

00:31:26

particularly quite a lot of

00:31:30

what I've seen in recent

00:31:31

months is to assist with

00:31:34

the recovery of non-performing loan

00:31:36

portfolios a large AMC's and

00:31:39

banks have claims against a

00:31:42

Live Oak in judgment or

00:31:43

what is against our individual

00:31:44

products contact from the PRC

00:31:45

and they need assistance to

00:31:47

enforce that outside the PRC

00:31:49

and that's where Joe Boza

00:31:51

Party founded. I only picture

00:31:52

I can assist what we

00:31:54

want to look at funny.

00:31:56

She wants to carry heater

00:31:57

cost or that's something that

00:31:59

we could easily have dealt

00:32:00

with because I only wish

00:32:02

we had a presence in

00:32:03

that jurisdiction and we could

00:32:04

provide a guarantee that we

00:32:05

will cover that. A bus

00:32:07

cost so that's that's something

00:32:09

that I think it's it's

00:32:10

it's one big Trend that

00:32:12

will see and of course

00:32:14

as I mentioned earlier with

00:32:15

with the large Investments outside

00:32:18

the pr CBC that sometimes

00:32:20

these projects to go wrong

00:32:21

and pick you up. So

00:32:24

you can please eat assistance

00:32:25

with International arbitration commercial arbitration

00:32:27

or investor-state arbitration outside the

00:32:30

PRC and that's where I

00:32:31

tend to be very costly

00:32:34

and that's where the Pocket

00:32:36

Edition Founder's I only wish

00:32:38

we can help to assist.

00:32:40

Teacher thank you so much.

00:32:43

I mean I know that

00:32:44

you did pack quite a

00:32:47

bit this this was more

00:32:49

than an elevator interview on

00:32:54

end in I congratulations for

00:32:55

putting a load of material

00:32:57

and information. Are you talked

00:32:59

about the quantum the importance

00:33:02

of having a hell of

00:33:04

a winning case as well

00:33:07

as a cost? So I

00:33:08

think that this was a

00:33:10

very substantive and end summary

00:33:15

introduction to third-party funding now

00:33:18

as a moderator, I know

00:33:21

I have some prerogative to

00:33:24

change a little bit our

00:33:25

our our schedule because we

00:33:28

have a you know, a

00:33:29

a newcomer mystery on you

00:33:32

and who is also in

00:33:34

third-party funding switch a little

00:33:37

bit our order and And

00:33:40

I'd have his feedback at

00:33:44

concerning third-party funding from but

00:33:47

from from somehow different perspective.

00:33:51

I would invite mr. You

00:33:55

to comment on the 1st

00:34:01

further comment on the development

00:34:03

and regulation on third-party funding

00:34:05

in China 1 and 1/2

00:34:08

on how you might see

00:34:11

that third-party funding could support

00:34:14

Chinese Enterprises in their International

00:34:18

expansion abroad. So no two

00:34:21

topics one the regulations in

00:34:24

China and to how third-party

00:34:28

funding can help. State-owned companies

00:34:31

but also private investors expand

00:34:34

their business outside of China.

00:34:54

How do I search a

00:34:55

china-based we just established two

00:35:01

years ago and we are

00:35:03

new to the market. But

00:35:05

actually GPS Lisa Is Not

00:35:09

A New Concept even in

00:35:11

China Market Miss Wong say

00:35:15

just now to TGIF in

00:35:17

China carryout business from this

00:35:30

on the market for quite

00:35:31

a long time. I want

00:35:34

to say why HO2 with

00:35:36

won't you step into this

00:35:37

Market just a little bit

00:35:40

explain Nation on. start up

00:35:47

the bunker if you looking

00:35:49

to the structure of the

00:35:52

founder of how to You

00:35:55

can see many of the

00:35:57

founding fathers are from distinguished

00:36:02

dispute resolution law firm in

00:36:05

China. They have over at

00:36:08

like over 30 years of

00:36:10

experience in this market. They

00:36:13

have already see quite a

00:36:15

lot of Chinese clients. They

00:36:18

lost their case because of

00:36:21

the poor. Litigation structure they

00:36:28

loosen the case because they

00:36:31

don't have the enough. Capital

00:36:35

to found a nickel cost

00:36:40

So they really want to

00:36:43

share their experience there is

00:36:46

patties to help the Chinese

00:36:49

kind. and also Study and

00:36:57

research on the notion of

00:36:59

the TV app in the

00:37:00

in the world and also

00:37:03

have quite a lot of

00:37:05

communication with the international kind

00:37:08

of like a bubble Capital

00:37:10

like a Omni Bridgeway. So

00:37:13

two years before they established

00:37:18

this company in in two

00:37:24

years we can say we

00:37:26

are very Make an advancement

00:37:31

because adult the concept of

00:37:34

TGIF is very hot topic.

00:37:36

Is this year's Chinese market

00:37:42

in Chinese legal system different

00:37:45

from International Market. That's why

00:37:49

we need to spend more

00:37:52

time to explore the business

00:37:56

model to talk to waste

00:37:59

different clients to see to

00:38:03

find out actually would kind

00:38:05

of be small dog is

00:38:07

good for outside and how

00:38:09

to cook for the founder.

00:38:12

I have to actually I

00:38:18

want to just keep the

00:38:19

first topic because I miss

00:38:24

y'all will talk more about

00:38:26

the Chinese regulation region on

00:38:30

tpf broadly in I would

00:38:33

maybe go to the second

00:38:37

topic directly and that's kind

00:38:41

of shape of experience on.

00:38:45

When we approached by Chinese

00:38:47

clients when they have some

00:38:51

kind of international dispute, they

00:38:54

need the help from Chinese

00:38:57

funga. I would share some

00:39:00

insight on how can keep

00:39:03

you can help Chinese company

00:39:06

going up. Chinese companies going

00:39:10

for a very very hot

00:39:13

toddy recent years. Check the

00:39:15

company will invest in doing

00:39:19

business. Probably you can reasonably

00:39:22

expect a long ways to

00:39:28

business. Status show China ranks

00:39:32

the second largest dispute resolution

00:39:35

Market in the world, and

00:39:37

we believe the amount of

00:39:39

the international dispute cases. I

00:39:42

also Rising When the Chinese

00:39:50

company, they face International these

00:39:53

people when they have the

00:39:57

case on the hands what

00:39:59

kind of face? We summarize

00:40:04

therapy first lack of money

00:40:07

and then lack of knowledge

00:40:09

and then lack of experience

00:40:12

or expertise and also lack

00:40:16

of the cap ability to

00:40:18

manage the case. Why do

00:40:21

we say so as we

00:40:23

summarize Chinese company face asymmetry

00:40:26

in sweet perspective when dealing

00:40:28

with International test, do they

00:40:32

have the information Gap? They

00:40:35

don't have or they have

00:40:37

limit ideas on the legal

00:40:40

environment legal system the rules

00:40:43

and regulation of the country

00:40:46

where the receipt is situated.

00:40:50

And secondly, they have the

00:40:54

asymmetry in packing power. They

00:40:57

don't have any idea to

00:41:01

negotiate the legal fee ways

00:41:03

to farm lawyers because they

00:41:05

also have full knowledge of

00:41:07

the fee structure how the

00:41:11

foreign lawyers can provide it.

00:41:15

They cannot talk like a

00:41:18

discount with the phone lawyer.

00:41:22

And so on is for

00:41:23

the asymmetry in expertise. When

00:41:28

they have already returned the

00:41:31

lawyers, but they still have

00:41:34

to make the decision on

00:41:36

sound professional questions when they

00:41:39

face such kind of questions.

00:41:41

They don't know how to

00:41:44

make a decision in some

00:41:46

major Milestone and in different

00:41:50

stage and they don't know

00:41:52

how to monitor the performance

00:41:53

of the phone lawyers. We

00:41:57

believe this kind of asymmetry

00:41:59

actually make Chinese County. They

00:42:03

are confused. Maybe they have

00:42:05

frightened or how do you

00:42:07

say what they Response to

00:42:12

the lawsuit or when they

00:42:14

have to make the decision

00:42:15

to initiate a lawsuit claim

00:42:18

damages. So when the opportunity

00:42:23

was Miss, they might lost

00:42:26

the case or fail to

00:42:28

clean the damage. That's I

00:42:31

think that the predict about

00:42:34

faced by chinese company. I

00:42:39

mention. Like a money knowledge

00:42:44

and expertise completed to manage.

00:42:47

The money is the first

00:42:50

consent adult. We all know

00:42:53

that for international proceedings. Little

00:42:58

Feat all that little cost

00:42:59

is very high, especially in

00:43:02

international arbitration. Fee sometimes amount

00:43:08

to millions of dollars. Chinese

00:43:13

company taking off all that

00:43:14

but why we say it's

00:43:17

not the first concern because

00:43:20

even they have the confidence

00:43:24

on winning the case they

00:43:26

can make some arrangement. But

00:43:31

even they have the money

00:43:33

they still have the problem

00:43:35

take as a mission just

00:43:36

now that you can mention

00:43:37

gas. They don't have knowledge

00:43:41

to collect the lawyer. They

00:43:46

don't have the knowledge to

00:43:49

manage to the case. So

00:43:55

that's why I say Chinese

00:43:58

Pounder with International patient can

00:44:01

really have to solve this

00:44:02

kind of problem experienced a

00:44:06

spontaneous. Pandora can have relatively

00:44:11

sufficient phone to pack the

00:44:15

case. They also have the

00:44:17

expertise when I mention expertise.

00:44:21

I would say that you

00:44:23

really need a coaching member.

00:44:26

Who are the player in

00:44:29

the market they can make

00:44:33

the decision facing my face

00:44:36

on the experience. And also

00:44:40

assesses Chinese fun. We all

00:44:43

know the Chinese market in

00:44:45

Chinese culture very well. This

00:44:47

will help the founder to

00:44:50

establish enter into business Arrangement

00:44:55

waste a Chinese client. and

00:44:58

lastly the Chinese founder should

00:45:02

have Very good relation with

00:45:07

International Resort and know the

00:45:10

international law Society dry. Well

00:45:14

with this kind of Advantage

00:45:16

Chinese founder can act as

00:45:20

a bridge to connect the

00:45:23

domestic, domestic demands waste International

00:45:31

legal service. Just like a

00:45:33

SI. What is a like

00:45:36

a adapter? Finally, I would

00:45:44

like to also talk about

00:45:46

the case management because they

00:45:49

should know that money put

00:45:50

into the case. Because the

00:45:54

Chinese clients may be no,

00:45:57

so have no slime any

00:46:01

idea or the foreign you

00:46:05

so I really need a

00:46:08

transponder to help in this

00:46:10

regard. In which case management

00:46:15

a help the Chinese company

00:46:19

to select a Twitter to

00:46:21

select lawyer and Tool. Negotiate

00:46:26

the legal fee and also

00:46:28

to get case management, you

00:46:32

know in the process and

00:46:34

finally together good taste good

00:46:38

a word. Finally. I think

00:46:42

that's what I want to

00:46:43

share today. And I think

00:46:45

the time is almost there.

00:46:46

Thank you so much. Miss

00:46:49

you. I think that's that

00:46:52

from from what we have

00:46:53

heard. It is quite evident

00:46:54

for this public for this

00:46:59

audience that the third-party funding

00:47:00

has a huge potential an

00:47:04

obvious potential in in in

00:47:06

the Chinese market. This is

00:47:09

something that that perhaps wasn't

00:47:12

that obvious a few years

00:47:13

ago. I know that at

00:47:16

some stage there was there

00:47:18

was lack of information or

00:47:19

misinformation in terms of the

00:47:22

support the legal support. If

00:47:26

I buy quartz concerning third-party

00:47:28

funding and there was a?

00:47:30

Based on the on the

00:47:33

decisions that you have heard

00:47:36

earlier on and bye. Bye

00:47:38

Miss. Hang one. This is

00:47:42

something that the that is

00:47:43

being terrified. Now. Now you

00:47:45

have two funders one, which

00:47:47

is a Chinese funds and

00:47:50

one that is an international

00:47:52

funder or conveying the same

00:47:54

message now based on what

00:47:57

what both of Chee cheong

00:48:01

as well as you have

00:48:03

a shared with the with

00:48:05

with the the onions I

00:48:08

would like to give Amy

00:48:11

and when and who is

00:48:13

that a CMS? She's Council

00:48:16

and who's with us at

00:48:19

remotely to provide any comments

00:48:21

that she may have with

00:48:23

respect to what we have

00:48:25

here. shofar 3 minutes Thank

00:48:31

you. Jose. Can the audience

00:48:33

hear me? Yes perfectly. Good

00:48:38

afternoon to all of this

00:48:39

is Amy. I'm based in

00:48:40

Hong Kong since 2020. I'm

00:48:44

from China but I am

00:48:45

a French and US qualified

00:48:47

lawyer who's practicing in call

00:48:50

which is also part of

00:48:52

the Chinese market and having

00:48:54

heard that the two speakers

00:48:57

as thing from a consoles

00:48:59

perspective. I'd like to give

00:49:01

some practical tips in a

00:49:03

way for clients having heard

00:49:06

that the two discussions just

00:49:08

now at the 1st is

00:49:10

when you're a client facing

00:49:12

disputed wanting to start an

00:49:15

action or an arbitration against

00:49:16

an opposing party. What do

00:49:18

you have in mind on

00:49:19

what you consider William silax

00:49:21

found things or even consider

00:49:23

whether this is an option.

00:49:25

Your company would like to

00:49:26

kiss you. So based on

00:49:29

what we just heard that

00:49:29

you could have the impression

00:49:31

that Sakura founding basically give

00:49:34

you a ring. Free option

00:49:36

and 23 out the liquidity

00:49:38

that your company would otherwise

00:49:40

have to invest into commencing

00:49:42

legal actions. This is to

00:49:45

a certain extent true in

00:49:47

the sense. I'm like you

00:49:48

to explain the clients once

00:49:51

the case is so except

00:49:52

for founding you do not

00:49:54

need to Bear the liquidity

00:49:55

and Ann in case you

00:49:57

do not recover any proceeds

00:49:59

from the litigation. You do

00:50:00

not need to pay back

00:50:01

the founder While most of

00:50:02

the times this depends on

00:50:03

the funding agreement on the

00:50:05

feeder have already been Advanced

00:50:07

there is always a price

00:50:09

on a premium to pay

00:50:10

to enter into such agreements

00:50:12

and that's usually are also

00:50:14

on top of the feet

00:50:15

of recoverable by the founder

00:50:17

of other situations to to

00:50:19

bear in mind such as

00:50:20

whether the client would like

00:50:22

to retain complete autonomy in

00:50:25

deciding its own disappear strategy

00:50:27

and the choice of arbitrator

00:50:29

the choice of expert the

00:50:30

toys of console as well

00:50:32

as they did the basic

00:50:33

way to to man. Around

00:50:35

the entire case. So this

00:50:37

is something that certain clients

00:50:38

have stronger preference and I

00:50:41

might be something. You need

00:50:42

to compromise to a certain

00:50:44

extent if a Founder is

00:50:46

involved in a process. And

00:50:49

the second point and it

00:50:50

could be quite obvious to

00:50:51

us doing this but less

00:50:54

obvious for clients is that

00:50:56

a founding is not only

00:50:57

available for claimants are plenty

00:50:59

of the party bringing the

00:51:00

action and it is also

00:51:02

available for Define and then

00:51:03

respondent not only in cases

00:51:06

where you have a counterclaim

00:51:07

which would be more obvious

00:51:08

because you also have a

00:51:09

claim a title for damage

00:51:11

against at the other side

00:51:12

and a part of the

00:51:14

dispute could be founded and

00:51:15

a carved out and away

00:51:17

from the rest of the

00:51:18
dispute proceeding. I'm tired or

00:51:20
even in cases where your

00:51:22
are so defend and I

00:51:24
do not have come to

00:51:24
claim. You could still be

00:51:26
found. It. It's the last,

00:51:29
but not impossible and this

00:51:31
is particularly true for companies

00:51:33
who think the claims are

00:51:34
frivolous do not stand a

00:51:35
chance against them and they

00:51:37
will be able to recover

00:51:38
cost that the proceedings are

00:51:41
through and they would lie

00:51:42
to free up that liquidity

00:51:43
while the proceedings are ongoing

00:51:45
and in that case Founders

00:51:46
can still step in. Last

00:51:49
but not least. I think

00:51:50
it's also important to consider

00:51:52
the type of dispute as

00:51:54
well as the total amount

00:51:55
at stake on the future

00:51:57
also mention this at the

00:51:59
fourth round. I think it's

00:52:00
important to to bury mind

00:52:02

and you want to manage

00:52:03

your case and the proportionate

00:52:05

Mana Sao to consider the

00:52:07

type of console. You want

00:52:08

to be engaged the type

00:52:09

of proceeding whether its litigation

00:52:11

or arbitration how much you

00:52:13

would need to invest into

00:52:15

the proceeding at Bo's from

00:52:17

a legal fee cost but

00:52:21

also from other costs and

00:52:22

expenses relevant for the operation

00:52:24

and in terms of how

00:52:26

Don compared to the final

00:52:27

recoverable proceed from the dispute

00:52:30

action. So the one to

00:52:31

10 ratio as a general

00:52:33

rule of thumb pad, I

00:52:34

think it's a helpful guidance.

00:52:35

It's not always true though,

00:52:37

and and it can really

00:52:39

depend on the steps of

00:52:40

the cases which are also

00:52:42

subject to negotiation between a

00:52:43

potty being sounded as well

00:52:45

as the founder. We've come

00:52:47

across cases where the founder

00:52:48

Are willing to shoulder up

00:52:51

a higher percentage of fees

00:52:52

as compared to the total

00:52:54

amount of dispute at or

00:52:56

even a lower percentage. You

00:52:57

could be dealing with cases

00:52:58

where an expert opinion. Is.

00:53:02

At the amount of dispute

00:53:04

the claim that could be

00:53:05

inflated and does not reflect

00:53:06

the actual recoverable amount. So

00:53:09

this is something also important

00:53:10

for the users to bury

00:53:12

my last but not least

00:53:14

and particularly relevant for Asian

00:53:18

party of four Chinese party

00:53:20

is also. Most companies are

00:53:22

not very experienced in dealing

00:53:24

with Founders were not familiar

00:53:26

with his General structure of

00:53:28

the founding including the fact

00:53:30

that at the full front

00:53:31

stage of a proceeding when

00:53:33

you're in contact with the

00:53:34

founder, you could already be

00:53:36

required to provide a lot

00:53:37

of information documents to facilitate

00:53:40

your console and in most

00:53:43

cases to found her to

00:53:44

be able to be in

00:53:45

a position to assess the

00:53:47

merits and a chance of

00:53:48

success. Off your case, including

00:53:49

a lack of ability and

00:53:51

these information sometimes are not

00:53:53

readily available for the client

00:53:55

which can call some delay

00:53:57

when securing the funding agreement

00:53:59

and the missing of information

00:54:01

from the opposing side for

00:54:02

instance, which make no, but

00:54:05

don't you the document production

00:54:06

staged or on the phone

00:54:08

Jermaine all be willing to

00:54:10

accept the risk of which

00:54:12

were presented before the case

00:54:13

was initiated by or before

00:54:15

you review the submission of

00:54:16

the opposing party is also

00:54:18

something that could potentially impact

00:54:20

how the founding agreement can

00:54:21

be concluded. And also how

00:54:23

favorable the term for either

00:54:25

that the client of the

00:54:26

founder. I'm sure that the

00:54:30

speakers will follow up with

00:54:31

touch up on these topics,

00:54:32

but I think it's helpful,

00:54:33

especially at the outside to

00:54:35

Bear these factors in mind.

00:54:37

Will you listen to the

00:54:38

discussion of the other panelists,

00:54:40

which will hopefully help you

00:54:42

before my more educated opinion

00:54:43

about the practice in general

00:54:45

and also and when you

00:54:46

were choosing whether or not

00:54:48

To engage with a Founder

00:54:50

over there now to to

00:54:51

have funding for your particular

00:54:52

case. Thank you. Thank you

00:54:56

Amy. I mean that was

00:54:57

very enlightening also, especially from

00:55:00

the the council's perspective and

00:55:02

and how I'm sure that

00:55:04

you have a in some

00:55:06

practical Casey Council them as

00:55:10

to the litigation funding agreements

00:55:13

and and and what to

00:55:14

underline when dealing with Founders.

00:55:16

I would like to now

00:55:18

move on to mr. Tao

00:55:22

kuang and and that he

00:55:24

as we know he's a

00:55:26

partner of King & Wood

00:55:27

malleons and his perspective is

00:55:31

is quite interesting because we

00:55:34

are going to look into

00:55:35

why third-party funding in China

00:55:38

may be different from the

00:55:41

funding in the Western Market

00:55:43

and know-how clients in both

00:55:47

may have a different approach.

00:55:49

So take it away. Okay.

00:55:54

Thank you. Jose friends on

00:55:59

site and online. So I'm

00:56:02

happy to join this panel

00:56:05

your battery Frank. I'm not

00:56:08

an expert in this topic

00:56:10

and I also have no

00:56:13

experience working together was if

00:56:16

you have any real case

00:56:19

as the managing partner of

00:56:22

K that we were approached

00:56:25

by funders domestically or internationally

00:56:27

to discuss the possibility of

00:56:33

cooperation. So I know something

00:56:37

about the if you have

00:56:39

time I would like to

00:56:42

you to share with you

00:56:44

some of my understanding of

00:56:48

of Awesome. Some some observations

00:56:52

will understand. This is in

00:56:55

particular the challenge or CPR

00:56:58

in Chinese market, but I

00:57:03

want to share with you.

00:57:04

It's my fault. free sample

00:57:08

the contingency fee structure. That's

00:57:13

one of the important function

00:57:17

is to release. deferred annuity

00:57:21

counseling guy from The X

00:57:24

point of view of the

00:57:26

beagle cost. I mean China,

00:57:28

you know if it's a

00:57:31

solution area that the Chinese

00:57:37

clients they prefer the contingency

00:57:42

fee Arrangements. You almost all

00:57:46

the important or large amount

00:57:48

cases and also the Chinese

00:57:55

lawyers Happy Wheels with disagreements

00:58:00

this kind of arrangements and

00:58:03

they are willing to make

00:58:05

a freak out and replace

00:58:08
of contingency. So so you're

00:58:12
most of the cases with

00:58:15
big display the amount of

00:58:16
great importance to clients. So

00:58:20
it well, of course, some

00:58:24
of them may have even

00:58:26
they have to kind of

00:58:27
Sun or the pressure of

00:58:29
legal cost. And the cards

00:58:33
will be shifted to or

00:58:36
at least share with the

00:58:37
lawyer about the pressure about

00:58:41
the burden of legal cost.

00:58:43

So it seems that a

00:58:47

Chinese lawyer willing to share

00:58:49

the risk with their clients.

00:58:51

You trying to record it.

00:58:53

Where are you in the

00:58:55

same boat? You win we

00:58:57

we you lose a loose.

00:58:59

That's one of the difference

00:59:02

between the Chinese and the

00:59:05

other Market are the jurisdictions.

00:59:09

And 2nd ST. procurement process

00:59:15

of legal service I'm trying

00:59:19

to expecially for the asshole

00:59:21

he's they don't end up

00:59:22

process and and even some

00:59:25

private companies. In case of

00:59:29

litigation arbitration with big amount

00:59:33

or out the importance to

00:59:35

the client. Almost all most

00:59:39

of them will choose the

00:59:43

lawyers why public bidding process

00:59:48

or some process of similar

00:59:50

nature like competitively Goshi ation

00:59:53

like that. and then there

00:59:58

would be an evaluation committee.

01:00:03

Consists of personnel put snails

01:00:06

from different departments have the

01:00:08

company you been from from

01:00:12

the panels of the government's

01:00:14

database? In that process which

01:00:18

means the founder of influence

01:00:27

upon the case on the

01:00:29

lawyer choosing process upon the

01:00:31

analysis of the case in

01:00:35

the public bidding process. It's

01:00:37

very hard to invite the

01:00:38

father to be a member

01:00:39

of the committee. Which means

01:00:43

the father may have left

01:00:46

say or have less influence

01:00:49

upon what you the process

01:00:52

of the city of decision-making

01:00:54

process almost have nothing to

01:00:58

say about the lawyer choosing

01:00:59

a process. So Deuce another

01:01:02

challenge for the founders. Okay,

01:01:05

and this Earth Wise did

01:01:07

the Garrity of the gpf

01:01:09

agreement? Of course, I think

01:01:11

that much and a lot

01:01:14

but I but my point

01:01:16

is that CPAP equipment Chinese

01:01:22

another case price of the

01:01:23

country so that decision would

01:01:27

I betray his indecision arbitration

01:01:29

award. Not not not not

01:01:34

not have the will have

01:01:36

the streets or very much.

01:01:39

So in cheap have I

01:01:45

saw as far as I

01:01:46

know when you've Iowa judge

01:01:49

I will review that you

01:01:50

have equipment not not only

01:01:54

by its name another name

01:01:56

of a a a t

01:01:58

e insurance or a supervised

01:02:02

the by the relevant authorities

01:02:04

or maybe in the name

01:02:07

of that transfer agreement. And

01:02:11

they should be should be

01:02:12

treated as at AMC business

01:02:16

and that you can be

01:02:18

sure narsa conditioner knowing agreement

01:02:22

without recourse and it can

01:02:26

be supervisor management by the

01:02:28

other rather than the government

01:02:30

authorities if it is a

01:02:32

form of thunder and emerging

01:02:35

contest sometimes foreign country. foreign

01:02:40

exchange control problems a lot

01:02:43

of problems so Here that

01:02:53

you can drive. So the

01:02:54

chief have is a crab

01:02:56

cute boys, not a legal

01:02:59

community. And finally, I think

01:03:08

you're one of the most

01:03:09

difficulty for your father is

01:03:11

no matter domestic or international

01:03:12

law enforcement procedure in China.

01:03:19

every practitioners in China news

01:03:23

enforcement Alpha valid Abbott Royal

01:03:28

Road is not effective. So

01:03:37

to you. Jasmine's is a

01:03:40

very very long time consuming

01:03:42

and is not a defective.

01:03:45

Okay, they said that okay,

01:03:51

it will work out that

01:03:53

successful for you only you

01:03:55

the clients. Had recovered precedes

01:04:01

so in China, if you

01:04:04

win the arbitration and litigation

01:04:07

case, they need another three

01:04:10

or four years. You have

01:04:12

the Award of journeyman be

01:04:15

enforced after three or four

01:04:18

years waiting. Now you may

01:04:22

have fallen Academy water from

01:04:23

the code enforcement procedure is

01:04:28

terminated without any outcome impractical

01:04:35

what I mentioned just now

01:04:37

is the real practical Chinese.

01:04:41

So what I say is

01:04:45

the reason of all the

01:04:49

TPS Honduras developing and promoting

01:04:53

their business in China, is

01:05:03

kind of mechanic them come

01:05:05

to this Market. Is that

01:05:06

even now it is any

01:05:08

near future because she'll be

01:05:10

very Frank ask your lawyer

01:05:12

as the managing partner of

01:05:14

that's a big Law Firm

01:05:14

we are and they're very

01:05:17

high pressure. against our default

01:05:22

compliance Even with window case

01:05:26

you've gathered jogging Monday you

01:05:29

forced all kinds, you know

01:05:31

the one to pay us.

01:05:34

So do you stay up

01:05:37

bath bomb situation? So we

01:05:40

we have people have fun

01:05:41

there has been much more

01:05:44

relaxed and just okay. I'm

01:05:47

sorry so you were right

01:05:50
on spot. So so tell

01:05:52
you my basic conclusion from

01:05:55
your remarks is that you

01:05:58
you would be an excellent.

01:06:02
third-party funding managing director needs

01:06:14
to have a high degree

01:06:16
of skepticism before every case

01:06:20
and and if a case

01:06:24
is a good case the

01:06:26
case would convince you if

01:06:29
the lawyers are the right

01:06:31
lawyers for that case the

01:06:34
case would convince you if

01:06:36
the opposing party is in

01:06:43
an opposing party that has

01:06:45
the capital to pay the

01:06:47
damages that you see could

01:06:50
be awarded the case would

01:06:51
convince you otherwise The case

01:06:54
would not convinced you so

01:06:56
you would you make you

01:06:57
know, an excellent managing director

01:06:59
of a third-party funding. There's

01:07:01
a couple of things that

01:07:03
that I would that I

01:07:04
would like to say here

01:07:06

that you have touched upon

01:07:09

very quickly risk-sharing is is

01:07:15

a is indeed a feature

01:07:18

that I understand is present

01:07:20

in Chinese legal culture some

01:07:24

funders require that level of

01:07:26

risk sharing by firms and

01:07:29

by Fife and the process

01:07:32

of procurement Within soe I

01:07:37

I I I I have

01:07:39

never evaluated a case against

01:07:42

China or against the Chinese

01:07:44

company or for a Chinese

01:07:47

company, but what's interesting here

01:07:49
is that my understanding is

01:07:52
that the funders look into

01:07:53
Good Counsel? So is the

01:07:56
procurement of Good Counsel is

01:07:59
one that is strict and

01:08:01
that would get the best

01:08:03
counsel possibly the founder might

01:08:07
might like that Council if

01:08:09
if if the council is

01:08:11
mediocre most likely. Thunder would

01:08:15
not like it and unless

01:08:17
point. Who chooses the Thunder

01:08:21
is is is a key

01:08:24

one. I would like in

01:08:26

in really 3 minutes teach

01:08:30

on and I would like

01:08:33

to make an effort in

01:08:35

3 minutes to respond to

01:08:37

some of the concerns that

01:08:38

that that power has put

01:08:40

on the table because I

01:08:41

think that this exchange is

01:08:43

is very very good. Not

01:08:45

only with respect to funding

01:08:47

but also with respect to

01:08:48

the characteristics of the Chinese

01:08:49

market, but you will only

01:08:51

have 3 minutes. I will

01:08:53

try my best to I'll

01:08:55

try my best to be

01:08:56

quick. Yeah, I think just

01:08:57

just some immediate thoughts on

01:08:59

on that process. I think

01:09:00

ultimately price of council. It's

01:09:02

up to the client has

01:09:05

full control of that in

01:09:07

most jurisdictions. That is the

01:09:09

position. We would give our

01:09:12

recommendations if we believe saved

01:09:16

the legal team that the

01:09:17

client wants Use is not

01:09:21

appropriately a resource or not

01:09:23

appropriately experience in those particular

01:09:25

types of dispute the amount

01:09:27

of money that the client's

01:09:29

decision every pay the bills.

01:09:30

And of course, you are

01:09:31

the best possibility your team

01:09:32

to do it and we

01:09:34

are lined with clients the

01:09:35

sense that we want cheap

01:09:38

and good. So we're also

01:09:39

like it when law firms

01:09:41

like Caribbean decide that do

01:09:43

you want to go a

01:09:44

bit of risk as well?

01:09:45

If that would be a

01:09:47

good indication to us that

01:09:48

they believe in the strength

01:09:49

of a case. So that

01:09:50

is something that that that

01:09:52

that we get to those

01:09:55

that that that van giesen

01:09:57

talked about earlier, which was

01:09:58

the fact that there is

01:10:02

a procurement process that we

01:10:05

that that dispossess. You don't

01:10:08

usually to contact competitive bidding

01:10:10

process that featured a number

01:10:12

of the cases that we've

01:10:14

been working with with Chinese

01:10:16

parties as well. Ultimately, I

01:10:18

think It can walk a

01:10:20

few ways. It could be

01:10:22

that the soe requires a

01:10:23

competitive process in the selection

01:10:25

of the law firm. The

01:10:26

law firm decides that they

01:10:28

want to walk with one

01:10:28

particular finder and different law

01:10:30
firms have different pandas. That's

01:10:32
one way to do it.

01:10:33
The other way is when

01:10:35
he wants the legal team

01:10:37
has already been determined. Then

01:10:39
the den Dee Dee actually

01:10:43
say for instance decides that

01:10:45
he wants to tend to

01:10:46
this post has to have

01:10:48
to look at different potential

01:10:49
funders that they can't walk

01:10:50
with that something that we

01:10:52
we are not averse to

01:10:54

and we understand that the

01:10:55

procurement process is not very

01:10:59

different from how it works

01:11:01

in other jurisdictions as well.

01:11:02

Most companies require no cheat

01:11:04

codes for instance on on

01:11:06

how to approach that and

01:11:09

that's not something that we

01:11:10

would be shy away from

01:11:12

my husband or the trade-off.

01:11:13

I think what we really

01:11:15

want to I think in

01:11:16

my experience, is that once

01:11:19

the Guys decided to go

01:11:20

with one particular finder. We

01:11:22

we hope that it made

01:11:23

me agree with a sketched

01:11:26

out a commercial terms and

01:11:28

Commercial structure with the time

01:11:30

and wants that secrete. I

01:11:32

think the VP to a

01:11:33

more in-depth mutilations to tune

01:11:38

to cover of the many

01:11:40

different considerations, right like the

01:11:41

merits of the case. How

01:11:42

could the case is the

01:11:44

recovery bility to look into

01:11:46

the SM position of a

01:11:47

counterparty developed was at 3:30

01:11:50

p.m. For Smith strategies that

01:11:52

something that we be would

01:11:54

at least sometimes require a

01:11:56

next Tuesday 2:30. 2 to

01:11:58

look at and sometimes that's

01:11:59

a bit of a struggle

01:12:00

for 4/4 Chinese guys do

01:12:02

understand but I think in

01:12:05

most cases we can overcome

01:12:07

that and I said man

01:12:09

should be refunded t i

01:12:11
c s o e in

01:12:11
that case that was mentioned

01:12:14
earlier that one that was

01:12:15
try to set aside in

01:12:18
the beach in Cozumel. In

01:12:20
that case was out there

01:12:21
by the fdic's Sol. So

01:12:23
we understand the process and

01:12:26
the thinking of of of

01:12:28
of Chinese parties in Chinese

01:12:30
SOS in particular are in

01:12:31
the many different considerations that

01:12:33
that I go into any

01:12:36

decision on whether to you

01:12:37

stop a different day work

01:12:39

with lawyers on the contingency

01:12:40

fee and we also understand

01:12:43

the cultural nuances in that

01:12:45

process of the questions and

01:12:53

those that you did not

01:12:54

answer. We will leave for

01:12:56

bus training. I would like

01:13:02

to welcome mr. At you

01:13:04

and who was apart of

01:13:09

at the well now and

01:13:12

get the law firm and

01:13:15

pick up on a question

01:13:18
that was I also put

01:13:20
together by by Powell which

01:13:23
is the notion that welder

01:13:28
maybe the high court that

01:13:31
had a negative ruling but

01:13:34
there were other courts that

01:13:35
had a positive ruling concerning

01:13:37
litigation. And on top of

01:13:39
that there may be other

01:13:41
course that have a favorable

01:13:43
perspective not lie concerning litigation

01:13:46
funding but arbitration funding so

01:13:48
could you help us to

01:13:51

understand whether this is this

01:13:54

has some logic given that

01:13:57

this is not a common

01:13:59

law country and whether there

01:14:02

is some value on that

01:14:03

and and and I and

01:14:05

I say this with the

01:14:07

highest levels of respect. I

01:14:08

am also a civil lawyer

01:14:10

as as as you are.

01:14:11

So please go ahead. Yes,

01:14:15

please please please. Rice 04

01:14:28

Softail really appreciated the question

01:14:31

and it's a very interesting

01:14:32

topic to discuss the development

01:14:36

of third-party funding in China

01:14:37

and I feel even stasher

01:14:40

to join the panel and

01:14:42

folding discussion. So just reply

01:14:46

to the question regarding the

01:14:47

cases. So you my presentation

01:14:49

today while also touched upon

01:14:51

a Judicial probe which is

01:14:54

further discussion regarding the two

01:14:57

landmark cases brought by me.

01:15:00

So that's been mentioned by

01:15:03

Hillside that because we saw

01:15:10
the several cases relieving the

01:15:13
position towards their part founding

01:15:18
but I will start with

01:15:19
a little bit of background

01:15:20
on the arbitration no institution

01:15:22
approach. I really want to

01:15:24
mention this because Each weld

01:15:27
a must-read potential knees after

01:15:30
Chinese arbitration user in Maryland

01:15:34
the other to relieve their

01:15:37
burden out the potential cost

01:15:40
of arbitration. I also a

01:15:42
quilt with Mr. Wong has

01:15:43

already said that contingency fee

01:15:47

in Chinese lawyer to practice

01:15:49

also helped a lot to

01:15:51

relieve the class burden on

01:15:53

the legal fees from the

01:15:55

tourney side, but will it

01:15:57

look into the number of

01:15:58

the statistics by the opportunity

01:16:01

to show a c-note only

01:16:03

told her mom got 50

01:16:05

for you and Casey see

01:16:06

our trees are increasing every

01:16:07

year but we also have

01:16:08

more and more very high-value

01:16:10

cases like according to the

01:16:13

2023 State a statistic with

01:16:16

C major institution in China.

01:16:19

We have four teeth build

01:16:21

amount is more than R&B

01:16:23

100 million CR about what?

01:16:25

What's fifty to two hundred

01:16:27

cases? And for the few

01:16:29

demands more than 1 billion

01:16:30

and be there about almost

01:16:32

20 cases for every year.

01:16:33

So you order to provide

01:16:37

better service to Dollar Tree

01:16:39

in user actually arbitration. No

01:16:41

institutions. They have already done

01:16:43

a loss of a hand.

01:16:46

I think they're trying to

01:16:47

prove something to me some

01:16:49

cap on the arbitration teeth

01:16:51

like BAC. They have their

01:16:53

limitations of institutional fee to

01:16:56

cap outside in me R&B

01:16:58

and the I retreated speed

01:17:00

dating meaning of similarity a

01:17:02

high-priority Down by SeaTac at

01:17:04

another institution where SeaTac has

01:17:06

put a cap on that

01:17:08

Regency about 15 million R&B.

01:17:10

That's his one-hand. However for

01:17:13

another hand, of course, he's

01:17:14

come to the founding to

01:17:16

available to the parties. Who

01:17:18

are we see even in

01:17:21

almost a joke 7 8

01:17:23

years ago. We haven't seen

01:17:25

you since. Revisao VR between

01:17:28

Jews and promoted news rules

01:17:31

regarding said party founding related

01:17:34

arbitration juice in their 82

01:17:37

Chanel. So having this as

01:17:39

a background of the Chinese

01:17:42

arbitration Mark 80 my personal

01:17:45

feeling because I used to

01:17:47

work in the Sea-Tac. I

01:17:49

said case manager even ten

01:17:52

years ago. I start to

01:17:53

touch upon the issuance of

01:17:55

party founding because the Chinese

01:17:57

are choosing institutions already have

01:17:59

very sensitive regarding the market

01:18:01

like in the first time

01:18:03

I talked about the I

01:18:04

heard about the sir part

01:18:05
funding Chinese almost like 2015

01:18:08
or 2014. It's almost 10

01:18:10
years ago and will also

01:18:11
see a lot of successful

01:18:13
to mastic founder in China

01:18:15
and to now, like I

01:18:17
said, I had only recently

01:18:18
the Chinese TV show has

01:18:20
also starred to post the

01:18:23
air gesture towards funding activity.

01:18:25
Arbitration and litigation so I

01:18:28
went back to talk about

01:18:29
those two interesting cases white

01:18:32

bathing card case and not

01:18:34

the one Shanghai case like

01:18:36

me has already mentioned. It

01:18:39

seems like there's some can't

01:18:41

read Ephesians because the pigeon

01:18:43

court cases very positive at

01:18:46

the fishing towards arbitration founding

01:18:49

where the evolving of so

01:18:51

Party founder in arbitration procedure

01:18:53

while not invalidate arbitral award.

01:18:57

However, in this case, it

01:18:59

seems like half the conclusion

01:19:02

because finally the corps has

01:19:05

a valid the founding contract

01:19:08

in litigation. Well, however from

01:19:10

my Approach I would not

01:19:12

simply cats grieve those two

01:19:15

cases is the difference between

01:19:16

arbitration found a litigation filed

01:19:19

in because there is actually

01:19:20

a fundamental difference between those

01:19:23

two judicial procedure B. In

01:19:26

the Beijing Katie said Purity

01:19:28

arbitral procedure is shoes only

01:19:32

a judicial review procedure over

01:19:35

a arbitration award Jesus by

01:19:38

C packets arbitration law issues

01:19:40
of procedure issue. Whoever actually

01:19:42
in the Shanghai case totally

01:19:45
to match between the founder

01:19:49
and the Sunday party. Where

01:19:51
are the oldest RT the

01:19:53
youth relied in that Shahi

01:19:55
case is a Chinese to

01:19:56
match its civil law or

01:19:58
the old contract law. So

01:20:00
they're actually coming to the

01:20:03
two founding practice from a

01:20:06
totally two different approach and

01:20:08
for the Beijing a car

01:20:10

to approach. Actually, I would

01:20:12

say the the positive conclusion

01:20:15

on the judicial review process

01:20:18

to data War. It's a

01:20:20

positive Cowman does not surprise

01:20:24

me at all. We talked

01:20:26

about diesel review process in

01:20:29

China in the last part

01:20:31

5 or 10 years. We

01:20:33

have to mention there are

01:20:34

two very important background on

01:20:37

the PC Supreme People's Court

01:20:39

that they have already demonstrated.

01:20:41

You are pro arbitration approach

01:20:43

very clearly in the sky

01:20:46

from the several cases and

01:20:49

from several important judicial interpretations.

01:20:52

And I mean taunt internal

01:20:54

reporting system requirement for the

01:20:57

R2-D2 review process. Not surprising

01:21:00

at all to see the

01:21:01

cord supposed to arbitration award

01:21:04

even involving with sounding like

01:21:06

that practice. Your solo asked

01:21:09

everything the founding practice in

01:21:11

the arbitration in SeaTac have

01:21:13

a photo that regarded you

01:21:16
and the corresponding regulation of

01:21:19
the disclosure application to avoid

01:21:22
any conflict of interest and

01:21:24
24. Call the duty of

01:21:26
confidentiality of the park is

01:21:28
so interesting that are real

01:21:30
and also involving with the

01:21:32
very professional founder a zombie

01:21:34
in that case. I think

01:21:35
that's not a big issue

01:21:36
really from the traditional approach

01:21:38
to trying to find Annie

01:21:41
legality or illegality issue in

01:21:44

that Irish of the seating

01:21:45

for the show issue because

01:21:51

it's kind of litigation funding

01:21:53

contract probably could very first

01:21:56

time only what else've are

01:21:57

several times. It's closed to

01:22:00

the Chinese traditional and they

01:22:01

are not efficient to see

01:22:03

whether there's a valid contract

01:22:04

that judgment. I don't think

01:22:10

it's really an active gesture

01:22:12

to watch litigation founding you

01:22:14

tied up because even though

01:22:16

we could split the reasoning

01:22:19
of the car by two

01:22:21
major part one part is

01:22:23
really a commentary by the

01:22:25
car. Over the detention Falcon

01:22:27
pracs if the sword is

01:22:29
a financial nature and the

01:22:32
shoes they should be regulated

01:22:34
by the financial regulation time

01:22:36
in China. However, I'll call

01:22:38
to our dating out for

01:22:39
any should Financial regulations over

01:22:42
this kind of funny mechanic

01:22:43
do in this scenario. The

01:22:45
court only have a conclusion

01:22:46
that I still will have

01:22:47
to be very careful. We

01:22:49
have to be more prudent.

01:22:51
I'll be fishing out this

01:22:52
can of funding can track.

01:22:54
It doesn't lead to automatic

01:22:56
in that account tracks pretty

01:22:58
big factor of special effects

01:23:01
for background check her into

01:23:02
this child. Hi Casey the

01:23:05
second part Elsa and Anna

01:23:07
see which is really close

01:23:10
relationship between the Thunder and

01:23:12
the council also found a

01:23:15
party where its light controller

01:23:18
of the foundery. So so

01:23:20
a partner in The Firm

01:23:21
is representing the family party

01:23:24
and that if Do all

01:23:27
Sonos off the first concern

01:23:29
on the popping policy perspective

01:23:31
of the entrance for Selective

01:23:33
including their potential over a

01:23:36
controlling over off the Party

01:23:39
by the founder regarding their

01:23:41

litigation realize like a true

01:23:42

South lawyer even resolve their

01:23:45

dispute outside litigation procedure. And

01:23:48

those who that could be

01:23:49

a potential malpractice between the

01:23:52

Thunder and the council. It's

01:23:56

all my time. It's almost

01:23:57

a lot. So I would

01:23:58

just quit Forever by 3

01:24:00

take away from the abbreviation

01:24:02

of the relation from those

01:24:03

two interesting cases. And also

01:24:05

was the our mail and

01:24:07

the situation. That's why did

01:24:08

Doc sell the first take

01:24:10

away will be I will

01:24:11

save kind of optimistic regarding

01:24:13

funding in arbitration procedure. Why

01:24:17

is that the bathing carti

01:24:19

featuring Grady Mouse doing standing

01:24:21

there? If you follow all

01:24:23

the regulation falling out recent

01:24:26

you inside I'm superseding there

01:24:29

could probably no problem at

01:24:31

Cedar Grove to Challenger Wort

01:24:34

so that the quality of

01:24:35

the war could be protected

01:24:37

even with involving out founding

01:24:39

mechanic and a second but

01:24:44

I would say the litigation

01:24:46

funding and arbitration founding by

01:24:48

cannons could be differently from

01:24:51

a regulation approach. Trent between

01:24:56

litigation of arbitration but I

01:24:58

don't think that make a

01:24:59

concussion to see that it's

01:25:02

enough to show that we

01:25:03

must have a referral regulation

01:25:06

to work litigation that not

01:25:07

true. However, I do think

01:25:09

arbitration in China a having

01:25:12

the background by the ice

01:25:14

peace beyond your pro arbitration

01:25:16

approach and having the arbitration

01:25:18

as the multi-layered to start

01:25:21

to loosen the cabinets in

01:25:22

which is strongly supported by

01:25:25

the central government and also

01:25:27

make reference to other jurisdiction

01:25:29

like Hong Kong. They have

01:25:30

their special regulation, especially arbitration

01:25:34

founding. I think you should

01:25:35

probably also a way that

01:25:37

the Chinaman land can make

01:25:39

a reference to and the

01:25:41

last point is if you

01:25:42

had a thing with we

01:25:43

it's a regulation to Ward's

01:25:45

bonding activities for not be

01:25:46

only on the final show

01:25:49

is at 3 but also

01:25:49

a combination with the legal

01:25:51

industry probably including ways to

01:25:53

practice and lawyer side. So

01:25:56

that's makes my confusion. Thank

01:25:57

you. Thank you very much.

01:26:02

Thank you very much and

01:26:03

end up your last but

01:26:05

not least after you Joe.

01:26:08

I would like to know

01:26:11

welcome again and Amy went

01:26:13

away. One China two systems

01:26:23

and that's why we are

01:26:24

giving a close. Look perhaps

01:26:29

a summary look into how

01:26:31

is litigation and arbitration funding

01:26:34

in Hong Kong. So Amy,

01:26:37

please you have just a

01:26:40

few minutes, but I know

01:26:41

that you're up for the

01:26:42

task. Thank you Jose and

01:26:46

I am conscious of time

01:26:48

and I'll try to keep

01:26:49

my presentation brief and concise.

01:26:50

It's a very good thing

01:26:53

that my presentation follows that

01:26:55

if y'all I'll be giving

01:26:57

it a different perspective. I'll

01:26:59

take the audience now to

01:27:00

Hong Kong which has been

01:27:03

and remains one of the

01:27:04

most important forum for despair

01:27:06

resolution for Chinese parties, especially

01:27:08

if they're engaged in farming

01:27:10
related business transactions or a

01:27:13
commercial contract and I'll be

01:27:15
briefly looking at three areas

01:27:17
and I'll start with a

01:27:18
brief survey on the practice

01:27:21
of dispute founding and Kong

01:27:22
Kong and general the legislative

01:27:24
landscape and to be followed

01:27:26
by the relevant provisions of

01:27:29
the leading now Mainland Chinese

01:27:31
institutions and their rules a

01:27:33
litigation songs about arbitration founding

01:27:35
in general and how they

01:27:36

differ from the overview that

01:27:38

was just seeing from yowies

01:27:39

presentation and finally a very

01:27:41

quick view their party founding

01:27:44

and investment / 2 Which

01:27:46

has gained more momentum and

01:27:48

attention in the past few

01:27:49

years, especially with Chinese a

01:27:51

users before that a very

01:27:54

quick word about my own

01:27:55

background. The first half of

01:27:57

my professional career was dedicated

01:27:59

to investment arbitration and my

01:28:01

firm represented exclusively stay clients.

01:28:04

So we're very used to

01:28:06

working with state governments as

01:28:07

though he's public entities are

01:28:09

we also represented local municipalities?

01:28:12

So we are aware of

01:28:13

the particular situation the relevant

01:28:16

constraints and a particular ATI

01:28:19

working around with clients with

01:28:22

a stay by ground or

01:28:24

is a public entity and

01:28:25

I could also tie into

01:28:27

the attractiveness and also the

01:28:31

challenges faced by these entities

01:28:33

are when they're trying to

01:28:34

procure a founding for their

01:28:36

cases. So a quick overview

01:28:39

about the Landscaping Hong Kong

01:28:40

Hong Kong is primarily a

01:28:42

common law jurisdiction. So that's

01:28:44

the major. Difference between a

01:28:46

legal system in Hong Kong

01:28:47

and China and under common

01:28:49

law and there are two

01:28:51

legal doctrines 10 as maintenance

01:28:53

the other one know as

01:28:54

champerty and these two dogs

01:28:57
in principle prohibits sounding of

01:29:00
litigation in front of Hong

01:29:01
Kong quartz. So very briefly.

01:29:04
She won't give you the

01:29:06
the definition of third-party found

01:29:07
a and that's basically precisely

01:29:10
what is the doctrine of

01:29:11
maintenance is trying to prevent

01:29:12
answer the doctor in itself

01:29:14
Southside a third-party that's it

01:29:17
does not have an interest

01:29:19
in the action itself or

01:29:20
is not otherwise involved in

01:29:22

the action is prevented from

01:29:25

basically sponsoring or encouraging assisting

01:29:29

on the potty bringing the

01:29:30

action by means of her

01:29:32

and says provide financial support

01:29:33

and Trend Purdy is a

01:29:35

type of Maintenance and it

01:29:37

basically prevents a party from

01:29:39

having a share in the

01:29:40

proceeds of the litigation and

01:29:43

the party is otherwise not

01:29:44

related to the I'm so

01:29:47

as a result of these

01:29:48

two common law Doctrine litigation

01:29:51
founding in Hong Kong is

01:29:52
in principle not allowed and

01:29:54
saved in very limited circumstances,

01:29:56
which I will not going

01:29:57
to detail. So that's the

01:29:58
legislative landscape and why this

01:30:01
equation found in Hong Kong

01:30:02
is commonly not seeing owners

01:30:04
are not involved in this

01:30:05
area and I has been

01:30:08
rather a stablished the law.

01:30:09
It's a different landscape when

01:30:12
it comes to arbitration. And

01:30:14

even before we see a

01:30:22

lot of cases arbitration cases

01:30:24

being founded and especially if

01:30:27

the seats are outside of

01:30:28

Hong Kong and the Hong

01:30:29

Kong government were very much

01:30:30

aware of the situation and

01:30:32

at the law reforms which

01:30:34

chocolate packets as a first

01:30:36

of February 2019, basically solidify

01:30:39

the practice at arbitration founding

01:30:40

for arbitration see it in

01:30:42

Hong Kong is completely is

01:30:43

just my size and I

01:30:45

wish it also shows the

01:30:47

governed is provocation. General and

01:30:49

I has been gaining more

01:30:51

mentally incompetent stand and what

01:30:55

reflected the legislative altitude on

01:30:58

the general practice of dispute

01:30:59

sounding is also something we

01:31:01

can see it original arbitration

01:31:03

rules. So just now we

01:31:04

look at on the rules.

01:31:06

I'll find some of the

01:31:07

leading Chinese institution such as

01:31:09

she talked a PhD and

01:31:11

I will switch gears and

01:31:12

look at it and the

01:31:13

hki for a change and

01:31:15

this is the Hong Kong

01:31:16

International arbitration Center, which is

01:31:18

one of the leading Institute

01:31:20

originally and also is quite

01:31:21

commonly used by Chinese party.

01:31:23

So he published its latest

01:31:27

version of 2024 rules on

01:31:29

just a few weeks ago.

01:31:31

I'm about to they were

01:31:32

looking at both the 2024

01:31:33

and the 2018 rules which

01:31:36

are largely the same when

01:31:37

it comes to on third-party

01:31:39

founding. So the practice itself

01:31:41

is expressly recognized and express

01:31:43

Express weave. I did for

01:31:45

under the rules and what

01:31:47

goes with it as best

01:31:48

physically a very strict disclosure

01:31:51

requirements, which is found on

01:31:53

the article 44 of booster

01:31:55

2018 rules in the 2024

01:31:58

rules. What is essentially says,

01:32:00

is that a party that's

01:32:01

being founded and be the

01:32:03

claim end of the respondent

01:32:04

has an obligation and it's

01:32:07

an active affirmative obligation to

01:32:09

disclose the existence of the

01:32:11

founding agreement as well as

01:32:12

the identity of the founder

01:32:14

to the tribunal the opposing

01:32:16

party and inserting institution as

01:32:18

soon as the agreement is

01:32:19

concluded. So if you're a

01:32:22

claimant are you have secured

01:32:24

funding agreement before comments and

01:32:26

actions you need to announce

01:32:28

the two sets of information

01:32:29

in your notice of arbitration

01:32:31

already. If you're the respondent

01:32:33

being sounded you need to

01:32:34

announce that in your answer

01:32:35

to the notice of arbitration,

01:32:36

which is the first written

01:32:38

submission and that you will

01:32:39

provide air in the preceding.

01:32:42

And if a party procure

01:32:44

a standing agreement after the

01:32:45

commencement of the arbitration do

01:32:47
throughout the arbitration process, which

01:32:49
we see and happens a

01:32:51
from time to time and

01:32:53
then and the party being

01:32:54
founded is under an obligation

01:32:55
to notified on the tribunal

01:32:58
of the opposing party and

01:32:59
the institution as soon as

01:33:02
practicable after the funding agreement

01:33:04
has been fully cured from

01:33:05
logical 44 that off the

01:33:08
HPI Stables. What goes with

01:33:11
the disclosure agreement is also

01:33:13

on Provisions regarding confidentiality so

01:33:17

far? I would treeshin seated

01:33:18

in Hong Kong and by

01:33:20

virtue of the Hong Kong

01:33:21

arbitration ordinance arbitration proceedings are

01:33:23

confidential. So I normally a

01:33:26

party is not entitled to

01:33:27

disclose confidential information or documents

01:33:30

obtained through there before proceeding

01:33:32

to third parties. But under

01:33:34

the h k. I z

01:33:35

rules you have an exception

01:33:37

which is provided in case

01:33:39

of procuring sounding agreement. And

01:33:42

so as we've discussed before

01:33:44

I found your decides whether

01:33:45

or not if it needs

01:33:47

to be able to access

01:33:48

the information of the case

01:33:49

and form a preliminary assessment

01:33:52

of the merits the validity

01:33:54

of the clay and also

01:33:55

recovering possibilities, which require the

01:33:57

founders to access confidential documents.

01:33:59

So that's something also provided

01:34:01

under the rules itself and

01:34:03

potty would likely have a

01:34:05
dispute about this particular issue.

01:34:08
So that's the rules of

01:34:09
the H&K. I see another

01:34:11
more commonly used institution is

01:34:13
dicc the international Chamber of

01:34:15
Commerce and in its latest

01:34:17
rules that the roof from

01:34:18
2021 article 11, you have

01:34:21
a similar provision of it's

01:34:24
less comprehensive in a way

01:34:26
as compared to the hki

01:34:27
supervision by the dresses the

01:34:29
same and the party being

01:34:31

founded is an obligation to

01:34:33

promptly informed the opposing party

01:34:35

to Tribune training institution that

01:34:37

about the existence of funding

01:34:38

agreement as well as the

01:34:39

identity of the phone to

01:34:40

the key consideration here is

01:34:42

to preserve the Integrity of

01:34:44

the arbitration proceeding as the

01:34:46

founding agreement itself can impact

01:34:48

Court decision for instance, or

01:34:50

I'm the Tribune has consideration

01:34:52

when granting security for costs

01:34:53

as we've discussed and more

01:34:56

importantly I could potentially raise

01:34:58

complex issue and that's an

01:35:01

important part of because going

01:35:02

back to the presentation of

01:35:04

our previous panelist to whom

01:35:07

I should know. The phone

01:35:09

does Arnold only there to

01:35:10

provide phones but also expertise

01:35:13

and the phone. Could be

01:35:14

involved in the selection of

01:35:16

lawyers expertise Etc. This could

01:35:19

potentially I depend depending on

01:35:21

the sub Civic funding agreement

01:35:23

raise issue as to whether

01:35:25

or not that creates a

01:35:26

conflict within the legal representation

01:35:29

steam at self. We're all

01:35:31

aware that as lawyers representing

01:35:33

a client. We were not

01:35:35

and I can depend on

01:35:36

the jurisdiction. I'm the lawyer

01:35:38

is subject to the regulation

01:35:40

and may not be allowed

01:35:43

to have an interest in

01:35:44

a proceed or the outcome

01:35:46

of the litigation. So I'm

01:35:49

before securing funding agreement. It's

01:35:51

we always advise a client

01:35:53

that were any individual interested

01:35:55

in this procedure to carefully

01:35:57

seek advice from your console

01:35:59

and have this discussion with

01:36:00

the founder to make sure

01:36:01

that you're not overstepping public

01:36:03

policy issues or on the

01:36:05

potentially risk, and now they

01:36:07

find the founding of Grey.

01:36:08

And or even jeopardizing the

01:36:09

entire arbitration procedure? When we

01:36:13

go a bit more spending

01:36:14
to the region and we

01:36:16
also surveyed Andrews office as

01:36:18
I see that's the institution

01:36:19
in Singapore as far as

01:36:21
jaa. Japan ikca be in

01:36:23
Korea LCI in London and

01:36:25
sec in Stockholm these institutions

01:36:28
rules for the commercial arbitration.

01:36:29
They are for the time

01:36:31
being silent on third-party funding.

01:36:34
We haven't identified cases where

01:36:37
the position has been taken.

01:36:38
Party after party funding is

01:36:40
not allowed or prohibited or

01:36:42
restricted in any way. I'm

01:36:44
however, there is no Express

01:36:45
disclosure agreement out of these

01:36:47
rules safe for the policy

01:36:50
of the Stockholm Chamber of

01:36:51
Commerce, which recently adopted a

01:36:53
policy which encouraged party to

01:36:56
undisclosed they exist as Ian

01:36:58
density of the founder of

01:37:00
the precise reason and I

01:37:02
adjust adjust Things are a

01:37:05
bit different when it comes

01:37:07

to investment arbitration. And again,

01:37:10

we're not talking about cases.

01:37:11

In general takes longer to

01:37:14

conclude as compared to commercial

01:37:16

arbitration does usually more complex

01:37:18

and enforcement procedures could be

01:37:20

more cumbersome and what it

01:37:23

involves Auburn's at assets to

01:37:25

go running to potentially meet

01:37:27

at the issues. So this

01:37:28

is another area where I

01:37:30

would say Chinese users could

01:37:31

be more interested in potentially

01:37:33

consider using founding agreements either

01:37:36

to facilitate and ate them

01:37:38

during the arbitration process and

01:37:40

Order forcement stage on Wednesday

01:37:42

to cure a favorable award

01:37:44

and here if we survey

01:37:46

the major investment arbitration rules

01:37:50

and that you would find

01:37:51

the party funny be mentioned

01:37:53

one way or the other

01:37:54

by the leading institution as

01:37:56

this practice has been used

01:37:57

for many years and in

01:38:00

the exit rows for instance.

01:38:01

The party is being founded

01:38:03

are under an expresso. Haitian

01:38:05

to make disclosure and that

01:38:07

is supposed to guarantee the

01:38:10

Integrity of the arbitration proceeding

01:38:11

itself. But also to allow

01:38:13

the tribunal which would take

01:38:14

it into consideration. Not only

01:38:16

allocating call Stanley do expenses

01:38:19

at the closing juncture of

01:38:23

the preceding. But also when

01:38:25

a party apply for security

01:38:26

for costs, which is more

01:38:28

often seen as an investment

01:38:29

arbitrations and we have remarks

01:38:41

had especially how you were

01:38:43

able to prove specifically that

01:38:47

I would even call it

01:38:50

a sort of Israeli students

01:38:54

going to start that now

01:38:55

the fact that everyone in

01:38:58

every Center Fulton best arbitration

01:39:01

and Commercial arbitration. There is

01:39:04

a Judy Disclose that has

01:39:06

of course ramifications in in

01:39:10

in in in many aspects

01:39:12

both investor-state and international commercial

01:39:15
arbitration as you have mention

01:39:17
security for cost. I I

01:39:19
think that that that was

01:39:21
a wonderful way to set

01:39:24
this stage as to why

01:39:25
there is there is I

01:39:28
would say it clear rule

01:39:30
of of transparency on who

01:39:32
the Thunder is which protects

01:39:33
the Integrity of the tribunal

01:39:35
I would like to conclude

01:39:37
simply by by emphasizing that

01:39:42
as we have seen. There

01:39:44

are many clarifications that have

01:39:47

been taking place both in

01:39:49

Hong Kong but especially in

01:39:51

mainland China concerning third-party funding

01:39:54

my understanding and suspicion is

01:39:57

that they're there is more

01:39:58

to come from court in

01:40:01

the near future. My understanding

01:40:03

is also Let that this

01:40:07

panel has been a great

01:40:09

set of overview and an

01:40:10

opening for both clients lawyers

01:40:14

funders as to what may

01:40:16

be the concerns of lawyers

01:40:17

at what may be the

01:40:19

interest of funders and how

01:40:21

to approach the that the

01:40:23

topics. I really want to

01:40:24

thank each one of you

01:40:25

and I because you have

01:40:27

done a remarkable job in

01:40:29

terms of explaining in a

01:40:31

transparent manner. What is third-party

01:40:33

funding specifically in in China

01:40:37

and Hong Kong and I

01:40:39

would end up simply by

01:40:41

saying that third-party funding Council

01:40:44

and and and client is

01:40:47

like a three-way marriage if

01:40:50

it doesn't work, it's a

01:40:52

mess. But if it works

01:40:54

it leads to great great

01:40:57

results. Do I add a

01:40:58

like to share an anecdote?

01:41:00

We we had as counsel.

01:41:04

Funding for a party before

01:41:07

the jca and he worked

01:41:09

out very well. Not only

01:41:11

did we win we got

01:41:13

damages but also the expertise

01:41:15
of the funder brought for

01:41:17
our case was very useful

01:41:19
and it was always respectful

01:41:20
of decisions of council and

01:41:23
also decisions of of of

01:41:25
a further decline. So with

01:41:29
that I would like to

01:41:30
conclude and ask her if

01:41:33
we're good Round of Applause

01:41:35
for our panelists. And we

01:41:46
are going to conclude your

01:41:49
booty and I will just

01:41:50
share a few words. I

01:41:52

know that you have been

01:41:53

incredibly patient and the week

01:41:56

before simply. finalizing our are

01:42:03

China and update the inside

01:42:09

it is it is really

01:42:11

important for us to give

01:42:13

thanks to everyone here a

01:42:16

starting with the note the

01:42:18

the technical team Funda but

01:42:22

but perhaps that why should

01:42:24

start with the b a

01:42:27

c / d i a

01:42:31

c we have been doing

01:42:34

this for the first time

01:42:36
and the Logistics and the

01:42:41
substance has been impeccable behind

01:42:46
oldest two days. There's there

01:42:48
was a huge amount of

01:42:50
preparation are going back to

01:42:52
I would say almost a

01:42:55
year and end up behind

01:42:58
that. There's a there's also

01:42:59
the work of of the

01:43:01
speakers. There's a travel of

01:43:03
the speakers who have gone

01:43:05
from Canada to have one

01:43:06
from Brooke come from Mexico

01:43:08

that have come from Hong

01:43:09

Kong from Sydney. So from

01:43:13

from so many places from

01:43:15

Columbia at cetera. And so

01:43:16

thank you for the speakers.

01:43:18

I would also like to

01:43:19

thank to to the flu

01:43:21

in the team which had

01:43:23

been also impeccable door their

01:43:26

volunteers to Cecilia and and

01:43:30

and also know last but

01:43:33

not least I would like

01:43:35

to thank you especially to

01:43:37

the Well, they were chasing

01:43:40

update executive team might not

01:43:42

Camilla who is here and

01:43:44

was been doing a very

01:43:46

patient and a assistant job

01:43:48

in addition to providing a

01:43:50

quiet quite a lot of

01:43:51

substance to the meetings in

01:43:52

in her own presentation. And

01:43:54

also on the remote team

01:43:56

that is now in South

01:43:58

America both my Lucia classes

01:44:01

and the valley has Suarez

01:44:03

and also know that the

01:44:06

prior people also thank each

01:44:09

one of our sponsors so

01:44:11

our sponsors law firm as

01:44:16

well as Denton's as well

01:44:19

as as our Platinum sponsors

01:44:21

Global law lawyers and the

01:44:24

tiger and as well as

01:44:27

our gold sponsors double care

01:44:29

that whole Chinese. You won

01:44:40

he 12 tables and I

01:44:44

would also like to give

01:44:45

special thanks to rilla force

01:44:48

with Linda and next as

01:44:50

well as that flight take

01:44:52

and technical support if I

01:44:55

have missed anybody. I apologize.

01:45:00

But what we really want

01:45:03

to do to do is

01:45:04

is to put a a

01:45:06

flag. Hopefully here in Beijing

01:45:09

and really welcome you to

01:45:11

the hopefully next year will

01:45:15

be able to come back

01:45:16

to China and and do

01:45:18

another world arbitration update. But

01:45:21

you have an immediate invitation

01:45:23

because China World arbitration update

01:45:26

is the beginning as tired

01:45:30

as you maybe is the

01:45:31

beginning because on Monday, we

01:45:34

have World arbitration of Washington

01:45:37

and we are doing this

01:45:39

from 5 all the jurisdictions

01:45:41

sharing with the world the

01:45:43

particularities international commercial arbitration and

01:45:47

investment vacation from those jurisdictions.

01:45:49

So, you're welcome to join

01:45:53

in a challenging. A calendar

01:45:57

and on time because now

01:45:58

it's almost 6 so in

01:46:04

those jurisdictions in my V6

01:46:06

in the morning, so but

01:46:09

you're welcome to join us

01:46:11

at the real-time. Okay, and

01:46:15

thank you very much. every

00:00:12

gun Good. I think we

00:00:33

can get started now. Welcome

00:00:35

back everyone. I hope you

00:00:36

had a good coffee and

00:00:39

we're able to meet some

00:00:40

new folks during our networking

00:00:43

session. So we're here for

00:00:46

the last session World arbitration

00:00:49

update 2024 China insight and

00:00:53

for any of those folks

00:00:54

who are just connecting online

00:00:59

new or this is part

00:01:02

of the world arbitration update

00:01:04

conference, which will be going

00:01:05

on for the next week

00:01:07

in various locations around the

00:01:10

world. But for now, we

00:01:13

have our 8 session, which

00:01:15

is titled. What is the

00:01:18

evolution of third-party funding in

00:01:19

litigation and arbitration in China

00:01:22

now third-party funding is has

00:01:26

been a major topic of

00:01:28

conversation in the international arbitration

00:01:31

community. For a number of

00:01:33

years. It really is an

00:01:36

innovation and how to finance

00:01:38

international disputes and has resulted

00:01:43

in the growth of a

00:01:44

number of firms who provide

00:01:46

this kind of support whether

00:01:48

for litigation or arbitration or

00:01:51

even investor-state dispute settlement and

00:01:54

we have the privilege today

00:01:55

of a of an excellent

00:01:56

panel. We're going to talk

00:01:58

to this issue. Our moderator

00:02:00

is the co-founder and my

00:02:05

colleague. Dr. Jose Antonio Rivas

00:02:08

Jose is the founding partner

00:02:11

of X strategy LLP. He's

00:02:14

a professor at Georgetown. He

00:02:18

did his LOL man. Sjd

00:02:22

at Georgetown law school has

00:02:25

it was a former negotiator

00:02:28

trade treaties and Investments. Dispute

00:02:33

Provisions for the Colombian government

00:02:37

and also spent some time

00:02:41

working in the third party

00:02:43

party funding field a few

00:02:45

years ago. So he's a

00:02:47

perfect person to do this

00:02:49

panel and I'll thank him

00:02:52

and pass over the microphone

00:02:55

to begin our Section 8

00:02:58

on third-party funding. thank you

00:03:10

Ian and this is our

00:03:12

new our last last panel

00:03:15

and we we have the

00:03:19

great privilege of being with

00:03:22

a steamed number of school

00:03:29

are petitioners, but also third-party

00:03:31

funding for Andrews and I

00:03:35

know before going into introducing

00:03:38

our panel. I would like

00:03:41

to give a little bit

00:03:44

of background in terms of

00:03:46

of of third-party funding. VM

00:03:54

third-party funding is is seems

00:03:57

to be quite a novel

00:03:58

in India. In investment arbitration

00:04:03

also in in in international

00:04:06

commercial arbitration and and also

00:04:09

in litigation the truth of

00:04:11

the matter is that third-party

00:04:12

funding is not that new

00:04:14

it has been there for

00:04:16

a while. It has been

00:04:18

there with different names and

00:04:22

and the and part of

00:04:24

the of the issue 8

00:04:26

and I'm part of the

00:04:28

the the job went when

00:04:30

one is educating about third-party

00:04:32

funding is to domestify this

00:04:35

notion that that that it's

00:04:38

obscure or strange third-party funding

00:04:42

Can Happen by an Institutional

00:04:46

funder. Which would be a

00:04:49

company that funds litigations or

00:04:53

cases in exchange for a

00:04:55

percentage of the award or

00:04:58

of the damages that the

00:05:00

tribunal or or that a

00:05:02

judge decides to rule on

00:05:06

and grants to the claimant

00:05:08

but third-party funding can also

00:05:11

happen by law firm that

00:05:13

has science with a claimant

00:05:16

a contingency fee where you

00:05:18

can happen. Also by the

00:05:21

end of the claimant that

00:05:23

gives his nephew or or

00:05:26

or or nephew some loan

00:05:30

either for interest or without

00:05:33

interest. So third-party funding is

00:05:36

not a strange and the

00:05:40

Extra-Terrestrial notion it it's way

00:05:43

more simple to understand that

00:05:45

anything else at with that

00:05:47

I I'm very honored to

00:05:50

represent our our speakers and

00:05:55

and I will take some

00:05:57

some few seconds at first

00:06:00

of all, we have Miss

00:06:03

hang Wong who is a

00:06:08

partner of the global law

00:06:11

office and she has had

00:06:14

experience in cases and written

00:06:18

about third-party funding and our

00:06:21

collection here of experts is

00:06:24

such that the that many

00:06:26

of them have written on

00:06:29

third-party funding and they have

00:06:31

analyzed the issues on third-party

00:06:33

funding both related to litigation

00:06:37

funding and in China, but

00:06:39

also into arbitration funding in

00:06:42

China and The interesting bit

00:06:47

is that because it's such

00:06:49

a vast economy. I believe

00:06:52

that this final will be

00:06:53

one that is an incredibly

00:06:56

educating not only for Chinese

00:06:59

lawyers, but also for lawyers

00:07:02

that are abroad as we

00:07:04

have Chi Chung Lao and

00:07:11

who is an investment manager

00:07:13

of omni Bridgeway and hopefully

00:07:17

teaching your you're with us.

00:07:22

and also we have Amy

00:07:31

Wen Wei who is a

00:07:33

council at CMS who has

00:07:36

also had experience in the

00:07:38

subject matter and we are

00:07:40

incredibly lucky to have Amy

00:07:43

with us and the following

00:07:45

Amy. We also have Partner

00:07:50

you how from Walmart and

00:07:54

green goo law firm and

00:07:58

the like are other speakers

00:08:00

you are is a partner

00:08:05

that has practical experience and

00:08:08

knowledge in third-party funding and

00:08:10

and things about this issue

00:08:12

from a practical perspective and

00:08:14

also a theoretical perspective and

00:08:19

finally we'll have a Senior

00:08:21

Vice-President of how Sue Capital

00:08:24

which were extremely lucky to

00:08:27

to to have him basically

00:08:30

because there is like our

00:08:32

other speakers practical experience on

00:08:37

how to use capital of

00:08:39

for litigation and arbitration and

00:08:43

without further Ado. I would

00:08:44

like to give the floor

00:08:45

to our present. You're so

00:08:48

welcome. Good afternoon. Everyone is

00:09:28

my owner to heat. It

00:09:29

should be here to present

00:09:30

on this topic the department

00:09:32

of the party funding in

00:09:33

China to BF has a

00:09:37

very long has long been

00:09:39

a Hot Topic in this

00:09:40

resolution. Especially International dispute resolution.

00:09:44

Well you can You can

00:09:48

see from the you keep

00:09:49

your key. That's what I

00:09:50

will cover in the next

00:09:52

few minutes including a brief

00:09:54

introduction the bar the the

00:09:55

rights of local Founders than

00:09:58

the sum of the landmark

00:10:00

case involving tpf and also

00:10:03

a brief introduction of tpf

00:10:05

the introduction PDF into arbitration

00:10:08

rules right of Entry by

00:10:12

D at Houston's in 2024

00:10:16

this year and they're also

00:10:18

some of my personal thoughts

00:10:20

about this topic if the

00:10:21

times of love Just a

00:10:25

base. A body rise of

00:10:27

local Founders actually to David

00:10:29

we have the the specialized

00:10:34

to be a professional 4

00:10:35

in the local Founders. And

00:10:37

so I will just to

00:10:38

cover their bodies pot the

00:10:40

emergence of local professional Sanders

00:10:42

in Maine and shine. There

00:10:43

can be traced back to

00:10:44

2015 because he then there

00:10:48

are several the famous local

00:10:51

fun. There's no such as

00:10:53

how to catch Throh DSD

00:10:56

go Capital adding song that

00:10:58

we should see litigation Investment

00:11:00

Banking and he's a draw

00:11:03

most of these local Founders

00:11:05

established to buy Chinese lawyers

00:11:08

and other legal professionals and

00:11:10

business intelligence video about these

00:11:13

parents in this year's resolution.

00:11:15

Well for the next five

00:11:18

like to make her introduction

00:11:19

about those landmark case in

00:11:22

additional litigation in recent years,

00:11:25

which illustrates Chinese Courts position

00:11:29

only be got in our

00:11:32

children and application. Nope, as

00:11:36

a patrician proceeding a computational

00:11:38

is quite difficult to determine

00:11:42

which case I actually found

00:11:43

8, unless the word a

00:11:46

subject that you National Court

00:11:48

judicial review in 2022 to

00:11:53

Sea-Tac Awards involving tpf the

00:11:57

challenge and subject to Chinese

00:11:58

codes for judicial review enforcement

00:12:03

proceeding as well. And is

00:12:05

the setting aside for City

00:12:07

in proceeding activity security TF2

00:12:13
initiated application and the party

00:12:16
had already argued on the

00:12:18
legality of TP act during

00:12:20
the adoption proceedings and the

00:12:22
tribunal concluded that the claimant

00:12:25
has not violated any laws

00:12:27
or Rules by security after

00:12:31
initial application. I didn't hear

00:12:33
any judicial review proceedings because

00:12:36
also have that Chinese law

00:12:39
does not prohibit a tvf

00:12:42
for application and parties are

00:12:44
entitled to secure such funding.

00:12:47

This case demonstrates that Chinese

00:12:50

called take a similar approach

00:12:51

to if you have for

00:12:53

arbitration as International practice indicating

00:12:56

that a tvf for arbitration

00:12:58

is permissible in mainland, China.

00:13:02

30 Gotti for cheap PS4

00:13:05

edition case has been confirmed

00:13:07

by the court. The legality

00:13:09

of litigation is dispute is

00:13:13

it you get some Clues

00:13:16

it's not conclusion from the

00:13:18

recent case in 2022 and

00:13:20

2023. We can see that

00:13:23

the legality of TV app

00:13:24

for the dedication has been

00:13:26

seriously challenge. Amanda's case the

00:13:30

most the famous one is

00:13:33

DK's try to buy some

00:13:34

high costs in 2022 with

00:13:36

the others and their Scott's

00:13:38

case in this light. This

00:13:41

one has been selected as

00:13:44

one of the representative case

00:13:46

for 2022 by the song

00:13:49

High high court has tried

00:13:53

to claim from the funky

00:13:55

the party of the payment

00:13:56

of prices of the funky

00:13:58

the case which should be

00:14:00

payable and of the litigation

00:14:02

funding agreements some high court

00:14:05

recognized that litigation litigation funding

00:14:09

is a new mattress. And

00:14:10

that is no Korea Provisions

00:14:13

prohibiting. All permitting is an

00:14:16

attorney's law because dim the

00:14:19

TV caitian funny agreement contrary

00:14:21

to public order having a

00:14:23

party and a good morals

00:14:25

and that's invalid. Before the

00:14:28

founder was not entitled to

00:14:29

to the process of the

00:14:31

funky the case. I bought

00:14:34

these case the cop actually

00:14:36

made a very comprehensive anasura

00:14:38

atomizer. But if you're 42

00:14:40

station and its judgment and

00:14:42

the rest is yours concern

00:14:43

about the nature of GPA

00:14:45

do this case is not

00:14:47

one of the guiding case

00:14:50

or the gas of case

00:14:52

of selectivity under-reported by the

00:14:55

Supreme People's Court Beach have

00:14:57

the reports on the future

00:14:58

case, but the findings and

00:15:01

their conclusions to my and

00:15:04

sending still likely to have

00:15:06

a very profound impact on

00:15:08

future Court decisions regarding education

00:15:11

funding. Well, I bought these

00:15:14

case I just stopped here.

00:15:15

And I think my my

00:15:16

my dear calling panel members

00:15:19

will discuss more later than

00:15:21

windy falling panel discussion. Despite

00:15:27

of this case of vertigo.

00:15:29

If you have 42 gation

00:15:30

a Tuesday night, they have

00:15:33

been other cases in which

00:15:35

other courts have reviewed the

00:15:37

idea of such agreements with

00:15:39

similar nature and the complete

00:15:43

completely different conclusions in earlier

00:15:46

years. For instance in 2021.

00:15:50

The that one of these

00:15:53

songs a record of some

00:15:55

high review the legality of

00:15:56

Education funding agreement contract dispute

00:16:00

filed by the founder against

00:16:03

the defendants hottie the court

00:16:05

issued a favorable judgment should

00:16:08

to Defender affirming to the

00:16:10

base of the evolved is

00:16:16

evidence that the Chinese called

00:16:18

habit of Divergent reproaches, which

00:16:22

is respect that you have

00:16:24

in the account. Arbitration and

00:16:28

litigation for arbitration is growing

00:16:32

breasts valve bank accounts to

00:16:35

TV have 40 station the

00:16:37

accident case. I split on

00:16:40

the questions of legality. In

00:16:45

addition to those land markers

00:16:46

here the next one. I

00:16:49

would like to cover AZ

00:16:50

the introduction of Kiev into

00:16:53

a decision ruled by a

00:16:55

decision. You should see me

00:16:56

in a in mainland China

00:16:58

in 2020 for searches. We

00:17:02

can see that's a tax.

00:17:03

Rule Sandra s h i

00:17:04

a c Rose Bunda OD

00:17:09

notable features of Sea-Tac 2024

00:17:12

arbitration rules, which have already

00:17:13
took effect since the first

00:17:17
of January 2024 is the

00:17:21
explicit version of Provisions concerning

00:17:24
tpf in his article of

00:17:28
4th. You can see the

00:17:30
four paragraph of article. Well

00:17:35
at school 48 address many

00:17:38
two aspects to concerning tpf.

00:17:41
The first one needs the

00:17:43
disclosure obligations, the these rules

00:17:47
distinguish between proactive and the

00:17:50
upon request through disclosure. And

00:17:53
the second one is a

00:17:55

consideration of TGIF in Costa

00:17:58

a location. You can see

00:17:59

the second the second paragraph

00:18:02

of the arbitral tribunals to

00:18:05

can see the TV I

00:18:06

have decided I shouldn't cause

00:18:09

and Associates In addition International

00:18:16

arbitration Center a while. So

00:18:17

I thought you didn't you

00:18:18

a decision rule in this

00:18:20

year and the Article 15

00:18:24

address the TV app as

00:18:26

well. But just from the

00:18:28

disclosure of Scots e s

00:18:34

h i a c a

00:18:36

n s t t r

00:18:37

Lucian skier in mainland China

00:18:39

have also recognized the importance

00:18:42

of birth of addressing to

00:18:44

The Abbey in the arbitration

00:18:45

wrote about such such as

00:18:48

vtac the Zodiac China Maritime

00:18:51

arbitration commission the song high

00:18:54

top shoes in commission, and

00:18:56

because I drop this trend

00:18:58

reflects a proactive approach by

00:19:02

our decision is Houston's in

00:19:03

mainland China to add that

00:19:05

to the evolving landscape of

00:19:07

dispute resolution and provided guidance

00:19:10

in TV of related matters.

00:19:16

The laptop I would like

00:19:20

to address to Little Beach

00:19:21

actually is my my personal

00:19:23

thoughts on this topic actually

00:19:26

reflecting on already. We have

00:19:29

represented clients in relation to

00:19:31

arbitration case involving TV as

00:19:34

well this including acting for

00:19:36

claimants seeking tvf and also

00:19:41
defending respondents in case were

00:19:43
the claimant had secured the

00:19:46
tdf to initiate these proceedings,

00:19:48
but I think for the

00:19:52
time due to the time

00:19:54
constraints I can leave it

00:19:56
to the the panel discussion

00:19:58
later, and now I will

00:20:02
give the floor to two

00:20:04
panel members for for further

00:20:06
introduction or the inside and

00:20:08
sharing. Thank you. Thank you.

00:20:11
Thank you very much. So

00:20:16

now now we turned it

00:20:18

into the question of a

00:20:21

little bit more deeply what

00:20:23

what is 35 third party

00:20:26

funding and how how does

00:20:28

it work? How does it

00:20:29

work to actually reach a

00:20:33

funder make as counsel or

00:20:36

as a client that has

00:20:39

a case. How do you

00:20:41

go to them? And what

00:20:43

is the process of litigation

00:20:46

funding and also of the

00:20:48

arbitration funding if you are

00:20:50

the lawyer also a company

00:20:53

that may have any deviation

00:20:55

and for specific reasons. Your

00:21:00

science is looking for funding

00:21:02

either because they want to

00:21:03

diversify the risk or because

00:21:06

there is some need of

00:21:08

capital How Could You conduct

00:21:12

that processes and for that

00:21:13

we have in Singapore? Mr.

00:21:19

Chi Chung Lao and please

00:21:23

take the floor. Thank you,

00:21:28

Jose. Can you hear me?

00:21:30

We can hear. Alright, thank

00:21:34

you very much. So I

00:21:36

think it's this quite a

00:21:37

lot of ground to cover

00:21:38

and I I no longer

00:21:40

usually has also spoken about

00:21:42

the recent developments biting baby.

00:21:44

What I want to get

00:21:45

today is a bit more

00:21:46

of the third-party vendors perspective

00:21:48

and also all all perspective

00:21:51

of funding cases in the

00:21:53

PRC and 4 PRC client.

00:21:55

So, I mean just just

00:21:58

taking one step back and

00:21:59

talking about what the party

00:22:01

funding is in that Jose

00:22:03

is has very rightly pointed

00:22:05

out it existed for very

00:22:06

long time Lords have acted

00:22:08

and contingency fees, you know,

00:22:10

someone that might lend her

00:22:13

nephew money and charge interest

00:22:16

on that do that. So

00:22:17

so that party funding but

00:22:18

I think more than commercial

00:22:20

contacts and it ended in

00:22:21

the global industry contacts. It's

00:22:25

basically the concept of a

00:22:26

third-party A non interested party

00:22:29

who is not a party

00:22:31

to the educational Appreciation are

00:22:34

providing the capital and the

00:22:36

financing to pursue a litigation

00:22:38

with you in arbitration and

00:22:40

the subsequent enforcement and recognition

00:22:42

if necessary and in exchange

00:22:44

that you find out what

00:22:45

typically ask for a fee

00:22:47

account access the arrangement at

00:22:50

Foremost find us and that's

00:22:52

all I Call Music tree

00:22:53

is provided on the financing

00:22:55

is provided on the Nabi

00:22:56

cost basis. So that means

00:22:59

if you don't win the

00:23:01

case and winning means you

00:23:02

must collect the money, they

00:23:04

will be no see that's

00:23:05

terrible. So even if you

00:23:07

saw him if if I

00:23:09

came and lose that's the

00:23:11

case then what happens is

00:23:13

that he found out past

00:23:14

the entire course of the

00:23:15

experience and maybe even a

00:23:16

cost depending on what the

00:23:18

agreement specifies so and I'm

00:23:23

an NSX successfully only means

00:23:26

when a child or claim

00:23:28

and actually receive money in

00:23:29

the bank. Campo anything it's

00:23:34

just an expensive piece of

00:23:35

paper unless you actually successfully

00:23:37

got money in the bank.

00:23:38

So in most cases funding

00:23:42

is provided on a fool

00:23:43

basis is the fender covers

00:23:46

100% of the cost legal

00:23:48

costs arbitration fees a coffee

00:23:51

expert cost. We can provide

00:23:56

funding. Sometimes guys just one

00:23:58

half of the amount due

00:24:00

just wanted to risk a

00:24:01

little bit and then for

00:24:01

the fund has returned to

00:24:02

know what so so the

00:24:05

concept of stuff. I know

00:24:08

Jose mentioned a tool that

00:24:11

companies can use and lawyers

00:24:13

can should you see the

00:24:14

clients as to to help

00:24:17

tech-science risk-managed magicant to do

00:24:21

an insurance product to some

00:24:23

extent because you are having

00:24:26

a tough party pay for

00:24:28

the the cost of the

00:24:30

new arbitration and litigation and

00:24:32

they are very nervous. Right

00:24:34

and if it sucks that

00:24:34

you're showing me the fruits

00:24:37

of the litigation arbitration with

00:24:40

them. So I think that

00:24:43

covers what the party funding

00:24:46

is anting Jose also mention

00:24:48

a question earlier about me

00:24:50

know what do third-party vendors

00:24:53

look at when assessing any

00:24:56

case to decide whether or

00:24:57

not to find a case

00:24:58

and so has been doing

00:25:00

this for the past 38

00:25:01

years are globally and we've

00:25:03

been also doing it and

00:25:04

I think one of the

00:25:06

global litigation funders who have

00:25:09

taken the Chinese market very

00:25:11

seriously. So I would like

00:25:16

to say that there is

00:25:16

no one-size-fits-all criteria to determine

00:25:20

whether or not we want

00:25:21

to find a case every

00:25:23

case is different that has

00:25:24

to be assessed on its

00:25:25

individual facts about there are

00:25:28

three main criteria that we

00:25:30

would assess. Want the merits

00:25:35

of the case to the

00:25:37

recovery ability and Authority economic

00:25:39

viability of a claim. If

00:25:43

so, obviously that party find

00:25:49

the only received 15 minutes

00:25:52

access fee upon the successful

00:25:54

outcome. So we were all

00:25:59

you want to find cases

00:26:00

that we expect to win

00:26:01

that we expect based on

00:26:04

assessment of all the different

00:26:05

factors legal advice provided by

00:26:07

the lawyers and factual circumstances

00:26:08

the documentary that caught that

00:26:11

we've been provided with that

00:26:13

the man has a More

00:26:15

than 70% chance of success.

00:26:18

Although this might seem very

00:26:20

Kia in most cases lawyer's

00:26:22

firm to us a brief

00:26:23

visit her prospects of success

00:26:24

success is sometimes not that

00:26:28

easy to assess particularly you

00:26:32

could win the case. Actually

00:26:34

got title to damage us

00:26:35

but a lot of the

00:26:37

time to question is how

00:26:39

much do you win by

00:26:40

because a 10 million judgment

00:26:44

on what is very different

00:26:45
from a 50100000000 times more

00:26:47
than what I just typed

00:26:48
into my next exit. I

00:26:50
will talk about later which

00:26:51
is the economic Value Village

00:26:53
of a of a claim

00:26:54
s criteria to consider is

00:27:00
the recover bility. This is

00:27:03
something that sometimes the clients

00:27:04
are not very aware of

00:27:06
lawyers. Sometimes don't think about

00:27:09
this at the outset of

00:27:11
the case. Although I do

00:27:12

have the same more and

00:27:13

more. So if this is

00:27:13

something that is top of

00:27:15

mind, this is something that

00:27:17

can be quite tricky to

00:27:19

assess Insight mention Nadia a

00:27:23

good Churchman or the word

00:27:24

for 50 million hundred million.

00:27:26

USD doesn't really mean anything.

00:27:28

It's just an expensive piece

00:27:30

of paper and then she

00:27:30

can extra cash from the

00:27:32

counterparty. So at Auggie Beach

00:27:35

Wave you have an in-house

00:27:36

asset racing came across the

00:27:38

globe in Europe Singapore as

00:27:40

well as in North America

00:27:41

who helps to assess that.

00:27:43

We also sometimes rely on

00:27:46

third-party as a trading companies

00:27:49

to assist with DSS racing

00:27:51

process to identify potential assets

00:27:53

of the counterparty want to

00:27:58

consider in every case on

00:28:00

the issue of speaker. Ability.

00:28:01

One is better the counterparty

00:28:04

can pay and to whether

00:28:07

they will pay the first

00:28:09

one is real. Can okay.

00:28:11

I think that's why I

00:28:12

asked you if you had

00:28:13

installed and toast and solvency

00:28:15

that that's something that we

00:28:16

will probably not be able

00:28:17

to fight. But if they

00:28:18

can pay me but won't

00:28:20

take that something that we

00:28:21

can probably come up with

00:28:22

strategic solutions to consider whether

00:28:25

not we can get them

00:28:26

to k. I, I sometimes

00:28:27

they might think that they

00:28:28

are Untouchable and their own

00:28:30

backyard, but what you can

00:28:31

do is to assist clients

00:28:33

to Weather guy sets in

00:28:35

more enforcement friends jurisdiction that

00:28:37

can assist in getting down

00:28:39

to the satellite cable guy

00:28:43

ability and the typical time

00:28:46

for most litigation funders around

00:28:48

the waist what time are

00:28:51

you don't spend more than

00:28:51

10% of the realistic claim

00:28:54

value on pursuing the claim

00:28:56

and the rule is in

00:28:57

place with you because we

00:28:58

don't want to end up

00:28:59

having a situation where your

00:29:00

father takes up the majority

00:29:01

of any recovery receipts. So

00:29:06

if you spent more than

00:29:07

10% of the claim that

00:29:08

you are that you end

00:29:09

up only getting our end

00:29:10

up having to stay at

00:29:11

that other piece you say

00:29:13

20% of the Cambridge way

00:29:15

and then find us successfully

00:29:17

study for said that you

00:29:18

end up in a situation

00:29:19

where the kind only get

00:29:21

50% or less of the

00:29:22

came in. So that's something

00:29:23

that we want to avoid.

00:29:24

That's why it's very important

00:29:26

to assess. The two points

00:29:28

Dimension area demerits and the

00:29:30

Quantum of the team and

00:29:32

also the recovery ability how

00:29:33

much should I expect to

00:29:34

be able to at the

00:29:35

end of the day extract

00:29:36

from the counterparty know? I

00:29:40

think I've done specifically to

00:29:41

the PRC market and why

00:29:43

it's interesting to tell Patty

00:29:45

front desk as one of

00:29:46

the world's largest economies. I

00:29:48

thought the largest economy them

00:29:50

Chinese market is always going

00:29:51

to be interesting to any

00:29:53

legal practitioner order Party founder

00:29:55

of how to clean the

00:29:56

last 10 years with, you

00:29:57

know, the initiative you seem

00:30:00

any PRC companies investing see

00:30:03

if somebody's outside the PRC

00:30:05

jurisdictions that are very difficult

00:30:08

are very different from the

00:30:09

local currency Market in the

00:30:11

developing world and Africa land

00:30:12

in Southeast Asia in Central

00:30:15

Asia and We hadn't even

00:30:19

sure if I should say

00:30:20

that we are one that

00:30:21

really takes the Chinese market

00:30:22

very seriously, we have found

00:30:24

that multiple cases in the

00:30:27

PRC for Pierce and also

00:30:31

we can end the case

00:30:34

that I want you to

00:30:35

talk about Aria the one

00:30:37

before he bitching for intermediate

00:30:40

people caught and he and

00:30:42

you will see carts that

00:30:44

was the case. I was

00:30:44

actually founded by Oliver tree

00:30:46

then I am a phantom

00:30:47

and so we we are

00:30:49

willing to to to to

00:30:50

break new markets because we

00:30:52

see that there's a huge

00:30:53

potential in this market. And

00:30:55

so the Chinese market is

00:30:57

definitely one that we we

00:30:59

we we do not want

00:31:00

to ignore and bbbpc actually

00:31:03

that the recent Trends in

00:31:04

The Piazza Market actually. Point

00:31:08

in that direction and the

00:31:10

proof is in the pudding

00:31:10

with call Manny Loco. She

00:31:12

found us coming out in

00:31:13

the market, but I'm also

00:31:15

very large PRC corporate like

00:31:18

a so he's pushing us

00:31:21

for assistance in in in

00:31:22

in in Zapata finding 4

00:31:25

cases outside the PRC particularly

00:31:28

quite a lot of what

00:31:30

I've seen in recent months

00:31:31

is to assist with the

00:31:35

recovery of non-performing loan portfolios

00:31:36

a large AMC's and banks

00:31:39

have claims against a Live

00:31:42

Oak in judgment or what

00:31:43
is against our individual products

00:31:44
contact from the PRC and

00:31:46
they need assistance to enforce

00:31:47
that outside the PRC and

00:31:49
that's where Joe Boza Party

00:31:51
founded. I only picture I

00:31:52
can assist what we want

00:31:54
to look at funny. She

00:31:57
wants to carry heater cost

00:31:58
or that's something that we

00:31:59
could easily have dealt with

00:32:00
because I only wish we

00:32:02
had a presence in that

00:32:03

jurisdiction and we could provide

00:32:05

a guarantee that we will

00:32:06

cover that. A bus cost

00:32:08

so that's that's something that

00:32:09

I think it's it's it's

00:32:10

one big Trend that will

00:32:12

see and of course as

00:32:14

I mentioned earlier with with

00:32:16

the large Investments outside the

00:32:18

pr CBC that sometimes these

00:32:20

projects to go wrong and

00:32:22

pick you up. So you

00:32:24

can please eat assistance with

00:32:25

International arbitration commercial arbitration or

00:32:28

investor-state arbitration outside the PRC

00:32:31

and that's where I tend

00:32:33

to be very costly and

00:32:35

that's where the Pocket Edition

00:32:36

Founder's I only wish we

00:32:38

can help to assist. Teacher

00:32:42

thank you so much. I

00:32:44

mean I know that you

00:32:45

did pack quite a bit

00:32:47

this this was more than

00:32:49

an elevator interview on end

00:32:54

in I congratulations for putting

00:32:56

a load of material and

00:32:57
information. Are you talked about

00:32:59
the quantum the importance of

00:33:02
having a hell of a

00:33:04
winning case as well as

00:33:07
a cost? So I think

00:33:09
that this was a very

00:33:10
substantive and end summary introduction

00:33:16
to third-party funding now as

00:33:19
a moderator, I know I

00:33:21
have some prerogative to change

00:33:24
a little bit our our

00:33:26
our schedule because we have

00:33:28
a you know, a a

00:33:29

newcomer mystery on you and

00:33:32

who is also in third-party

00:33:34

funding switch a little bit

00:33:37

our order and And I'd

00:33:40

have his feedback at concerning

00:33:44

third-party funding from but from

00:33:48

from somehow different perspective. I

00:33:52

would invite mr. You to

00:33:56

comment on the 1st further

00:34:02

comment on the development and

00:34:03

regulation on third-party funding in

00:34:06

China 1 and 1/2 on

00:34:08

how you might see that

00:34:12

third-party funding could support Chinese

00:34:16

Enterprises in their International expansion

00:34:19

abroad. So no two topics

00:34:21

one the regulations in China

00:34:25

and to how third-party funding

00:34:28

can help. State-owned companies but

00:34:31

also private investors expand their

00:34:34

business outside of China. How

00:34:55

do I search a china-based

00:34:56

we just established two years

00:35:01

ago and we are new

00:35:04

to the market. But actually

00:35:06

GPS Lisa Is Not A

00:35:09

New Concept even in China

00:35:11

Market Miss Wong say just

00:35:15

now to TGIF in China

00:35:18

carryout business from this on

00:35:30

the market for quite a

00:35:31

long time. I want to

00:35:34

say why HO2 with won't

00:35:36

you step into this Market

00:35:38

just a little bit explain

00:35:41

Nation on. start up the

00:35:47

bunker if you looking to

00:35:50

the structure of the founder

00:35:52

of how to You can

00:35:55

see many of the founding

00:35:58

fathers are from distinguished dispute

00:36:04

resolution law firm in China.

00:36:06

They have over at like

00:36:08

over 30 years of experience

00:36:10

in this market. They have

00:36:13

already see quite a lot

00:36:15

of Chinese clients. They lost

00:36:20

their case because of the

00:36:22

poor. Litigation structure they loosen

00:36:29

the case because they don't

00:36:31

have the enough. Capital to

00:36:36

found a nickel cost So

00:36:40

they really want to share

00:36:44

their experience there is pannies

00:36:47

to help the Chinese kind.

00:36:51

and also Study and research

00:36:57

on the notion of the

00:36:59

TV app in the in

00:37:01

the world and also have

00:37:04

quite a lot of communication

00:37:06

with the international kind of

00:37:08

like a bubble Capital like

00:37:11

a Omni Bridgeway. So two

00:37:15

years before they established this

00:37:18

company in in two years

00:37:24

we can say we are

00:37:26

very Make an advancement because

00:37:31

adult the concept of TGIF

00:37:35

is very hot topic. Is

00:37:36

this year's Chinese market in

00:37:42

Chinese legal system different from

00:37:46

International Market. That's why we

00:37:49

need to spend more time

00:37:52

to explore the business model

00:37:56

to talk to waste different

00:38:00

clients to see to find

00:38:04

out actually would kind of

00:38:05

be small dog is good

00:38:08

for outside and how to

00:38:09

cook for the founder. I

00:38:12

have to actually I want

00:38:19

to just keep the first

00:38:20

topic because I miss y'all

00:38:24

will talk more about the

00:38:27

Chinese regulation region on tpf

00:38:31

broadly in I would maybe

00:38:34

go to the second topic

00:38:38

directly and that's kind of

00:38:41

shape of experience on. When

00:38:45

we approached by Chinese clients

00:38:48

when they have some kind

00:38:51

of international dispute, they need

00:38:54

the help from Chinese funga.

00:38:57

I would share some insight

00:39:01

on how can keep you

00:39:03

can help Chinese company going

00:39:06

up. Chinese companies going for

00:39:10

a very very hot toddy

00:39:13

recent years. Check the company

00:39:16

will invest in doing business.

00:39:19

Probably you can reasonably expect

00:39:23

a long ways to business.

00:39:29

Status show China ranks the

00:39:32

second largest dispute resolution Market

00:39:36

in the world, and we

00:39:38

believe the amount of the

00:39:39

international dispute cases. I also

00:39:43

Rising When the Chinese company,

00:39:50

they face International these people

00:39:53

when they have the case

00:39:57

on the hands what kind

00:39:59

of face? We summarize therapy

00:40:05

first lack of money and

00:40:08

then lack of knowledge and

00:40:11

then lack of experience or

00:40:13

expertise and also lack of

00:40:16

the cap ability to manage

00:40:18

the case. Why do we

00:40:21

say so as we summarize

00:40:23

Chinese company face asymmetry in

00:40:26

sweet perspective when dealing with

00:40:29

International test, do they have

00:40:32

the information Gap? They don't

00:40:36

have or they have limit

00:40:38

ideas on the legal environment

00:40:40

legal system the rules and

00:40:44

regulation of the country where

00:40:46

the receipt is situated. And

00:40:51

secondly, they have the asymmetry

00:40:54

in packing power. They don't

00:40:59

have any idea to negotiate

00:41:02

the legal fee ways to

00:41:03

farm lawyers because they also

00:41:05

have full knowledge of the

00:41:08

fee structure how the foreign

00:41:12

lawyers can provide it. They

00:41:16

cannot talk like a discount

00:41:18

with the phone lawyer. And

00:41:22

so on is for the

00:41:24

asymmetry in expertise. When they

00:41:30

have already returned the lawyers,

00:41:31

but they still have to

00:41:34

make the decision on sound

00:41:36

professional questions when they face

00:41:40

such kind of questions. They

00:41:42

don't know how to make

00:41:44

a decision in some major

00:41:47

Milestone and in different stage

00:41:50

and they don't know how

00:41:52

to monitor the performance of

00:41:54

the phone lawyers. We believe

00:41:58

this kind of asymmetry actually

00:42:00

make Chinese County. They are

00:42:03

confused. Maybe they have frightened

00:42:06

or how do you say

00:42:08

what they Response to the

00:42:12

lawsuit or when they have

00:42:14

to make the decision to

00:42:16

initiate a lawsuit claim damages.

00:42:21

So when the opportunity was

00:42:24

Miss, they might lost the

00:42:26

case or fail to clean

00:42:29

the damage. That's I think

00:42:32

that the predict about faced

00:42:35

by chinese company. I mention.

00:42:40

Like a money knowledge and

00:42:44

expertise completed to manage. The

00:42:49

money is the first consent

00:42:51

adult. We all know that

00:42:53

for international proceedings. Little Feat

00:42:58

all that little cost is

00:42:59

very high, especially in international

00:43:02

arbitration. Fee sometimes amount to

00:43:08

millions of dollars. Chinese company

00:43:13

taking off all that but

00:43:16

why we say it's not

00:43:17

the first concern because even

00:43:21

they have the confidence on

00:43:25

winning the case they can

00:43:27

make some arrangement. But even

00:43:32

they have the money they

00:43:34

still have the problem take

00:43:35

as a mission just now

00:43:37

that you can mention gas.

00:43:38

They don't have knowledge to

00:43:41

collect the lawyer. They don't

00:43:46

have the knowledge to manage

00:43:51

to the case. So that's

00:43:56

why I say Chinese Pounder

00:43:59

with International patient can really

00:44:01

have to solve this kind

00:44:03

of problem experienced a spontaneous.

00:44:07

Pandora can have relatively sufficient

00:44:13

phone to pack the case.

00:44:15

They also have the expertise

00:44:18

when I mention expertise. I

00:44:22

would say that you really

00:44:24

need a coaching member. Who

00:44:27

are the player in the

00:44:29

market they can make the

00:44:33

decision facing my face on

00:44:36

the experience. And also assesses

00:44:41

Chinese fun. We all know

00:44:43

the Chinese market in Chinese

00:44:45

culture very well. This will

00:44:47

help the founder to establish

00:44:50

enter into business Arrangement waste

00:44:55

a Chinese client. and lastly

00:45:00

the Chinese founder should have

00:45:04

Very good relation with International

00:45:08

Resort and know the international

00:45:11

law Society dry. Well with

00:45:14

this kind of Advantage Chinese

00:45:18

founder can act as a

00:45:21

bridge to connect the domestic,

00:45:26

domestic demands waste International legal

00:45:31

service. Just like a SI.

00:45:34

What is a like a

00:45:36

adapter? Finally, I would like

00:45:44

to also talk about the

00:45:47

case management because they should

00:45:49

know that money put into

00:45:51

the case. Because the Chinese

00:45:54

clients may be no, so

00:45:57

have no slime any idea

00:46:02

or the foreign you so

00:46:06

I really need a transponder

00:46:08

to help in this regard.

00:46:11

In which case management a

00:46:16

help the Chinese company to

00:46:19

select a Twitter to select

00:46:22

lawyer and Tool. Negotiate the

00:46:27

legal fee and also to

00:46:29

get case management, you know

00:46:32

in the process and finally

00:46:34

together good taste good a

00:46:38

word. Finally. I think that's

00:46:42

what I want to share

00:46:43

today. And I think the

00:46:45

time is almost there. Thank

00:46:47

you so much. Miss you.

00:46:50

I think that's that from

00:46:52

from what we have heard.

00:46:53

It is quite evident for

00:46:58

this public for this audience

00:46:59

that the third-party funding has

00:47:01

a huge potential an obvious

00:47:05

potential in in in the

00:47:06

Chinese market. This is something

00:47:09

that that perhaps wasn't that

00:47:12

obvious a few years ago.

00:47:13

I know that at some

00:47:16

stage there was there was

00:47:18

lack of information or misinformation

00:47:20

in terms of the support

00:47:24

the legal support. If I

00:47:26

buy quartz concerning third-party funding

00:47:28

and there was a? Based

00:47:31

on the on the decisions

00:47:33

that you have heard earlier

00:47:37

on and bye. Bye Miss.

00:47:39

Hang one. This is something

00:47:42

that the that is being

00:47:43

terrified. Now. Now you have

00:47:45

two funders one, which is

00:47:48

a Chinese funds and one

00:47:50

that is an international funder

00:47:52
or conveying the same message

00:47:55
now based on what what

00:47:58
both of Chee cheong as

00:48:01
well as you have a

00:48:03
shared with the with with

00:48:06
the the onions I would

00:48:08
like to give Amy and

00:48:12
when and who is that

00:48:13
a CMS? She's Council and

00:48:16
who's with us at remotely

00:48:19
to provide any comments that

00:48:22
she may have with respect

00:48:24
to what we have here.

00:48:26

shofar 3 minutes Thank you.

00:48:31

Jose. Can the audience hear

00:48:33

me? Yes perfectly. Good afternoon

00:48:38

to all of this is

00:48:39

Amy. I'm based in Hong

00:48:40

Kong since 2020. I'm from

00:48:44

China but I am a

00:48:45

French and US qualified lawyer

00:48:48

who's practicing in call which

00:48:51

is also part of the

00:48:52

Chinese market and having heard

00:48:54

that the two speakers as

00:48:58

thing from a consoles perspective.

00:49:00

I'd like to give some

00:49:01

practical tips in a way

00:49:04

for clients having heard that

00:49:06

the two discussions just now

00:49:08

at the 1st is when

00:49:11

you're a client facing disputed

00:49:13

wanting to start an action

00:49:15

or an arbitration against an

00:49:16

opposing party. What do you

00:49:18

have in mind on what

00:49:19

you consider William silax found

00:49:22

things or even consider whether

00:49:24

this is an option. Your

00:49:25

company would like to kiss

00:49:26

you. So based on what

00:49:29

we just heard that you

00:49:30

could have the impression that

00:49:31

Sakura founding basically give you

00:49:34

a ring. Free option and

00:49:36

23 out the liquidity that

00:49:39

your company would otherwise have

00:49:40

to invest into commencing legal

00:49:43

actions. This is to a

00:49:45

certain extent true in the

00:49:47

sense. I'm like you to

00:49:48

explain the clients once the

00:49:52

case is so except for

00:49:53

funding you do not need

00:49:54

to Bear the liquidity and

00:49:56

Ann in case you do

00:49:57

not recover any proceeds from

00:49:59

the litigation. You do not

00:50:00

need to pay back the

00:50:02

founder While most of the

00:50:03

times this depends on the

00:50:03

funding agreement on the feeder

00:50:05

have already been Advanced there

00:50:08

is always a price on

00:50:09

a premium to pay to

00:50:11

enter into such agreements and

00:50:12

that's usually are also on

00:50:14
top of the feet of

00:50:15
recoverable by the founder of

00:50:17
other situations to to bear

00:50:19
in mind such as whether

00:50:21
the client would like to

00:50:22
retain complete autonomy in deciding

00:50:25
its own disappear strategy and

00:50:27
the choice of arbitrator the

00:50:29
choice of expert the toys

00:50:31
of console as well as

00:50:33
they did the basic way

00:50:34
to to man. Around the

00:50:35
entire case. So this is

00:50:37
something that certain clients have

00:50:38
stronger preference and I might

00:50:41
be something. You need to

00:50:43
compromise to a certain extent

00:50:44
if a Founder is involved

00:50:47
in a process. And the

00:50:49
second point and it could

00:50:51
be quite obvious to us

00:50:52
doing this but less obvious

00:50:54
for clients is that a

00:50:56
founding is not only available

00:50:58
for claimants are plenty of

00:50:59
the party bringing the action

00:51:01

and it is also available

00:51:02

for Define and then respondent

00:51:04

not only in cases where

00:51:06

you have a counterclaim which

00:51:07

would be more obvious because

00:51:09

you also have a claim

00:51:10

a title for damage against

00:51:11

at the other side and

00:51:13

a part of the dispute

00:51:14

could be founded and a

00:51:16

carved out and away from

00:51:17

the rest of the dispute

00:51:18

proceeding. I'm tired or even

00:51:20

in cases where your are

00:51:22

so defend and I do

00:51:24

not have come to claim.

00:51:25

You could still be found.

00:51:27

It. It's the last, but

00:51:29

not impossible and this is

00:51:31

particularly true for companies who

00:51:33

think the claims are frivolous

00:51:34

do not stand a chance

00:51:35

against them and they will

00:51:37

be able to recover cost

00:51:38

that the proceedings are through

00:51:41

and they would lie to

00:51:42

free up that liquidity while

00:51:44

the proceedings are ongoing and

00:51:45

in that case Founders can

00:51:46

still step in. Last but

00:51:50

not least. I think it's

00:51:51

also important to consider the

00:51:52

type of dispute as well

00:51:54

as the total amount at

00:51:55

stake ons the future also

00:51:57

mention this at the fourth

00:51:59

round. I think it's important

00:52:00

to to bury mind and

00:52:02

you want to manage your

00:52:03

case and the proportionate Mana

00:52:05

Sao to consider the type

00:52:07

of console. You want to

00:52:08

be engaged the type of

00:52:09

proceeding whether its litigation or

00:52:11

arbitration how much you would

00:52:14

need to invest into the

00:52:15

proceeding at Bo's from a

00:52:18

legal fee cost but also

00:52:21

from other costs and expenses

00:52:22

relevant for the operation and

00:52:25

in terms of how Don

00:52:26

compared to the final recoverable

00:52:28

proceed from the dispute action.

00:52:30

So the one to 10

00:52:32

ratio as a general rule

00:52:33

of thumb pad, I think

00:52:34

it's a helpful guidance. It's

00:52:36

not always true though, and

00:52:38

and it can really depend

00:52:40

on the steps of the

00:52:40

cases which are also subject

00:52:42

to negotiation between a potty

00:52:44

being sounded as well as

00:52:45

the founder. We've come across

00:52:47

cases where the founder Are

00:52:48

willing to shoulder up a

00:52:51

higher percentage of fees as

00:52:53

compared to the total amount

00:52:54

of dispute at or even

00:52:56

a lower percentage. You could

00:52:57

be dealing with cases where

00:52:59

an expert opinion. Is. At

00:53:02

the amount of dispute the

00:53:04

claim that could be inflated

00:53:05

and does not reflect the

00:53:06

actual recoverable amount. So this

00:53:09

is something also important for

00:53:11

the users to bury my

00:53:12

last but not least and

00:53:16

particularly relevant for Asian party

00:53:18
of four Chinese party is

00:53:20
also. Most companies are not

00:53:22
very experienced in dealing with

00:53:24
Founders were not familiar with

00:53:27
his General structure of the

00:53:29
founding including the fact that

00:53:30
at the full front stage

00:53:32
of a proceeding when you're

00:53:33
in contact with the founder,

00:53:34
you could already be required

00:53:36
to provide a lot of

00:53:37
information documents to facilitate your

00:53:40
console and in most cases

00:53:43

to found her to be

00:53:44

able to be in a

00:53:45

position to assess the merits

00:53:47

and a chance of success.

00:53:48

Off your case, including a

00:53:50

lack of ability and these

00:53:51

information sometimes are not readily

00:53:54

available for the client which

00:53:55

can call some delay when

00:53:57

securing the funding agreement and

00:54:00

the missing of information from

00:54:01

the opposing side for instance,

00:54:03

which make no, but don't

00:54:05

you the document production staged

00:54:06

or on the phone Jermaine

00:54:08

all be willing to accept

00:54:11

the risk of which were

00:54:12

presented before the case was

00:54:13

initiated by or before you

00:54:15

review the submission of the

00:54:16

opposing party is also something

00:54:18

that could potentially impact how

00:54:20

the founding agreement can be

00:54:21

concluded. And also how favorable

00:54:23

the term for either that

00:54:25

the client of the founder.

00:54:27

I'm sure that the speakers

00:54:30

will follow up with touch

00:54:31

up on these topics, but

00:54:32

I think it's helpful, especially

00:54:33

at the outside to Bear

00:54:36

these factors in mind. Will

00:54:37

you listen to the discussion

00:54:38

of the other panelists, which

00:54:40

will hopefully help you before

00:54:42

my more educated opinion about

00:54:44

the practice in general and

00:54:45

also and when you were

00:54:46

choosing whether or not To

00:54:48

engage with a Founder over

00:54:50

there now to to have

00:54:51

funding for your particular case.

00:54:53

Thank you. Thank you Amy.

00:54:56

I mean that was very

00:54:57

enlightening also, especially from the

00:55:00

the council's perspective and and

00:55:02

how I'm sure that you

00:55:04

have a in some practical

00:55:06

Casey Council them as to

00:55:10

the litigation funding agreements and

00:55:13

and and what to underline

00:55:15

when dealing with Founders. I

00:55:17

would like to now move

00:55:19

on to mr. Tao kuang

00:55:22

and and that he as

00:55:25

we know he's a partner

00:55:26

of King & Wood mallesons

00:55:27

and his perspective is is

00:55:31

quite interesting because we are

00:55:34

going to look into why

00:55:36

third-party funding in China may

00:55:38

be different from the funding

00:55:41

in the Western Market and

00:55:44

know-how clients in both may

00:55:48

have a different approach. So

00:55:50

take it away. Okay. Thank

00:55:55

you. Jose friends on site

00:56:00

and online. So I'm happy

00:56:02

to join this panel your

00:56:06

battery Frank. I'm not an

00:56:09

expert in this topic and

00:56:11

I also have no experience

00:56:13

working together was if you

00:56:17

have any real case as

00:56:21

the managing partner of K

00:56:22

that we were approached by

00:56:25

funders domestically or internationally to

00:56:29

discuss the possibility of cooperation.

00:56:35

So I know something about

00:56:37

the if you have time

00:56:41

I would like to you

00:56:43

to share with you some

00:56:45

of my understanding of of

00:56:49

Awesome. Some some observations will

00:56:53

understand. This is in particular

00:56:55

the challenge or CPR in

00:56:59

Chinese market, but I want

00:57:03

to share with you. It's

00:57:04

my fault. free sample the

00:57:08

contingency fee structure. That's one

00:57:15

of the important function is

00:57:17

to release. deferred annuity counseling

00:57:23

guy from The X point

00:57:25

of view of the beagle

00:57:26

cost. I mean China, you

00:57:29

know if it's a solution

00:57:35

area that the Chinese clients

00:57:38

they prefer the contingency fee

00:57:42

Arrangements. You almost all the

00:57:46

important or large amount cases

00:57:49

and also the Chinese lawyers

00:57:55

Happy Wheels with disagreements this

00:58:02

kind of arrangements and they

00:58:04

are willing to make a

00:58:05

freak out and replace of

00:58:08

contingency. So so you're most

00:58:13

of the cases with big

00:58:15
display the amount of great

00:58:17
importance to clients. So it

00:58:21
well, of course, some of

00:58:24
them may have even they

00:58:26
have to kind of Sun

00:58:27
or the pressure of legal

00:58:29
cost. And the cards will

00:58:33
be shifted to or at

00:58:36
least share with the lawyer

00:58:38
about the pressure about the

00:58:41
burden of legal cost. So

00:58:44
it seems that a Chinese

00:58:48
lawyer willing to share the

00:58:50

risk with their clients. You

00:58:52

trying to record it. Where

00:58:53

are you in the same

00:58:55

boat? You win we we

00:58:57

you lose a loose. That's

00:59:01

one of the difference between

00:59:03

the Chinese and the other

00:59:06

Market are the jurisdictions. And

00:59:10

2nd ST. procurement process of

00:59:15

legal service I'm trying to

00:59:19

especially for the asshole he's

00:59:21

they don't end up process

00:59:23

and and even some private

00:59:26

companies. In case of litigation

00:59:31

arbitration with big amount or

00:59:34

out the importance to the

00:59:35

client. Almost all most of

00:59:39

them will choose the lawyers

00:59:44

why public bidding process or

00:59:49

some process of similar nature

00:59:50

like competitively Goshi ation like

00:59:55

that. and then there would

00:59:59

be an evaluation committee. Consists

01:00:04

of personnel put snails from

01:00:07

different departments have the company

01:00:09

you been from from the

01:00:12

panels of the government's database?

01:00:16

In that process which means

01:00:18

the founder of influence upon

01:00:28

the case on the lawyer

01:00:29

choosing process upon the analysis

01:00:32

of the case in the

01:00:35

public bidding process. It's very

01:00:37

hard to invite the father

01:00:38

to be a member of

01:00:40

the committee. Which means the

01:00:43

father may have left say

01:00:46

or have less influence upon

01:00:50

what you the process of

01:00:53

the city of decision-making process

01:00:55

almost have nothing to say

01:00:58

about the lawyer choosing a

01:01:00

process. So Deuce another challenge

01:01:02

for the founders. Okay, and

01:01:06

this Earth Wise did the

01:01:07

Garrity of the gpf agreement?

01:01:10

Of course, I think that

01:01:11

much and a lot but

01:01:15

I but my point is

01:01:16

that CPAP equipment Chinese another

01:01:22

case price of the country

01:01:23

so that decision would I

01:01:27

betray his indecision arbitration award.

01:01:31

Not not not not not

01:01:34

have the will have the

01:01:36

streets or very much. So

01:01:44

in cheap have I saw

01:01:45

as far as I know

01:01:46

when you've Iowa judge I

01:01:49

will review that you have

01:01:51

equipment not not only by

01:01:54

its name another name of

01:01:57

a a a t e

01:01:59

insurance or a supervised the

01:02:02

by the relevant authorities or

01:02:05

maybe in the name of

01:02:07

that transfer agreement. And they

01:02:11

should be should be treated

01:02:13

as at AMC business and

01:02:17

that you can be sure

01:02:19

narsa conditioner knowing agreement without

01:02:24

recourse and it can be

01:02:26

supervisor management by the other

01:02:29

rather than the government authorities

01:02:31

if it is a form

01:02:32

of thunder and emerging contest

01:02:35

sometimes foreign country. foreign exchange

01:02:41

control problems a lot of

01:02:44

problems so Here that you

01:02:53

can drive. So the chief

01:02:55

have is a crab cute

01:02:56

boys, not a legal community.

01:02:59

And finally, I think you're

01:03:08

one of the most difficulty

01:03:10

for your father is no

01:03:11

matter domestic or international law

01:03:13

enforcement procedure in China. every

01:03:19

practitioners in China news enforcement

01:03:25

Alpha valid Abbott Royal Road

01:03:28

is not effective. So to

01:03:38

you. Jasmine's is a very

01:03:41

very long time consuming and

01:03:43

is not a defective. Okay,

01:03:50

they said that okay, it

01:03:52

will work out that successful

01:03:53

for you only you the

01:03:56

clients. Had recovered precedes so

01:04:03

in China, if you win

01:04:04

the arbitration and litigation case,

01:04:08

they need another three or

01:04:10

four years. You have the

01:04:14

Award of journeyman be enforced

01:04:16

after three or four years

01:04:19

waiting. Now you may have

01:04:22

fallen Academy water from the

01:04:24

code enforcement procedure is terminated

01:04:29

without any outcome impractical what

01:04:36

I mentioned just now is

01:04:37

the real practical Chinese. So

01:04:43

what I say is the

01:04:47

reason of all the TPS

01:04:50

Honduras developing and promoting their

01:04:54

business in China, is kind

01:05:03

of mechanic them come to

01:05:05

this Market. Is that even

01:05:07

now it is any near

01:05:08

future because she'll be very

01:05:10

Frank ask your lawyer as

01:05:12

the managing partner of that's

01:05:14

a big Law Firm we

01:05:16

are and they're very high

01:05:18

pressure. against our default compliance

01:05:25

Even with window case you've

01:05:27

gathered jogging Monday you forced

01:05:29

all kinds, you know the

01:05:31

one to pay us. So

01:05:36

do you stay up bath

01:05:37

bomb situation? So we we

01:05:41

have people have fun there

01:05:42

has been much more relaxed

01:05:44

and just okay. I'm sorry

01:05:47

so you were right on

01:05:51

spot. So so tell you

01:05:53

my basic conclusion from your

01:05:55

remarks is that you you

01:05:58

would be an excellent. third-party

01:06:03

funding managing director needs to

01:06:15

have a high degree of

01:06:17

skepticism before every case and

01:06:21

and if a case is

01:06:24

a good case the case

01:06:26

would convince you if the

01:06:29

lawyers are the right lawyers

01:06:31

for that case the case

01:06:34

would convince you if the

01:06:36

opposing party is in an

01:06:43

opposing party that has the

01:06:46

capital to pay the damages

01:06:47

that you see could be

01:06:50

awarded the case would convince

01:06:52

you otherwise The case would

01:06:54

not convinced you so you

01:06:56

would you make you know,

01:06:57

an excellent managing director of

01:06:59

a third-party funding. There's a

01:07:02

couple of things that that

01:07:03

I would that I would

01:07:04

like to say here that

01:07:08

you have touched upon very

01:07:10

quickly risk-sharing is is a

01:07:15

is indeed a feature that

01:07:18

I understand is present in

01:07:21

Chinese legal culture some funders

01:07:25

require that level of risk

01:07:27

sharing by firms and by

01:07:29

Fife and the process of

01:07:32

procurement Within soe I I

01:07:37

I I I have never

01:07:39

evaluated a case against China

01:07:43

or against the Chinese company

01:07:45

or for a Chinese company,

01:07:47

but what's interesting here is

01:07:50

that my understanding is that

01:07:52

the funders look into Good

01:07:54

Counsel? So is the procurement

01:07:57

of Good Counsel is one

01:08:00

that is strict and that

01:08:02

would get the best counsel

01:08:03

possibly the founder might might

01:08:07

like that Council if if

01:08:09

if the council is mediocre

01:08:11

most likely. Thunder would not

01:08:15

like it and unless point.

01:08:19

Who chooses the Thunder is

01:08:24

is is a key one.

01:08:25

I would like in in

01:08:26

really 3 minutes teach on

01:08:30
and I would like to

01:08:33
make an effort in 3

01:08:36
minutes to respond to some

01:08:37
of the concerns that that

01:08:39
that power has put on

01:08:40
the table because I think

01:08:41
that this exchange is is

01:08:43
very very good. Not only

01:08:45
with respect to funding but

01:08:47
also with respect to the

01:08:48
characteristics of the Chinese market,

01:08:50
but you will only have

01:08:51
3 minutes. I will try

01:08:53

my best to I'll try

01:08:55

my best to be quick.

01:08:56

Yeah, I think just just

01:08:57

some immediate thoughts on on

01:08:59

that process. I think ultimately

01:09:00

price of council. It's up

01:09:03

to the client has full

01:09:06

control of that in most

01:09:07

jurisdictions. That is the position.

01:09:09

We would give our recommendations

01:09:13

if we believe saved the

01:09:16

legal team that the client

01:09:18

wants Use is not appropriately

01:09:22

a resource or not appropriately

01:09:24
experience in those particular types

01:09:26
of dispute the amount of

01:09:28
money that the client's decision

01:09:29
every pay the bills. And

01:09:30
of course, you are the

01:09:31
best possibility your team to

01:09:33
do it and we are

01:09:34
lined with clients the sense

01:09:36
that we want cheap and

01:09:38
good. So we're also like

01:09:39
it when law firms like

01:09:42
Caribbean decide that do you

01:09:43
want to go a bit

01:09:44
of risk as well? If

01:09:45
that would be a good

01:09:47
indication to us that they

01:09:48
believe in the strength of

01:09:49
a case. So that is

01:09:50
something that that that that

01:09:53
we get to those that

01:09:55
that that van giesen talked

01:09:57
about earlier, which was the

01:09:59
fact that there is a

01:10:02
procurement process that we that

01:10:07
that dispossess. You don't usually

01:10:08
to contact competitive bidding process

01:10:10

that featured a number of

01:10:12

the cases that we've been

01:10:14

working with with Chinese parties

01:10:16

as well. Ultimately, I think

01:10:19

It can walk a few

01:10:21

ways. It could be that

01:10:22

the soe requires a competitive

01:10:24

process in the selection of

01:10:25

the law firm. The law

01:10:26

firm decides that they want

01:10:28

to walk with one particular

01:10:29

finder and different law firms

01:10:30

have different pandas. That's one

01:10:32

way to do it. The

01:10:34

other way is when he

01:10:35

wants the legal team has

01:10:37

already been determined. Then the

01:10:39

den Dee Dee actually say

01:10:44

for instance decides that he

01:10:46

wants to tend to this

01:10:47

post has to have to

01:10:48

look at different potential funders

01:10:49

that they can't walk with

01:10:50

that something that we we

01:10:53

are not averse to and

01:10:54

we understand that the procurement

01:10:56

process is not very different

01:11:00

from how it works in

01:11:01

other jurisdictions as well. Most

01:11:03

companies require no cheat codes

01:11:05

for instance on on how

01:11:07

to approach that and that's

01:11:09

not something that we would

01:11:11

be shy away from my

01:11:12

husband or the trade-off. I

01:11:13

think what we really want

01:11:15

to I think in my

01:11:16

experience, is that once the

01:11:19

Guys decided to go with

01:11:20

one particular finder. We we

01:11:22

hope that it made me

01:11:23

agree with a sketched out

01:11:26

a commercial terms and Commercial

01:11:29

structure with the time and

01:11:31

wants that secrete. I think

01:11:32

the VP to a more

01:11:34

in-depth mutilations to tune to

01:11:39

cover of the many different

01:11:40

considerations, right like the merits

01:11:42

of the case. How could

01:11:42

the case is the recovery

01:11:44

bility to look into the

01:11:46

SM position of a counterparty

01:11:48

developed uas at 3:30 p.m.

01:11:50

For Smith strategies that something

01:11:52

that we be would at

01:11:55

least sometimes require a next

01:11:56

Tuesday 2:30. 2 to look

01:11:58

at and sometimes that's a

01:11:59

bit of a struggle for

01:12:00

4/4 Chinese guys do understand

01:12:03

but I think in most

01:12:05

cases we can overcome that

01:12:08

and I said man should

01:12:09

be refunded t i c

01:12:11

s o e in that

01:12:12

case that was mentioned earlier

01:12:14

that one that was try

01:12:17

to set aside in the

01:12:18

beach in Cozumel. In that

01:12:20

case was out there by

01:12:21

the fdic's Sol. So we

01:12:23

understand the process and the

01:12:26

thinking of of of of

01:12:28

Chinese parties in Chinese SOS

01:12:30

in particular are in the

01:12:32

many different considerations that that

01:12:34

I go into any decision

01:12:36

on whether to you stop

01:12:38

a different day work with

01:12:39

lawyers on the contingency fee

01:12:40

and we also understand the

01:12:43

cultural nuances in that process

01:12:45

of the questions and those

01:12:53

that you did not answer.

01:12:54

We will leave for bus

01:12:58

training. I would like to

01:13:02

welcome mr. At you and

01:13:08

who was apart of at

01:13:09

the well now and get

01:13:12

the law firm and pick

01:13:17

up on a question that

01:13:18

was I also put together

01:13:22

by by Powell which is

01:13:24
the notion that welder maybe

01:13:29
the high court that had

01:13:32
a negative ruling but there

01:13:34
were other courts that had

01:13:36
a positive ruling concerning litigation.

01:13:38
And on top of that

01:13:40
there may be other course

01:13:41
that have a favorable perspective

01:13:43
not lie concerning litigation funding

01:13:46
but arbitration funding so could

01:13:50
you help us to understand

01:13:52
whether this is this has

01:13:55
some logic given that this

01:13:57

is not a common law

01:13:59

country and whether there is

01:14:02

some value on that and

01:14:03

and and I and I

01:14:05

say this with the highest

01:14:07

levels of respect. I am

01:14:08

also a civil lawyer as

01:14:10

as as you are. So

01:14:11

please go ahead. Yes, please

01:14:15

please please. Rice 04 Softail

01:14:29

really appreciated the question and

01:14:31

it's a very interesting topic

01:14:33

to discuss the development of

01:14:36

third-party funding in China and

01:14:38

I feel even stasher to

01:14:40

join the panel and folding

01:14:42

discussion. So just reply to

01:14:46

the question regarding the cases.

01:14:48

So you my presentation today

01:14:50

while also touched upon a

01:14:52

Judicial probe which is further

01:14:56

discussion regarding the two landmark

01:14:58

cases brought by me. So

01:15:01

that's been mentioned by Hillside

01:15:04

that because we saw the

01:15:10

several cases relieving the position

01:15:15

towards their part founding but

01:15:18

I will start with a

01:15:19

little bit of background on

01:15:21

the arbitration no institution approach.

01:15:23

I really want to mention

01:15:25

this because Each weld a

01:15:27

must-read potential knees after Chinese

01:15:31

arbitration user in Maryland the

01:15:36

other to relieve their burden

01:15:37

out the potential cost of

01:15:40

arbitration. I also a quilt

01:15:42

with Mr. Wong has already

01:15:44

said that contingency fee in

01:15:48

Chinese lawyer to practice also

01:15:50

helped a lot to relieve

01:15:52

the class burden on the

01:15:53

legal fees from the tourney

01:15:56

side, but will it look

01:15:57

into the number of the

01:15:59

statistics by the opportunity to

01:16:01

show a c-note only told

01:16:03

her mom got 50 for

01:16:05

you and Casey see our

01:16:06

trees are increasing every year

01:16:07

but we also have more

01:16:09

and more very high-value cases

01:16:11

like according to the 2023

01:16:14

State a statistic with C

01:16:16

major institution in China. We

01:16:19

have four teeth build amount

01:16:21

is more than R&B 100

01:16:23

million CR about what? What's

01:16:26

fifty to two hundred cases?

01:16:27

And for the few demands

01:16:29

more than 1 billion and

01:16:31

be there about almost 20

01:16:32

cases for every year. So

01:16:34

you order to provide better

01:16:38

service to Dollar Tree in

01:16:39

user actually arbitration. No institutions.

01:16:42

They have already done a

01:16:43

loss of a hand. I

01:16:46

think they're trying to prove

01:16:48

something to me some cap

01:16:49

on the arbitration teeth like

01:16:52

BAC. They have their limitations

01:16:54

of institutional fee to cap

01:16:56

outside in me R&B and

01:16:59

the I retreated speed dating

01:17:00

meaning of similarity a high-priority

01:17:03

Down by SeaTac at another

01:17:05

institution where SeaTac has put

01:17:07

a cap on that Regency

01:17:08

about 15 million R&B. That's

01:17:11

his one-hand. However for another

01:17:13

hand, of course, he's come

01:17:14

to the founding to available

01:17:17

to the parties. Who are

01:17:18

we see even in almost

01:17:22

a joke 7 8 years

01:17:24

ago. We haven't seen you

01:17:25

since. Revisao VR between Jews

01:17:29

and promoted news rules regarding

01:17:31

said party founding related arbitration

01:17:35

juice in their 82 Chanel.

01:17:37

So having this as a

01:17:39

background of the Chinese arbitration

01:17:43

Mark 80 my personal feeling

01:17:46

because I used to work

01:17:47

in the Sea-Tac. I said

01:17:49

case manager even ten years

01:17:52

ago. I start to touch

01:17:53

upon the issuance of party

01:17:55

founding because the Chinese are

01:17:57

choosing institutions already have very

01:17:59

sensitive regarding the market like

01:18:02

in the first time I

01:18:03

talked about the I heard

01:18:05

about the sir part funding

01:18:06

Chinese almost like 2015 or

01:18:08

2014. It's almost 10 years

01:18:10
ago and will also see

01:18:11
a lot of successful to

01:18:14
mastic founder in China and

01:18:16
to now, like I said,

01:18:17
I had only recently the

01:18:19
Chinese TV show has also

01:18:21
starred to post the air

01:18:23
gesture towards funding activity. Arbitration

01:18:26
and litigation so I went

01:18:28
back to talk about those

01:18:30
two interesting cases white bathing

01:18:33
card case and not the

01:18:34
one Shanghai case like me

01:18:36

has already mentioned. It seems

01:18:40

like there's some can't read

01:18:41

Ephesians because the pigeon court

01:18:43

cases very positive at the

01:18:46

fishing towards arbitration founding where

01:18:49

the evolving of so Party

01:18:51

founder in arbitration procedure while

01:18:54

not invalidate arbitral award. However,

01:18:58

in this case, it seems

01:18:59

like half the conclusion because

01:19:03

finally the corps has a

01:19:05

valid the founding contract in

01:19:08

litigation. Well, however from my

01:19:10

Approach I would not simply

01:19:12

cats grieve those two cases

01:19:15

is the difference between arbitration

01:19:18

found a litigation filed in

01:19:19

because there is actually a

01:19:21

fundamental difference between those two

01:19:23

judicial procedure B. In the

01:19:26

Beijing Katie said Purity arbitral

01:19:29

procedure is shoes only a

01:19:32

judicial review procedure over a

01:19:35

arbitration award Jesus by C

01:19:38

packets arbitration law issues of

01:19:40

procedure issue. Whoever actually in

01:19:43

the Shanghai case totally to

01:19:46
match between the founder and

01:19:49
the Sunday party. Where are

01:19:51
the oldest RT the youth

01:19:54
relied in that Shahi case

01:19:56
is a Chinese to match

01:19:57
its civil law or the

01:19:58
old contract law. So they're

01:20:00
actually coming to the two

01:20:04
founding practice from a totally

01:20:06
two different approach and for

01:20:09
the Beijing a car to

01:20:10
approach. Actually, I would say

01:20:12
the the positive conclusion on

01:20:16

the judicial review process to

01:20:18

data War. It's a positive

01:20:21

Cowman does not surprise me

01:20:24

at all. We talked about

01:20:27

diesel review process in China

01:20:29

in the last part 5

01:20:32

or 10 years. We have

01:20:33

to mention there are two

01:20:34

very important background on the

01:20:37

PC Supreme People's Court that

01:20:39

they have already demonstrated. You

01:20:42

are pro arbitration approach very

01:20:44

clearly in the sky from

01:20:46

the several cases and from

01:20:49

several important judicial interpretations. And

01:20:53

I mean taunt internal reporting

01:20:55

system requirement for the R2-D2

01:20:57

review process. Not surprising at

01:21:00

all to see the cord

01:21:01

supposed to arbitration award even

01:21:04

involving with sounding like that

01:21:06

practice. Your solo asked everything

01:21:10

the founding practice in the

01:21:12

arbitration in SeaTac have a

01:21:14

photo that regarded you and

01:21:16

the corresponding regulation of the

01:21:19

disclosure application to avoid any

01:21:22
conflict of interest and 24.

01:21:25
Call the duty of confidentiality

01:21:27
of the park is so

01:21:29
interesting that are real and

01:21:30
also involving with the very

01:21:32
professional founder a zombie in

01:21:34
that case. I think that's

01:21:35
not a big issue really

01:21:37
from the traditional approach to

01:21:39
trying to find Annie legality

01:21:43
or illegality issue in that

01:21:44
Irish of the seating for

01:21:49
the show issue because it's

01:21:51

kind of litigation funding contract

01:21:54

probably could very first time

01:21:56

only what else've are several

01:21:58

times. It's closed to the

01:22:00

Chinese traditional and they are

01:22:01

not efficient to see whether

01:22:03

there's a valid contract that

01:22:09

judgment. I don't think it's

01:22:10

really an active gesture to

01:22:12

watch litigation founding you tied

01:22:14

up because even though we

01:22:17

could split the reasoning of

01:22:19

the car by two major

01:22:21

part one part is really

01:22:23

a commentary by the car.

01:22:25

Over the detention Falcon pracs

01:22:28

if the sword is a

01:22:29

financial nature and the shoes

01:22:32

they should be regulated by

01:22:34

the financial regulation time in

01:22:37

China. However, I'll call to

01:22:38

our dating out for any

01:22:40

should Financial regulations over this

01:22:42

kind of funny mechanic do

01:22:44

in this scenario. The court

01:22:45

only have a conclusion that

01:22:47

I still will have to

01:22:48

be very careful. We have

01:22:49

to be more prudent. I'll

01:22:51

be fishing out this can

01:22:53

of funding can track. It

01:22:55

doesn't lead to automatic in

01:22:56

that account tracks pretty big

01:22:59

factor of special effects for

01:23:01

background check her into this

01:23:03

child. Hi Casey the second

01:23:05

part Elsa and Anna see

01:23:07

which is really close relationship

01:23:10

between the Thunder and the

01:23:13

council also found a party

01:23:15

where its light controller of

01:23:18

the foundery. So so a

01:23:20

partner in The Firm is

01:23:21

representing the family party and

01:23:24

that if Do all Sonos

01:23:27

off the first concern on

01:23:29

the popping policy perspective of

01:23:32

the entrance for Selective including

01:23:34

their potential over a controlling

01:23:37

over off the Party by

01:23:39

the founder regarding their litigation

01:23:41

realize like a true South

01:23:43

lawyer even resolve their dispute

01:23:46

outside litigation procedure. And those

01:23:49

who that could be a

01:23:49

potential malpractice between the Thunder

01:23:52

and the council. It's all

01:23:56

my time. It's almost a

01:23:57

lot. So I would just

01:23:58

quit Forever by 3 take

01:24:00

away from the abbreviation of

01:24:02

the relation from those two

01:24:03

interesting cases. And also was

01:24:05

the our mail and the

01:24:07

situation. That's why did Doc

01:24:09

sell the first take away

01:24:10

will be I will save

01:24:11

kind of optimistic regarding funding

01:24:15

in arbitration procedure. Why is

01:24:17

that the bathing carti featuring

01:24:19

Grady Mouse doing standing there?

01:24:22

If you follow all the

01:24:24

regulation falling out recent you

01:24:27

inside I'm superseding there could

01:24:29

probably no problem at Cedar

01:24:32

Grove to Challenger Wort so

01:24:34

that the quality of the

01:24:35

war could be protected even

01:24:37

with involving out founding mechanic

01:24:39

and a second but I

01:24:44

would say the litigation funding

01:24:47

and arbitration founding by cannons

01:24:49

could be differently from a

01:24:51

regulation approach. Trent between litigation

01:24:57

of arbitration but I don't

01:24:58

think that make a concussion

01:25:00

to see that it's enough

01:25:02

to show that we must

01:25:04

have a referral regulation to

01:25:06

work litigation that not true.

01:25:07

However, I do think arbitration

01:25:11

in China a having the

01:25:12

background by the ice peace

01:25:14

beyond your pro arbitration approach

01:25:16

and having the arbitration as

01:25:18

the multi-layered to start to

01:25:21

loosen the cabinets in which

01:25:23

is strongly supported by the

01:25:25

central government and also make

01:25:28

reference to other jurisdiction like

01:25:30

Hong Kong. They have their

01:25:31

special regulation, especially arbitration founding.

01:25:35

I think you should probably

01:25:36

also a way that the

01:25:37

Chinaman land can make a

01:25:39

reference to and the last

01:25:41

point is if you had

01:25:42
a thing with we it's

01:25:43
a regulation to Ward's bonding

01:25:45
activities for not be only

01:25:47
on the final show is

01:25:49
at 3 but also a

01:25:50
combination with the legal industry

01:25:51
probably including ways to practice

01:25:54
and lawyer side. So that's

01:25:56
makes my confusion. Thank you.

01:25:57
Thank you very much. Thank

01:26:02
you very much and end

01:26:04
up your last but not

01:26:05
least after you Joe. I

01:26:10

would like to know welcome

01:26:11

again and Amy went away.

01:26:20

One China two systems and

01:26:23

that's why we are giving

01:26:25

a close. Look perhaps a

01:26:29

summary look into how is

01:26:31

litigation and arbitration funding in

01:26:35

Hong Kong. So Amy, please

01:26:38

you have just a few

01:26:40

minutes, but I know that

01:26:41

you're up for the task.

01:26:45

Thank you Jose and I

01:26:47

am conscious of time and

01:26:48

I'll try to keep my

01:26:49

presentation brief and concise. It's

01:26:53

a very good thing that

01:26:54

my presentation follows that if

01:26:56

y'all I'll be giving it

01:26:58

a different perspective. I'll take

01:27:00

the audience now to Hong

01:27:01

Kong which has been and

01:27:03

remains one of the most

01:27:04

important forum for despair resolution

01:27:07

for Chinese parties, especially if

01:27:09

they're engaged in farming related

01:27:11

business transactions or a commercial

01:27:13

contract and I'll be briefly

01:27:15

looking at three areas and

01:27:18

I'll start with a brief

01:27:19

survey on the practice of

01:27:21

dispute founding and Kong Kong

01:27:22

and general the legislative landscape

01:27:24

and to be followed by

01:27:26

the relevant provisions of the

01:27:29

leading now Mainland Chinese institutions

01:27:32

and their rules a litigation

01:27:34

songs about arbitration founding in

01:27:35

general and how they differ

01:27:37

from the overview that was

01:27:38

just seeing from yowies presentation

01:27:39

and finally a very quick

01:27:42

view their party founding and

01:27:44

investment / 2 Which has

01:27:46

gained more momentum and attention

01:27:49

in the past few years,

01:27:50

especially with Chinese a users

01:27:52

before that a very quick

01:27:54

word about my own background.

01:27:55

The first half of my

01:27:57

professional career was dedicated to

01:27:59

investment arbitration and my firm

01:28:02

represented exclusively stay clients. So

01:28:05

we're very used to working

01:28:06

with state governments as though

01:28:08

he's public entities are we

01:28:10

also represented local municipalities? So

01:28:12

we are aware of the

01:28:13

particular situation the relevant constraints

01:28:17

and a particular ATI working

01:28:20

around with clients with a

01:28:22

stay by ground or is

01:28:24

a public entity and I

01:28:26

could also tie into the

01:28:29

attractiveness and also the challenges

01:28:31

faced by these entities are

01:28:33

when they're trying to procure

01:28:34

a founding for their cases.

01:28:36

So a quick overview about

01:28:39

the Landscaping Hong Kong Hong

01:28:41

Kong is primarily a common

01:28:43

law jurisdiction. So that's the

01:28:44

major. Difference between a legal

01:28:46

system in Hong Kong and

01:28:47

China and under common law

01:28:49

and there are two legal

01:28:51

doctrines 10 as maintenance the

01:28:54

other one know as champerty

01:28:55

and these two dogs in

01:28:57

principle prohibits sounding of litigation

01:29:00

in front of Hong Kong

01:29:02

quartz. So very briefly. She

01:29:05

won't give you the the

01:29:06

definition of third-party found a

01:29:07

and that's basically precisely what

01:29:10

is the doctrine of maintenance

01:29:11

is trying to prevent answer

01:29:13

the doctor in itself Southside

01:29:15

a third-party that's it does

01:29:18

not have an interest in

01:29:19

the action itself or is

01:29:20

not otherwise involved in the

01:29:22

action is prevented from basically

01:29:26

sponsoring or encouraging assisting on

01:29:29

the potty bringing the action

01:29:30

by means of her and

01:29:32

says provide financial support and

01:29:34

Trend Purdy is a type

01:29:36

of Maintenance and it basically

01:29:37

prevents a party from having

01:29:40

a share in the proceeds

01:29:41

of the litigation and the

01:29:43

party is otherwise not related

01:29:44

to the I'm so as

01:29:47

a result of these two

01:29:48

common law Doctrine litigation founding

01:29:51

in Hong Kong is in

01:29:52

principle not allowed and saved

01:29:54

in very limited circumstances, which

01:29:56

I will not going to

01:29:57

detail. So that's the legislative

01:29:59

landscape and why this equation

01:30:01

found in Hong Kong is

01:30:02

commonly not seeing owners are

01:30:05

not involved in this area

01:30:06

and I has been rather

01:30:08

a stablished the law. It's

01:30:11

a different landscape when it

01:30:12

comes to arbitration. And even

01:30:15

before we see a lot

01:30:22

of cases arbitration cases being

01:30:25

founded and especially if the

01:30:27

seats are outside of Hong

01:30:28

Kong and the Hong Kong

01:30:29

government were very much aware

01:30:31

of the situation and at

01:30:32

the law reforms which chocolate

01:30:35

packets as a first of

01:30:36

February 2019, basically solidify the

01:30:39

practice at arbitration founding for

01:30:41

arbitration see it in Hong

01:30:42

Kong is completely is just

01:30:44

my size and I wish

01:30:45

it also shows the governed

01:30:47

is provocation. General and I

01:30:49

has been gaining more mentally

01:30:51

incompetent stand and what reflected

01:30:56

the legislative altitude on the

01:30:58

general practice of dispute sounding

01:30:59

is also something we can

01:31:01

see it original arbitration rules.

01:31:03

So just now we look

01:31:04

at on the rules. I'll

01:31:06

find some of the leading

01:31:07

Chinese institution such as she

01:31:09

talked a PhD and I

01:31:11

will switch gears and look

01:31:12

at it and the hki

01:31:13
for a change and this

01:31:16
is the Hong Kong International

01:31:16
arbitration Center, which is one

01:31:18
of the leading Institute originally

01:31:20
and also is quite commonly

01:31:22
used by Chinese party. So

01:31:24
he published its latest version

01:31:28
of 2024 rules on just

01:31:30
a few weeks ago. I'm

01:31:31
about to they were looking

01:31:32
at both the 2024 and

01:31:34
the 2018 rules which are

01:31:36
largely the same when it

01:31:37

comes to on third-party founding.

01:31:39

So the practice itself is

01:31:41

expressly recognized and express Express

01:31:44

weave. I did for under

01:31:46

the rules and what goes

01:31:47

with it as best physically

01:31:49

a very strict disclosure requirements,

01:31:52

which is found on the

01:31:53

article 44 of booster 2018

01:31:56

rules in the 2024 rules.

01:31:58

What is essentially says, is

01:32:00

that a party that's being

01:32:02

founded and be the claim

01:32:03

end of the respondent has

01:32:05

an obligation and it's an

01:32:07

active affirmative obligation to disclose

01:32:09

the existence of the founding

01:32:11

agreement as well as the

01:32:13

identity of the founder to

01:32:14

the tribunal the opposing party

01:32:16

and inserting institution as soon

01:32:18

as the agreement is concluded.

01:32:20

So if you're a claimant

01:32:23

are you have secured funding

01:32:24

agreement before comments and actions

01:32:26

you need to announce the

01:32:28

two sets of information in

01:32:29

your notice of arbitration already.

01:32:31

If you're the respondent being

01:32:33

sounded you need to announce

01:32:34

that in your answer to

01:32:36

the notice of arbitration, which

01:32:37

is the first written submission

01:32:38

and that you will provide

01:32:40

air in the preceding. And

01:32:42

if a party procure a

01:32:44

standing agreement after the commencement

01:32:46

of the arbitration do throughout

01:32:47

the arbitration process, which we

01:32:49

see and happens a from

01:32:51

time to time and then

01:32:53

and the party being founded

01:32:54

is under an obligation to

01:32:56

notified on the tribunal of

01:32:58

the opposing party and the

01:32:59

institution as soon as practicable

01:33:02

after the funding agreement has

01:33:04

been fully cured from logical

01:33:06

44 that off the HPI

01:33:08

Stables. What goes with the

01:33:11

disclosure agreement is also on

01:33:14

Provisions regarding confidentiality so far?

01:33:17

I would treeshin seated in

01:33:18

Hong Kong and by virtue

01:33:20

of the Hong Kong arbitration

01:33:21

ordinance arbitration proceedings are confidential.

01:33:24

So I normally a party

01:33:26

is not entitled to disclose

01:33:28

confidential information or documents obtained

01:33:31

through there before proceeding to

01:33:32

third parties. But under the

01:33:34

h k. I z rules

01:33:35

you have an exception which

01:33:37

is provided in case of

01:33:39

procuring sounding agreement. And so

01:33:42

as we've discussed before I

01:33:44

found your decides whether or

01:33:45
not if it needs to

01:33:47
be able to access the

01:33:48
information of the case and

01:33:50
form a preliminary assessment of

01:33:53
the merits the validity of

01:33:54
the clay and also recovering

01:33:56
possibilities, which require the founders

01:33:58
to access confidential documents. So

01:34:00
that's something also provided under

01:34:02
the rules itself and potty

01:34:04
would likely have a dispute

01:34:05
about this particular issue. So

01:34:09
that's the rules of the

01:34:10

H&K. I see another more

01:34:12

commonly used institution is dicc

01:34:13

the international Chamber of Commerce

01:34:16

and in its latest rules

01:34:17

that the roof from 2021

01:34:19

article 11, you have a

01:34:22

similar provision of it's less

01:34:25

comprehensive in a way as

01:34:26

compared to the hki supervision

01:34:28

by the dresses the same

01:34:29

and the party being founded

01:34:31

is an obligation to promptly

01:34:33

informed the opposing party to

01:34:35

Tribune training institution that about

01:34:37

the existence of funding agreement

01:34:39

as well as the identity

01:34:40

of the phone to the

01:34:41

key consideration here is to

01:34:42

preserve the Integrity of the

01:34:44

arbitration proceeding as the founding

01:34:47

agreement itself can impact Court

01:34:49

decision for instance, or I'm

01:34:51

the Tribune has consideration when

01:34:52

granting security for costs as

01:34:54

we've discussed and more importantly

01:34:56

I could potentially raise complex

01:34:59

issue and that's an important

01:35:01

part of because going back

01:35:03

to the presentation of our

01:35:06

previous panelist to whom I

01:35:07

should know. The phone does

01:35:09

Arnold only there to provide

01:35:11

phones but also expertise and

01:35:13

the phone. Could be involved

01:35:14

in the selection of lawyers

01:35:17

expertise Etc. This could potentially

01:35:19

I depend depending on the

01:35:21

sub Civic funding agreement raise

01:35:24

issue as to whether or

01:35:25

not that creates a conflict

01:35:26
within the legal representation steam

01:35:29
at self. We're all aware

01:35:31
that as lawyers representing a

01:35:33
client. We were not and

01:35:35
I can depend on the

01:35:36
jurisdiction. I'm the lawyer is

01:35:38
subject to the regulation and

01:35:41
may not be allowed to

01:35:43
have an interest in a

01:35:45
proceed or the outcome of

01:35:47
the litigation. So I'm before

01:35:49
securing funding agreement. It's we

01:35:52
always advise a client that

01:35:53

were any individual interested in

01:35:55

this procedure to carefully seek

01:35:58

advice from your console and

01:35:59

have this discussion with the

01:36:00

founder to make sure that

01:36:02

you're not overstepping public policy

01:36:04

issues or on the potentially

01:36:06

risk, and now they find

01:36:07

the founding of Grey. And

01:36:08

or even jeopardizing the entire

01:36:09

arbitration procedure? When we go

01:36:13

a bit more spending to

01:36:15

the region and we also

01:36:16

surveyed Andrews office as I

01:36:18

see that's the institution in

01:36:19

Singapore as far as jcaa.

01:36:21

Japan ikca be in Korea

01:36:23

LCI in London and sec

01:36:26

in Stockholm these institutions rules

01:36:28

for the commercial arbitration. They

01:36:31

are for the time being

01:36:32

silent on third-party funding. We

01:36:35

haven't identified cases where the

01:36:37

position has been taken. Party

01:36:39

after party funding is not

01:36:40

allowed or prohibited or restricted

01:36:43

in any way. I'm however,

01:36:44

there is no Express disclosure

01:36:46

agreement out of these rules

01:36:47

safe for the policy of

01:36:50

the Stockholm Chamber of Commerce,

01:36:51

which recently adopted a policy

01:36:53

which encouraged party to undisclosed

01:36:57

they exist as Ian density

01:36:59

of the founder of the

01:37:00

precise reason and I adjust

01:37:02

adjust Things are a bit

01:37:06

different when it comes to

01:37:08

investment arbitration. And again, we're

01:37:10

not talking about cases. In

01:37:12

general takes longer to conclude

01:37:15

as compared to commercial arbitration

01:37:16

does usually more complex and

01:37:18

enforcement procedures could be more

01:37:20

cumbersome and what it involves

01:37:23

Auburn's at assets to go

01:37:26

running to potentially meet at

01:37:27

the issues. So this is

01:37:28

another area where I would

01:37:30

say Chinese users could be

01:37:32

more interested in potentially consider

01:37:34

using founding agreements either to

01:37:36

facilitate and ate them during

01:37:38

the arbitration process and Order

01:37:41
forcement stage on Wednesday to

01:37:43
cure a favorable award and

01:37:45
here if we survey the

01:37:47
major investment arbitration rules and

01:37:50
that you would find the

01:37:52
party funny be mentioned one

01:37:53
way or the other by

01:37:54
the leading institution as this

01:37:56
practice has been used for

01:37:58
many years and in the

01:38:00
exit rows for instance. The

01:38:02
party is being founded are

01:38:03
under an expresso. Haitian to

01:38:05

make disclosure and that is

01:38:07

supposed to guarantee the Integrity

01:38:10

of the arbitration proceeding itself.

01:38:12

But also to allow the

01:38:13

tribunal which would take it

01:38:14

into consideration. Not only allocating

01:38:17

call Stanley do expenses at

01:38:20

the closing juncture of the

01:38:23

preceding. But also when a

01:38:25

party apply for security for

01:38:26

costs, which is more often

01:38:28

seen as an investment arbitrations

01:38:30

and we have remarks had

01:38:41

especially how you were able

01:38:43

to prove specifically that I

01:38:49

would even call it a

01:38:51

sort of Israeli students going

01:38:54

to start that now the

01:38:56

fact that everyone in every

01:38:58

Center Fulton best arbitration and

01:39:02

Commercial arbitration. There is a

01:39:04

Judy Disclose that has of

01:39:07

course ramifications in in in

01:39:10

in in many aspects both

01:39:12

investor-state and international commercial arbitration

01:39:15

as you have mention security

01:39:17

for cost. I I think

01:39:20
that that that was a

01:39:21
wonderful way to set this

01:39:24
stage as to why there

01:39:26
is there is I would

01:39:29
say it clear rule of

01:39:30
of transparency on who the

01:39:32
Thunder is which protects the

01:39:33
Integrity of the tribunal I

01:39:36
would like to conclude simply

01:39:39
by by emphasizing that as

01:39:42
we have seen. There are

01:39:44
many clarifications that have been

01:39:47
taking place both in Hong

01:39:49

Kong but especially in mainland

01:39:52

China concerning third-party funding my

01:39:55

understanding and suspicion is that

01:39:57

they're there is more to

01:39:58

come from court in the

01:40:01

near future. My understanding is

01:40:04

also Let that this panel

01:40:07

has been a great set

01:40:09

of overview and an opening

01:40:11

for both clients lawyers funders

01:40:15

as to what may be

01:40:16

the concerns of lawyers at

01:40:18

what may be the interest

01:40:19

of funders and how to

01:40:21

approach the that the topics.

01:40:23

I really want to thank

01:40:24

each one of you and

01:40:26

I because you have done

01:40:27

a remarkable job in terms

01:40:29

of explaining in a transparent

01:40:31

manner. What is third-party funding

01:40:34

specifically in in China and

01:40:38

Hong Kong and I would

01:40:40

end up simply by saying

01:40:41

that third-party funding Council and

01:40:45

and and client is like

01:40:48

a three-way marriage if it

01:40:50

doesn't work, it's a mess.

01:40:52

But if it works it

01:40:55

leads to great great results.

01:40:57

Do I add a like

01:40:58

to share an anecdote? We

01:41:01

we had as counsel. Funding

01:41:05

for a party before the

01:41:07

jca and he worked out

01:41:09

very well. Not only did

01:41:11

we win we got damages

01:41:13

but also the expertise of

01:41:15

the funder brought for our

01:41:17

case was very useful and

01:41:19

it was always respectful of

01:41:21

decisions of council and also

01:41:23

decisions of of of a

01:41:26

further decline. So with that

01:41:29

I would like to conclude

01:41:30

and ask her if we're

01:41:33

good Round of Applause for

01:41:35

our panelists. And we are

01:41:46

going to conclude your booty

01:41:49

and I will just share

01:41:51

a few words. I know

01:41:52

that you have been incredibly

01:41:53

patient and the week before

01:41:56

simply. finalizing our are China

01:42:03

and update the inside it

01:42:10

is it is really important

01:42:12

for us to give thanks

01:42:13

to everyone here a starting

01:42:17

with the note the the

01:42:18

technical team Funda but but

01:42:23

perhaps that why should start

01:42:25

with the b a c

01:42:27

/ d i a c

01:42:31

we have been doing this

01:42:34

for the first time and

01:42:37

the Logistics and the substance

01:42:42

has been impeccable behind oldest

01:42:47

two days. There's there was

01:42:48

a huge amount of preparation

01:42:50

are going back to I

01:42:53

would say almost a year

01:42:55

and end up behind that.

01:42:58

There's a there's also the

01:43:00

work of of the speakers.

01:43:01

There's a travel of the

01:43:03

speakers who have gone from

01:43:05

Canada to have one from

01:43:07

Brooke come from Mexico that

01:43:08

have come from Hong Kong

01:43:09

from Sydney. So from from

01:43:14

so many places from Columbia

01:43:15

at cetera. And so thank

01:43:17

you for the speakers. I

01:43:19

would also like to thank

01:43:20

to to the flu in

01:43:21

the team which had been

01:43:24

also impeccable door their volunteers

01:43:26

to Cecilia and and and

01:43:30

also know last but not

01:43:33

least I would like to

01:43:35

thank you especially to the

01:43:39

Well, they were chasing update

01:43:40

executive team might not Camilla

01:43:43

who is here and was

01:43:44

been doing a very patient

01:43:46

and a assistant job in

01:43:48

addition to providing a quiet

01:43:50

quite a lot of substance

01:43:52

to the meetings in in

01:43:53

her own presentation. And also

01:43:55

on the remote team that

01:43:56

is now in South America

01:43:59

both my Lucia classes and

01:44:01

the valley has Suarez and

01:44:05

also know that the prior

01:44:06

people also thank each one

01:44:09

of our sponsors so our

01:44:12

sponsors law firm as well

01:44:17

as Denton's as well as

01:44:19

as our Platinum sponsors Global

01:44:22

law lawyers and the tiger

01:44:25

and as well as our

01:44:27

gold sponsors double care that

01:44:30

whole Chinese. You won he

01:44:41

12 tables and I would

01:44:44

also like to give special

01:44:45

thanks to rilla force with

01:44:48

Linda and next as well

01:44:50

as that flight take and

01:44:52

technical support if I have

01:44:55

missed anybody. I apologize. But

01:45:01

what we really want to

01:45:03

do to do is is

01:45:05

to put a a flag.

01:45:07

Hopefully here in Beijing and

01:45:09

really welcome you to the

01:45:12

hopefully next year will be

01:45:15

able to come back to

01:45:17

China and and do another

01:45:18

world arbitration update. But you

01:45:21

have an immediate invitation because

01:45:23

China World arbitration update is

01:45:27

the beginning as tired as

01:45:30

you maybe is the beginning

01:45:31

because on Monday, we have

01:45:34

World arbitration of Washington and

01:45:37

we are doing this from

01:45:39

5 all the jurisdictions sharing

01:45:42

with the world the particularities

01:45:44

international commercial arbitration and investment

01:45:48

vacation from those jurisdictions. So,

01:45:51

you're welcome to join in

01:45:54

a challenging. A calendar and

01:45:57

on time because now it's

01:45:59

almost 6 so in those

01:46:05

jurisdictions in my V6 in

01:46:07

the morning, so but you're



01:46:09

welcome to join us at

01:46:12

the real-time. Okay, and thank

01:46:15

you very much.