

Commercial Litigation Funding: How to Find a Win-Win.

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A growing business provides high-quality plastics to a manufacturer for use in packaging material. Millions of dollars are on the line. But the large-scale, international manufacturing company isn't paying invoices—or returning the plastics.

The plastics company's CEO considers meeting with a lawyer—but of a caliber ready to fight a Goliath. After all, the international manufacturing company retains a well-recognized law firm with teams of lawyers.

The business owner soon learns that getting the case looked at may require a \$250,000 retainer; top legal representation might charge \$1,000 per hour.

Large companies may drag out the litigation process, knowing that time isn't on a smaller business's side. Legal fees will continue to add up if the case takes years.

The CEO knows pressing forward with legal claims will rapidly deplete his coffers as he tries to juggle day-to-day business and relationships with other, more responsible clients. He may have to start dipping into operating accounts and budgets to stay afloat.

The plastics business owner might consider litigation funding.

What is Commercial Litigation Funding?

Some lawyers who believe the case's merits are strong—but know their clients' balance sheets aren't—send their commercial clients to litigation funders. However, clients find and perform outreach to most commercial litigation funders.

[Commercial lawsuit loans](#) aren't actual loans but nonrecourse advances. These advances can be as small as \$50,000 or \$100,000 to up to \$20 million. A nonrecourse advance means clients are advanced a lump sum of money, but repaying the advance is contingent upon the case.

Commercial Litigation Funding helps businesses with legitimate claims that would never see their day in court otherwise because they've been priced out of the legal system. There are so many businesses that can't access the justice system simply for not having the money to continue.

With the benefit of litigation, even smaller law firms can tackle complex commercial cases, which expands access to legal justice. This is particularly relevant today, as some larger companies use bankruptcy courts and proceedings as claims shields.

Some lawyers are confused about whether litigation funders involve themselves in the case's ongoing legal procedures or settlement talks or interfere in the client-lawyer relationship. Commercial litigation funders find great cases with strong arguments— then get out of the way. Commercial litigation funders aren't involved in settlement or any other ongoing aspect.

How the Commercial Litigation Funding Process Works.

Each commercial litigation funding process and outcome is exceptionally unique and evaluated on its own merits—no two are the same. Loan applications are reviewed on the strength of claims, the damages suffered, and the settlement amount expected.

Commercial Litigation firms tend to be more risk-averse and carefully consider each case. If they don't think the case is a good fit, they may be able to refer commercial clients and their legal team to a new funding source.

Typically, the funder reviews documents and undertakes conversations with the clients and their attorney, then offers a terms sheet outlining the rate and cost of money. Terms may depend on the case's risk level, the value of the case, and the likelihood of recovery. Typically, the number comes out as a percentage per year or semester and accrues interest every six months. Many loans are capped at 3 years, after which interest stops accruing.

Funding speed depends on the case's details. More straightforward cases could see funding within 24 hours. In general, funders tend to investigate commercial cases closely, performing due diligence. Commercial litigation funding could come between 30 to 90 days after application, making timeliness essential.

After receiving the cash infusion, clients can use the amount for case expenses or simply keep their business afloat.

What Kinds of Commercial Lawsuits can be Funded?

Litigation funding includes cases concerning: breach of contract, international arbitration, international tort, oil and gas disputes, liquidations, breach of contract, and anti-trust.

Funding lawsuits span many industries, including technology, commerce and manufacturing, oil and gas, and the electric industry, among others. Some lenders don't work with international cases.

Commercial lawsuits come to litigation funders in one of a few ways. Sometimes, businesses first reach out to litigation funders and ask for advice on moving forward and legal firm recommendations. Top litigation funders develop good relationships with well-established, reputable legal firms to provide great referrals. As an example, Commercial Finance Litigation companies that excel have good relationships with several of the top litigation firms in the U.S.

Although commercial litigation funders can expand access to justice, it's essential to understand the [rates and terms of any funding agreement](#). With the right approach, commercial lawsuit funding can provide a cost-effective method of keeping a business afloat while ensuring justice.

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