



FORTRESS
LEGAL FINANCE

Litigation funding is where a third party funder provides the financial ability to enable costly litigation or arbitration cases to proceed.

The litigant obtains all or part of the financing to cover its legal costs from the litigation funder, who has no direct interest in the proceedings. In return, if the case is won, the funder receives an agreed share of the proceeds of the claim. If the case is unsuccessful, the funder loses its money and nothing is owed by the litigant.

Because the litigation funder's return is tied to the success of the case, funders look to fund cases with good prospects of success. In the case of Fortress, we will not consider any cases, where Counsel do not consider the prospects to be in excess of 65%. Risk is also mitigated with an ATE (After the event) insurance policy on every individually funded litigation case. This insurance policy will cover a legal costs normally 30-40% of the total legal spend. For instance the legal spend on a case amounted to £500,000 and that particular case was not successful dependant on coverage £150k-£200k would be recovered. ATE insurance is highly important and essential within litigation funding.

The funders' share of the proceeds of a successful case is negotiated with the litigant at the outset. This financial reward typically consists of either a percentage of the damages recovered, or a multiple of the amount advanced by the funder, or a combination of the two. For instance a case could have a minimum legal spend of £500,000 with a total claim size of £4.5-£5million.

This financing tool provides a valuable means of access to justice for claimants who may not have funds available, or may not wish to tie up funds, for costly yet meritorious claims. In most cases Litigation funding is most popular within "David and Goliath" legal cases which typically involve large conglomerates flexing their financial arms on cash strapped smaller companies. One of the most famous cases of this instance was "Hulk Hogan vs Gawker". This particular case in 2016 propelled the popularity of 3rd party Ligation Funding within the US due to its extensive publicity.

Litigation funding provides a cost-effective financing tool for claimants, and solicitors in England and Wales are now obliged to explain its existence and function to their clients so that they can take it into consideration when planning the funding of a case. Litigation funding has been proving popular for private and angel investors considering an alternative to traditional investments due to the lucrative returns on offer.

