



Paying the piper

Litigation funding will build on a breakthrough decade, but still find some peaks hard to surmount.

With levels of capital committed to litigation funding rocketing during the 2010s, external funders look certain to consolidate their gains in the years ahead. Moreover, the role of funders in backing some of the most significant matters before the courts – as seen recently in Harbour’s support of the headline-grabbing UK business interruption insurance dispute – will only increase their influence. “One of the big stories is funding,” remarks HFW partner Brian Perrott. “It is going to be an interesting and increasing development in future – I don’t think we’ve even touched the surface of funding.”

While varying figures are given for the growth of the market, it is commonly accepted that capital available to finance disputes increased at least five-fold during the 2010s, with more than £1bn available to fund cases in the English courts. Burford Capital chief executive Christopher Bogart believes the industry is closing in on \$10bn committed to live disputes – a figure he expects to double in the next five years.

The growth and maturation of litigation finance is most advanced in the US, though funded cases remain a tiny fraction of the overall disputes market. “There’s more money in the market looking to finance litigation than ever before,” says Boies Schiller Flexner partner Stuart Singer. “That will have an acceleration effect – particularly on class actions, big antitrust cases, the cases with the kind of discovery that will justify that investment.”

However, the prospects beyond group claims and smaller claimants with limited resources will be constrained by the conservatism – and in some cases outright hostility – of large-company GCs. In response, funders will hunt increasingly at a global level, popularising the model across borders. “It’s been all about the international growth of funding,” says Harbour founder Susan Dunn. “You could not be a funder and say: ‘I’m only going to fund in England and Wales.’”

The recent vogue for law firms teaming up with funders to offer clients a menu of funding options will add extra fuel to the fire.

This is an excerpt from an HFW report on the future of dispute resolution. To read the rest of the report, which includes a series of 30 interviews with senior in-house counsel and other leading figures from across the global disputes industry, as well as insights from our expert litigators, visit: www.hfw.com/litigation

HFW LITIGATION

HFW has one of the most active disputes practices in the market, covering litigation, international arbitration and alternative forms of dispute resolution.

We have more than 350 specialist disputes lawyers across the Americas, Europe, the Middle East and Asia-Pacific, handling high-value, complex, multi-party and multi-jurisdictional disputes, including fraud and asset recovery, insolvency, class actions, and enforcement actions.

Our expert lawyers frequently litigate on behalf of clients in courts around the world.

To find out more about our leading disputes offering, contact:

NOEL CAMPBELL

Global Head of Litigation

T +852 3983 7757

M +44 (0)7774 964184/+852 6113 9280

E noel.campbell@hfw.com

NICOLA GARE

Disputes PSL

T +44 (0)20 7264 8158

M +44 (0)7795 612270

E nicola.gare@hfw.com

DAMIAN HONEY

Head of International Arbitration

T +44 (0)20 7264 8354

M +44 (0)7976 916412

E damian.honey@hfw.com

SEAN TWOMEY

Director of Business Development

T +44 (0)20 7264 8546

M +44 (0)7976 282592

E sean.twomey@hfw.com

**Find us on LinkedIn at www.linkedin.com/company/hfw
or search for #HFWlitigation.**