



LITIGATION FUNDING AT A GLANCE

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The Idea

In providing litigation funding we assume the entire costs of the legal proceedings accruing for the assertion of claims – in court as well as out of court – in return for a fair share in the proceeds, provided our evaluation of the claim was positive and an agreement on the provision of litigation funding was concluded.

Claim for payment

We fund only those cases where the claimant actively asserts a claim for payment or a claim having monetary value. The defense against claims cannot be funded. We evaluate cases from nearly all areas of the law; claims arising under the following areas, however, are often particularly suited for receiving litigation funding: architects' and engineers' law, laws governing medical malpractice, banking law and laws on capital investments, inheritance law, antitrust law, contract law, sales law, and insurance law.

Lawyer

It is obligatory for the claimant to be represented by a lawyer already at the time of the inquiry as to litigation funding being made, but also during the ongoing funding phase. The claimant's counsel must have reviewed the claim in a comprehensive manner before making the inquiry as to litigation funding and is to submit in writing a corresponding opinion along with the inquiry. Said opinion will be the basis on which the case will be evaluated. We will not assume the costs incurred for the analysis of the case nor for the so-called qualified inquiry as to litigation funding.

Solvent opponent

The claimants, their lawyers, and also the funding partner backing them only stand to gain in the case of a win if the opponents are sufficiently solvent such that they are able to satisfy the claims. In all cases, therefore, the opponent's financial strength is a crucial factor for determining whether a case will be funded or not.

Amount in controversy

As a general rule, we fund claims for an amount in controversy of Euro 100,000 and above.

Evaluation at no cost

We review the case on the basis of the qualified inquiry as to litigation funding (legal analysis of the case by the client's counsel including annexes, other documentation such as exchanges with the opponent, expert reports already obtained) with a view to its prospects of success and its suitability for funding. Please refer to the **Checklist for a Qualified Inquiry** as to Litigation Funding for information on the documentation that is required for an evaluation of your case.

Response within 48 hours

After having received all documents and information required for a case evaluation, the inquiry will be processed by us – (specialist) lawyers admitted to practice before the courts with many years' experience and expertise in their respective fields of law. We will get back to the client's counsel within 48 hours after receiving the inquiry and will provide our initial assessment of the case; should the necessity arise, we will ask that additional documents or opinions be submitted.

Committee decision

Upon positive evaluation of the case, it will be presented to the funding committee, which, while taking account of all circumstances of the case, will conclusively decide on the funding and its terms and conditions.

Partner by contract

Should the committee opt for funding the case, the client's counsel will be provided with our agreement as to litigation funding for review and for the claimant to sign. After having countersigned the agreement, we will assume all costs incurred by the lawyer, the court, and/or the experts, and we will transfer these fees directly to the client's counsel. Should the claimant so request, we will actively support the funded proceedings and also attend hearings before the courts and settlement negotiations.

Our recommendation: lawyers, profiled.



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Fair share in the proceeds

Our share in the proceeds depends upon the amount in controversy that has been funded; it is calculated as a percentage of the proceeds of the proceedings that remain after reimbursement of all costs.

As a general rule, our share in the proceeds of the proceedings amounts to 30% if the amount in controversy that has been funded exceeds Euro 100,000; should the amount in controversy fall below Euro 100,000, our share in the proceeds amounts to 35%. In case the proceeds of the proceedings exceed Euro 500,000, we will receive a share of only 20% of the amount in excess of Euro 500,000. If a case is successfully resolved without court proceedings having been opened, i.e. prior to them or through mediation, our share in the proceeds will be a flat-rate percentage of 20% for claims exceeding Euro 100,000 and of 25% for those falling below Euro 100,000.

For half of the claims we fund, however, individual conditions are agreed that take account of the circumstances of the specific case. This is all the more true for international funding projects.

No risk of financial loss

In securing litigation funding, the claimant assumes no cost risk whatsoever when asserting their claims. It is only in the case of successful resolution of the case, i.e. when the opponent makes a payment, that we, the litigation funding partner, are reimbursed for any costs advanced and will receive the share in the proceeds of the proceedings previously agreed upon in the funding agreement. In case of a loss, all expenses already paid remain with us and we also assume the costs of the opponent.

Preparation of accounts

The bank recommended a high-risk investment to Ms. K, its customer of many years, in spite of the fact that she intended to invest her money as securely as possible in order to provide for her retirement. In its consultation meeting, the bank did not advise Ms. K of the risks this investment would entail. Now the money is gone and the bank refuses to compensate the da-

mages of Euro 120,000. Ms. K consults with a lawyer and asks him to assess the prospects of success an action would have. The lawyer reviews the case and assesses the chances of her claim being successfully asserted as outweighing by far those of a loss. The financial risk of asserting the claim before the courts of first instance, however, amounts to almost Euro 13,000, according to Ms. K's lawyer. Since she lost her entire savings in the investment and cannot afford to litigate the matter in court, the lawyer recommends that Ms. K acquire litigation funding with Omni Bridgeway AG (ROLAND ProzessFinanz).

After having evaluated the case on the basis of the qualified inquiry as to litigation funding, we offer Ms. K the funding of the court proceedings against the bank. Upon conclusion of the funding agreement we assume all costs entailed by these proceedings. After receiving a corresponding note by the court in the oral hearing, the parties agree to settle the matter: The bank pays compensation of damages in the amount of Euro 105,000 as well as costs of the proceedings amounting to Euro 8,000. First, the costs that were advanced and still remain are reimbursed out of the payment for compensation of damages. The remaining proceeds of Euro 100,000 are distributed on the basis of the agreement as to litigation funding; thus, we receive our share of 30%, i.e. Euro 30,000. The claimant is pleased with her risk-free proceeds from the proceedings in the amount of Euro 70,000.

Our recommendation: lawyers, profiled.