Access to Justice: Litigation Financing and the New Developments

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Abstract

Litigation financing is also known as legal financing and third-party funding is relatively recent development beginning on or around 1997. The demand for both commercial and consumer litigation funding is picking up the pace. Nevertheless, the landscape for commercial litigation is rapidly evolving and has the capacity to protect the plaintiff from a potential nightmare of litigation, financial fines, and bad publicity. Litigation Financing is favourably viewed as a means of increasing access to the civil justice system and spurring the development of the rule of the law. The funding corresponds to an increase in litigation and court caseloads. It develops a principal-agent framework where litigation funders provide funding which will increase the market for legal services. Litigation financing typically authorizes the third party by a treaty as how a dispute shall be settled. Each funding transaction is unique and it is tailored to individual requirements, structure and jurisdiction. The funder facilitates financing and controlling the litigation in the expectation to earn a profit. Market based approach to justice is gaining momentum and surging in many countries around the world.

Keywords: Third-party financing; Access to justice, market for justice, alternative litigation funding, legal financing.

Introduction

The litigation funding (is also referred as third party financing for lawsuits, alternative litigation funding, settlement funding, third-party funding, or legal funding) industry has grown significantly in developed countries in recent years especially in Australia, U.K., and the U.S.A. Typically a litigation financing is the mechanism or process through which litigants (and even law firms) can finance their litigation or other legal costs through a third party funding company to afford a lawsuit and the funds needed to cover legal expenses. The financing is truly nonrecourse, if the plaintiff loses the lawsuit; one does not owe the company funding the lawsuit anything. The financial solutions to plaintiffs are offered to those who need immediate cash while the case still to reach a final settlement. Interest rates on such loans are accordingly well in excess of typical market rates, but such an arrangement may be beneficial to plaintiffs who do not
have enough cash on hand to finance a lawsuit and who either cannot obtain funds through traditional loan sources or do not want to risk the possibility of facing a large debt if the lawsuit fails. (Abramowicz, 2014). In addition, litigation funding industry is to play a role in transnational litigation and is more poised for continual growth worldwide. It provides a cost effective financing tool that explains its existence and function to its clients while funds are required for filing a case.

The Global Scenario of the Rule of Law:

The World Justice Project (WJP) Rule of Law Index provides an annual assessment as how the rule of law is practiced by the general public in 102 countries and jurisdictions across the world that account for more than 90 percent of the world’s population. This report relies on over 100,000 households and 2,400 expert surveys to measure how the rule of law is experienced in practical, everyday situations by ordinary people around the world. Performance is assessed using 44 indicators across and categories, each of which is scored and ranked globally. The index is composed of 9 factors derived from the WJP’s universal principles. These factors are divided into 47 sub-factors which incorporate essential elements of the rule of law. Scores range from 0 to 1, where 1 signifies the highest score (indicating strongest adherence to the rule of law) and 0 signifies the lowest score. Denmark is ranked at the top with the score 0.87 and Venezuela at the lowest ladder with the score of 0.32 in the world ranking. These scores are based on responses from 1,000 people in each country, who were asked questions about corruption, basic freedoms, regulation, civil and criminal justice and other governance issues. The indicators used in the study were: constraints on government power; absence of corruption; open government; fundamental rights; order and security; regulatory enforcement; civil justice; criminal justice and informal justice. The WJP Rule of Law Index™ 2015 report contains worrying findings on the state of civil justice and the rule of law position.

The Index revealed a comprehensive set of indicators on the rule of law from the perspective of an ordinary person. It reflected the different situation of rule of law where the life of an ordinary person may be affected. The Index evaluated whether citizens can access public services without the need to bribe a government officer; whether a basic dispute among neighbours or companies can be peacefully and cost-effectively resolved by an independent judge; or whether perform their daily jobs without fear of crime or police abuse or reprisals.

This study has discovered that countries in the European Union, North America including Canada and the USA tend to outperform most other countries in all dimensions. In brief, Scandinavia is pivotal to the most successful ‘rule of law’ countries. These countries are characterized by low levels of corruption, with open and accountable governments, and effective criminal justice systems. In most dimensions, countries in Western Europe obtained higher scores than the United States. The greatest weakness in Western Europe and North America appears to be related to the accessibility of the civil justice system. In sharp contrast, no Latin American country has made any significant progress in protecting freedom of thought; most Latin American countries have the highest crime rates in the world. The high crime rates in the region may be related to the generally poor performance of the criminal investigation and prosecution. The index judged the effectiveness of the criminal justice system, which indicates that most of the Latin American countries are among the worst in the world.

The report portrayed a heterogeneous picture of the East Asian and Pacific region. Wealthier countries such as New Zealand, Australia, Singapore, Japan, and South Korea score high in most dimensions. In contrast, Indonesia, the Philippines, and Thailand generally ranked significantly lower than the wealthier
countries in the region; however, they performed relatively well in comparison to countries from other regions of the world with similar income levels.

In south Asia, Nepal, Sri Lanka and India outperformed with both Pakistan and Bangladesh in most dimensions, although when compared to countries with similar income levels, the performance can be ranked as average.

Most countries in Eastern Europe and Central Asia fall in the middle of the Index rankings. Georgia is the leading country among the indexed economies in the region. In the Middle East and North Africa region: United Arab Emirates and Jordan have demonstrated average scores, although UAE is generally better positioned than Jordan.

The WJP Rule of Law Index™ Report 2015 covers Sub-Saharan African countries. Similar to East Asia and the Pacific, the region exhibits a range of performance levels, with Botswana and South Africa as the regional leaders, and the rest of the countries positioned at the bottom of the global ranking. The state of equality and fairness is miserably low at providing access to justice for those who have been aggrieved. The economic imbalance exists in the society can also be seen in the judicial justice system (The WJP Rule of Law Index, 2015).

The report demonstrated that different countries face different realities, depending on the level of economic, institutional, and political development; but no country has attained a perfect realization of the rule of law. Every nation faces the perpetual challenge of building and renewing the structures, institutions, and norms that can support and sustain a culture centred on the rule of law. If we peep into the context of civil lawsuits, litigation has become an extremely expensive proposition for businesses and individuals without the commitment of substantial financial resources.

**Access to Justice:**
Access to justice and rule of law are the hallmark of modern civilized society and the state. All citizens of the country must have an equal right to access to justice. Access to justice is recognized as the fundamental human right of a system which ensures legal rights to the citizenry. It is no denying the fact that citizens must be treated fairly according to the law and if they are not treated fairly, must be able to get appropriate redress. Everyone is entitled to the protection of the law and the rights of the people cannot be attained and remain meaningless unless they are enforced in letter and spirit. It is the matter of protecting ordinary and vulnerable people from injustice, and solving their problems. Access to justice is defined as the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards (Bangkok: UNDP, 2005). There is no access to justice, if it signifies that citizens especially marginalized groups of the society are fearful to the system and reluctant to approach it, where the justice system is financially inaccessible, where the individuals have no or little legal protection available, where people don’t have information or knowledge or rights or where there is fragile justice system which cannot ensure enforcement of rights. Effective access to the enforcement of rights and delivery of remedies depends on an accessible and effective civil justice system (Woolf, 1995).

**Overview of Litigation Financing:**
In the historical context, litigation financing was not permitted under English law. Prior to modern litigation financing, the previous version of the models such as champerty, maintenance, and barratry was forbidden since 1275 in the Westminster statute, U.K on public policy grounds. However, the Criminal Law Act 1967 abolished both the offences and torts of maintenance and champerty in the U.K but expressly allowed champerty to survive in the interest of public policy. Understanding maintenance, it is
the ancient common law crime and the tort of assisting a party in litigation without lawful justification and champerty is an aggravated form of maintenance, in which the maintainer receives something of value in return for the assistance given (DP36, 1994). Barratry is the practice of exciting groundless judicial proceedings for the purposes of profit or harassment (Collins Dictionary of Law, 2006). The current litigation financing industry in the U.K. is predominantly focused on the funding of commercial litigation.

In litigation financing, a third party provides the financial resources to enable costly litigation to proceed. In general, the process involves that litigant obtains all or part of the financing to cover its legal costs from a private commercial litigation financer, who has no direct interest in the claim proceedings. In return, the investor would be entitled to recover the principal amount and a percentage of the winning verdict. However, in the event, if the case is lost, the financer loses its money, nothing is owed by the litigant. In order to negotiate the terms of the litigation financing arrangement, at the beginning of the process, the funders’ share of the proceeds of a successful case is negotiated with the litigant. The financial reward may be calculated in different forms such as a specific flat fee, a percentage of the sum advanced, a percentage of the amount recovered, some others basis, or some combination of the bases.

“The arguments focus on solving litigation problems have important implications in the corporate context for three reasons: First, because it reduces what is called “hidden costs,” sometimes prohibitive, that litigation imposes on mergers, acquisitions and major equity investments in certain (uncommon but important) scenarios. Second, because spinning off large litigations into Special Purpose Vehicles (SPVs) can create accounting benefits for corporations. Third, because simplifying and reducing the costs of litigation finance of large commercial claims by incorporating them may assist corporations and governments to pursue claims that currently go unprosecuted” (Steinitz, 2014).

**Theoretical framework**

Traditionally, pending litigation, claims and assessments are classified in the balance sheet of the reporting private or public entities as a contingent liability and appear on the balance sheet as a current liability if the debt obligation is reasonably expected to come due in a single operating cycle or within one year period.

The term pending litigation, claims, and assessments refers to a potential liability due to possible, threatened, or pending assertions, lawsuits, or monetary charges. Before recording a lawsuit, or a claim or assessment, as a current liability, a company needs to consider the encompassing factors:

(i) **Timing:** to report a loss and liability in the current accounting period, the cause for the litigation or claim must have occurred prior to the date of the company's financial statements.

(ii) **Likelihood of Occurrence:** this includes the probability of an unfavorable outcome for the company. Factors such as the advice of the company's litigation team or prior success or failure should also be considered.

(iii) **Measurability:** the company should be able to reasonably quantify the amount of probable loss if any (www.money-zine.com, 2016).

Pending litigation can be a significant source of potential liability for private or public companies. The lack of adequate disclosure of this potential liability can cause immense confusion for investors, lenders, and other financial statement users. Auditors are required to assess the appropriateness of financial statement disclosures regarding pending litigation. However, the auditor's ability to do so depends on receiving information from the company's attorneys. Obtaining this information, however, is problematic.
because the accounting and auditing standards that guide auditors and the professional standards that
guide attorneys have been at odds in the past. In recent history, financial scandals have resulted in
legislation and increased scrutiny of the disclosure of contingent liabilities from pending litigation thus
magnified this conflict between auditors and attorneys (Koprowski, et al, 2009). Since the outcome of
pending litigation can rarely be predicted with precision, companies typically refrain from disclosing an
estimate of the potential loss. Such disclosures can be a source of deterioration of the company’s financial
position.
Since the legal exposure of public companies has grown exponentially, there is immense need to see the
litigation perspective differently. The winning verdict is an asset and can be realized at some future time.
The funding is arranged for the company’s legal case from outside sources. It covers case costs in
exchange for a portion of the damages if the case is declared successful.

Legal & Regulatory Framework
The legal recognition of third party litigation funding is not reached a global phenomenon. It is permitted
under statute, case law and public policy in many jurisdictions. The third party litigation funding is
accepted in most common law jurisdictions and increasingly being accepted in civil law jurisdictions. It is
widely being recognized that litigation funding promotes access to justice by enabling litigants to manage
their exposure to costs.

In the prevailing global legal systems, based on English common law, there are doctrines of maintenance
and champerty, which effectively prohibits external funding of litigation as it is commonly considered
against the public policy. There is always significant risk and cost involved in litigation funding. There
may legally be a prohibition on maintenance- the practice of a party ‘without interest’ in a suit assisting in
litigation, and champerty- receiving a share of the proceeds of a suit, in order to thwart the perversion of
justice. In those jurisdictions, where third party litigation funding is more developed, the courts and
legislatures have relaxed or eliminated the common law doctrines of champerty and maintenance. They
are no longer valid and enforceable.

How to Finance Litigation:
How a litigation financing company evaluates the potential claim of litigation. What financing options
may be appropriate to the company and consider unknown risks, uncertainties and other factors,
performance or achievements may differ materially from any future results. Financiers help their clients
by sophisticated vetting process, an important factor in evaluating the merits of litigation through risk
analyses and economic valuation models.

To overcome cost hurdle
The cost of each case varies and sometimes exceptionally costly and length of litigation inhibit the legal
course. Due to the critical nature of litigation, the majority of cases tend to be challenging. The
overwhelming majority of civil lawsuits remain pending in the courts often for many years. In March
2005, Northrop Grumman Corporation, an American global aerospace and defense technology company,
settled and reimbursed certain costs to the U.S. government $134 million. It included whistle-blower plus
attorney fees and other costs. The litigation spanned over 16 years which made it longest False Claims
Act qui tam case, and the largest settlement in the State of Illinois in that year (Carozza, 2015, July/Aug).
The heavy caseload situation in the majority of countries signify the rate of tremendous increase of civil
filings in relation to the growth in the country’s population, with each passing year, civil lawsuits are
accelerating in numbers. Litigants have to suffer and their cases are delayed for months and months
because civil courts cannot decide these cases within a reasonable timeframe due to heavy caseloads. This
specifies an exponentially-growing amount of litigation cost and delays. Citizens are increasingly looking to the legal system in order to determine social policy, as well as individual rights and obligations.

“In recent history, legal scholars, regulators, and the media have focused fervently on this phenomenon, such as Burford and Juridica, that invest in litigation by making capital contributions covering litigation costs in return for a share of the litigation proceeds, should any be awarded (hereinafter: “private equity litigation funding” or “PELF”). Indeed, it was unprecedented going-public of Juridica and Burford that has launched the media frenzy, academic interest, and nation-wide regulatory wave, even though the trade in legal claims in the U.S. has been on-going for more than two decades” (Steinitz, 2014).

In recent years, the concept of litigation finance has evolved dramatically. In actuality, legal claims are being commoditized in the commercial world, just as other financial assets are being transacted. The asset-based view of litigation represents a watershed in the financial viability of the company. The problem is of business survival and the emergence of the organization from the adverse effects of the litigation. In the past, a single case of litigation was supposed to be an immense disturbance and an extraordinary drain on the resources of the company.

Litigation funding: Potential benefit:

 Litigation finance promotes access to justice
Proponents argue that litigation is expensive and financiers play a vital role by providing increased access to justice which otherwise could not avail civil justice system. Given the astronomical cost of litigation, companies and individuals invariably can benefit from litigation finance. The litigants may sell their rights to parties with the resources to pursue the claims. Doing so, it may address the problem concerning credit constraints, risk aversion, collective action problems, or even the situation when a plaintiff or defendant has a positive expected settlement. The availability of litigation finance and liquidity of legal claims facilitate and increase access to justice. This financing can be regarded as a market for buying and selling lawsuits, creating a market for the production of justice (Abrams & Chen, 2012).

 Litigation finance is an important tool for risk diversification
While making an investment in litigation has substantial risk. Legal claims, as an asset (or liability), are analogous to a bond or other financial assets. If a legal claim is compared to a bond, it is not obvious whether it will ever mature. Litigation financer is better equipped to manage the downside risk than the individual company. By diversification, the risk of holding an entire portfolio of litigation claims is lower than the risk of holding a single claim, similar to the risk of holding a portfolio of stocks is lower than the risk of holding a single stock.

 Litigation finance in the commercial-claims space allows focusing on core activities
Litigation finance in the commercial-claims space primarily financing to companies with legal claims against other companies, it allows to companies to focus on its core activities on what they can do best. Litigating the claim would cost millions of dollars and distract the company from its core business. By connecting with a litigation finance company, the legal claim can be monetized while freeing up the money and time for what the business can do best, to develop the potential market and not filing lawsuits.

 Litigation finance can deal different problems effectively in the world of civil justice
The governments around the world may use third party financing for public litigation cases. The state and local governments often hire private lawyers on a contingency fee basis to handle those public cases and by using litigation financing which might allow the flexibility and efficiency to the government in those
cases. By drawing the outside funding, the government can hire the best counsel for each case rather than bankroll the litigation through a contingent-fee basis.

**Litigation funding: Inherent costs/ issues**

There are numerous problems and issues confronted in the process of litigation financing. It encourages the individuals and businesses to make more efficient uses of financing. In July-1996, Lord Woolf submitted ‘Access to Justice Report’, which identified a number of problems with the English and Welsh civil justice system, such as (a) pursuing justice was too expensive as the costs often exceed the value of the claim; (b) the civil justice process was too slow in resolving cases; (c) the system was unequal so that the system favoured the powerful, wealthy litigant and the under resourced litigant; (d) the difficulty of predicting the costs of litigation and how long it will last makes the system unpredictable and induces the fear of the unknown; (e) the legal system was incomprehensible to many litigants; (f) the system is complex and fragmented because there was no one with clear overall responsibility for the administration of civil justice; and (g) the system was too adversarial as cases are run by the parties, not by the courts and the rules of court, all too often, are ignored by the parties and not enforced by the court. Lord Woolf concluded that fear of costs was predominant that prevented some people from litigating when they were entitled to do so and would also compel other litigants to settle cases when they are not willing to do so. The cost of legal action thus became a determining factor in litigation rather than the merits of the claim, and thus “it enables the more powerful litigant to take unfair advantage of the weaker litigant (Woolf, 1996). The Woolf’s recommendations were designed in part to tackle the problem of costs and culminated in the Access to Justice Act 1999 in the United Kingdom. The reforms in the Access to Justice Act 1999 played a major role in the preparation of the grounds in evolving significant changes in the field.

**Litigation Financing may increase frivolous lawsuits**

Litigation financing may increase the possibility of frivolous lawsuits, and may create conflicts of interest which would imperil the relationship between the legal counsel and the client. It is argued that the meritless litigation stems from the belief that financiers base their investment decisions on considerations that go beyond the merits of a claim and instead focus on the present value of the expected return (Beisner et al, 2009).

**Litigation financing charge disproportionate fees**

Litigation funder may hope to take a big chunk of a potential settlement and charge their customers exorbitant contingency fees. The lawsuit lenders charge sky-high interest rates on these loans and the amount of interest may often be high and build up over the years of litigation. After paying off underlying fees and charges to the financing company, the plaintiff may recover very little of the original claim. It is not assured that the parties will settle for a greater amount when litigation is protracted for a longer period.

**Litigation financier ensures ethical and professional standards of conduct to client**

There are numerous reasons why lawyers have obligations to their clients and duties owed to the court. The lawyer must act in the best interests of the client and must pursue legitimate interests within the bounds of the law. In addition to conflicts with other current clients, a lawyer’s duties of loyalty and confidentiality must also be protected. The financer ensures the way the case progresses because funder will be paying all relevant costs involved in the lawsuit. The funder for all intents and purposes has a degree of influence over the conduct of the case. The funder has to ensure obligation of the lawyer to the client to apply the rule of law and to maintain high ethical standards of conduct. The lawyer has an
overriding duty to the court, to the standards of the profession and to the public. The court, in turn, can reduce significantly the scope of conflict between the interest of the client and of the funder.

**Litigation Financing- The Opportunities**

i. Depending upon the types of financing options, it has the potential to significantly increase opportunities to pursue. Litigation financing industry is in its infancy in most jurisdictions with the exception of few countries. The current global environment is dominated by self-regulation, judicial decisions and practices of the profession. Litigation funding may become the foundation for an appropriate code or even federal legislation across jurisdictions.

ii. The awareness of litigation funding is gaining grounds as compared to yesteryears. There is a variety of funding options available and the market is matured enough. From an investor’s perspective, the potential returns are attractive. The return is based on the higher of a percentage of the damages recovered by the funded party or a multiple of the funds committed. The rate of return is increased as the funds are committed for longer periods.

iii. The litigation financing is gaining popularity and it enables the parties to litigation to remove or manage underlying risks and costs. Funders are drawn to litigation as an asset class as the litigation thrives during difficult economic times, often in those times, simple things do not work and many investments underperform. The tough conditions result in more litigation and when it is harder to pay for the litigation. The funders are more confident with the viability of the industry and motivated with potentially large returns. The large companies may be willing to move the financial risk and cost of litigation off the financial radar of the company.

vi. Litigation financing provides an easy access to justice, particularly for small and medium-sized businesses, and practically such access was previously not existed. The return from successful cases normally comes in the form of either multiple of the sums invested or a percentage of the damages paid. Financing is completely dependent on the success of the case, if the claims turn out to be unsuccessful and the funder has entirely performed its obligations, there is nothing to pay. Litigation financing as a viable source of financing may be the only pragmatic way to gain access to the courts.

**The Emerging Market of Litigation Finance:**

While currently the litigation financing industry is in its burgeoning stage – still growing rapidly, the promise of high returns and hourly billing rates that run $500 or more for the largest and most sophisticated law firms. Between 2013 and 2014, Burford Capital, one of the world's largest litigation funders, a public company traded in Britain, increased its lawsuit investments from $150 million to $500 million. During the same period, its income rose by 82 percent, with a 61 percent net profit margin (Bogart, 2015). The two year old Gerchen Keller, one of the industry’s youngest funds, manages more than $840 million. Likewise, the leading provider of strategic capital to both businesses and the legal markets for corporate legal claims, Juridica Investments, a Miami-based litigation financier, with $650 million, specializes in working with Fortune 500 companies, which make up 80 to 85 percent of its investments. Litigation financing has developed from a fledgling practice into a prevalent, yet under-regulated, financial service. It remains completely unregulated in most states. A handful of states has actually passed litigation financing laws (Estevao, 2013). In Australia, the funders are not bound by the professional rules or the fiduciary obligations that govern lawyers in their dealings with the Court and their clients. As a result, litigation funders operate with minimal regulatory oversight (Mavrakis, et al, 2014).
Litigation Finance is popularized in Australia, New Zealand, United Kingdom, and commercial litigation finance is gaining more attention in the United States, and it has equally seized the attention of both companies and their corporate lawyers. It has necessitated understanding how it can change the dynamics of the litigation and how funding can change initial case investigation, how due diligence is possible prior to agree to fund a case, and how funding impacts all the stages of a case (does a case move faster or slower, does it increase or decrease odds of going to trial, etc.). It is even more important to look at broader social questions regarding the impact of litigation finance on the justice system.

To uncover the asset value of such pending claims, a litigation financer needs to evaluate carefully and make a timely decision to invest in risky receivables. The portfolio held by IMF Bentham, an Australia based funder, consists of 39 cases, which the firm values at just over $2 billion. Similar to corporate borrowing, litigation financers focus on the type of market they tend to cater to. Litigation funding is being used in a broad array of commercial disputes, including breach of contract, trade secret misappropriation, business torts, breach of fiduciary duty, fraud, patent, and antitrust claims. It may also be in the realm of commercial settlement or arbitration with no interest other than potential return on an investment. Third parties usually agree to fund litigation in exchange for a fraction of any amount recovered in the litigation plus any reimbursed cost ordered by the court.

Implication of Litigation Financing – Chevron /Texaco in Ecuador: The Case of Legalized Fraud

Chevron, the oil giant, has successfully defended itself against false allegations that it is responsible for alleged environmental and social perils in the Amazon region of Ecuador. In February 2011, an $18 billion judgment—later reduced to $9.5 billion—was rendered against Chevron by a court in Lago Agrio, Ecuador for alleged contamination resulting from crude oil production in the region. Chevron sued Woodsford Litigation Funding Ltd. for financing the lawyers who tried to enforce a judgment against the company. Last March, a federal judge in Manhattan held that the judgment was procured by fraud, bribery, and other crimes. Subsequently, Woodsford Litigation Funding reached a settlement with Chevron in the lawsuit with Ecuador over a fraudulent judgment relating to oil waste in the Amazon.

Woodsford invested $2.5 million in the Ecuadorian case in March or April of 2013. A year later, the U.S. District Court for the Southern District of New York ruled that the $9.5 billion Ecuadorian judgment was the product of fraud, extortion, obstruction of justice, witness tampering, money laundering and racketeering activity, and he barred U.S. courts from enforcing the judgment.

Chevron brought conspiracy claims against Woodsford in Gibraltar for the role company has played in funding and advancing the lawsuit in Ecuador. Moreover, the principal lawyer for Ecuador, Steven Donziger, was found guilty of fraud in March 2014 over charges that included bribing judges. He was in the process of appealing the decision.

Woodsford Litigation Funding Limited adopted the position that in March 2013, it acted in good faith and provided funding to support in the litigation. In light of the 4th March 2014 opinion by Judge Kaplan of the United States District Court for the Southern District of New York, and due to concerns about the ethical standards of attorney Steven Donziger, Woodsford has decided to forego any financial benefit from the subject-matter and to relinquish its entire interest in the proceeds of the litigation to Chevron Corporation.

Likewise, in 2011, UK-based litigation funder Burford Capital withdrew its financial support from the case. In February 2015, Russell DeLeon, an old friend of Donziger’s from law school, at the time of filing
the suit, acknowledged that he invested approximately £23m in the lawsuit in exchange for a seven per cent stake in the billion-dollar judgment, withdrew his financial support. This is more than twice what Chevron suspected when it filed its suit against him last year.

**Conclusion:**
It is critically important to facilitate litigation to the injured parties and protect the client from ethical threats posed to client confidentiality, loyalty, and economic independence. The tremendous challenges of litigation can be addressed successfully by making funds available to deprived litigants at fair terms. It is crucial to eliminate or at least substantially reduce legal and ethical implications imposed by the litigation finance, and recognize the conflict of interest as a possible threat. The courts, practitioners, and professionals can contribute in a significant way in enforcing legally valid, transparent and competent judgments. Effective access to justice by providing litigation finance may have a meaningful impact on the judicial and legal system across the world.

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