

Litigation Funding - Mounting a Defense when Plaintiff is Funded

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The Venture Capital (VC) industry has built a financial model focused litigation funding for insurance claims, which is not good news for the insurance industry. Once VC builds and deploys a financial model, it runs across a diversified, anonymous portfolio that will generate profit based on the results of hundreds of thousands of cases, diversifying profitability risk for the VCs across the entire case portfolio. Their profit model is based on extending claim resolution times with the goal of inflating the ultimate financial award for the claim.

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A claimant with litigation funding can afford to extend their claim resolution time from a few weeks to months or even years because the funding source pays living expenses, doctor bills, and even surgery costs incurred while negotiating the award. This means a claim that would ordinarily resolve in 90 days for \$2500 to \$7500 now resolves three years later for \$200,000 to \$500,000.

With Venture Capitalists funding a claim, medical can be done anywhere, for any price, since the full medical bill can be black boarded and then negotiated later. Plaintiff Counsel no longer has to worry about the cost of his experts. And it should be noted that litigation funding is not considered a loan so none of the regulation that applies to lending applies to litigation funding.

While this kind of claim inflation across a few dozen claims wouldn't spell trouble for a carrier, with VC funding litigation the industry can expect hundreds of thousands of claims to inflate in this way. It could be called murder by a thousand cuts.

Is there a way to stop litigation funding as an industry?

Unfortunately, litigation funding is currently legal with the exception of a handful of states that only allow litigation loans and exclude win-contingent litigation funding. The best next step for insurance defense is to take advantage of innovative claims investigation tools that allow not only comprehensive investigation, but also data mining to locate that 'needle in a haystack' that can really impact the ultimate financial award.

The old timey "get a report from social media" and then "get a report from physical surveillance" and "Get medical records" happening in siloes is not a good enough solution for the tidalwave of litigation funded cases headed for insurance carriers. Our solution integrates all findings into a chronological data stream that can be updated on demand for the life of the claim, and includes keyword search, content filtering and the ability to create custom reports. This better system arms defense counsel with the data they need to be efficient in our soon-to-be-overwhelmed legal system and even provides data that could stop an out of control claim right at the mediation table.