



MARCH 2018

LITIGATION FUNDING – TURNING LEGAL CLAIMS INTO FINANCIAL ASSETS

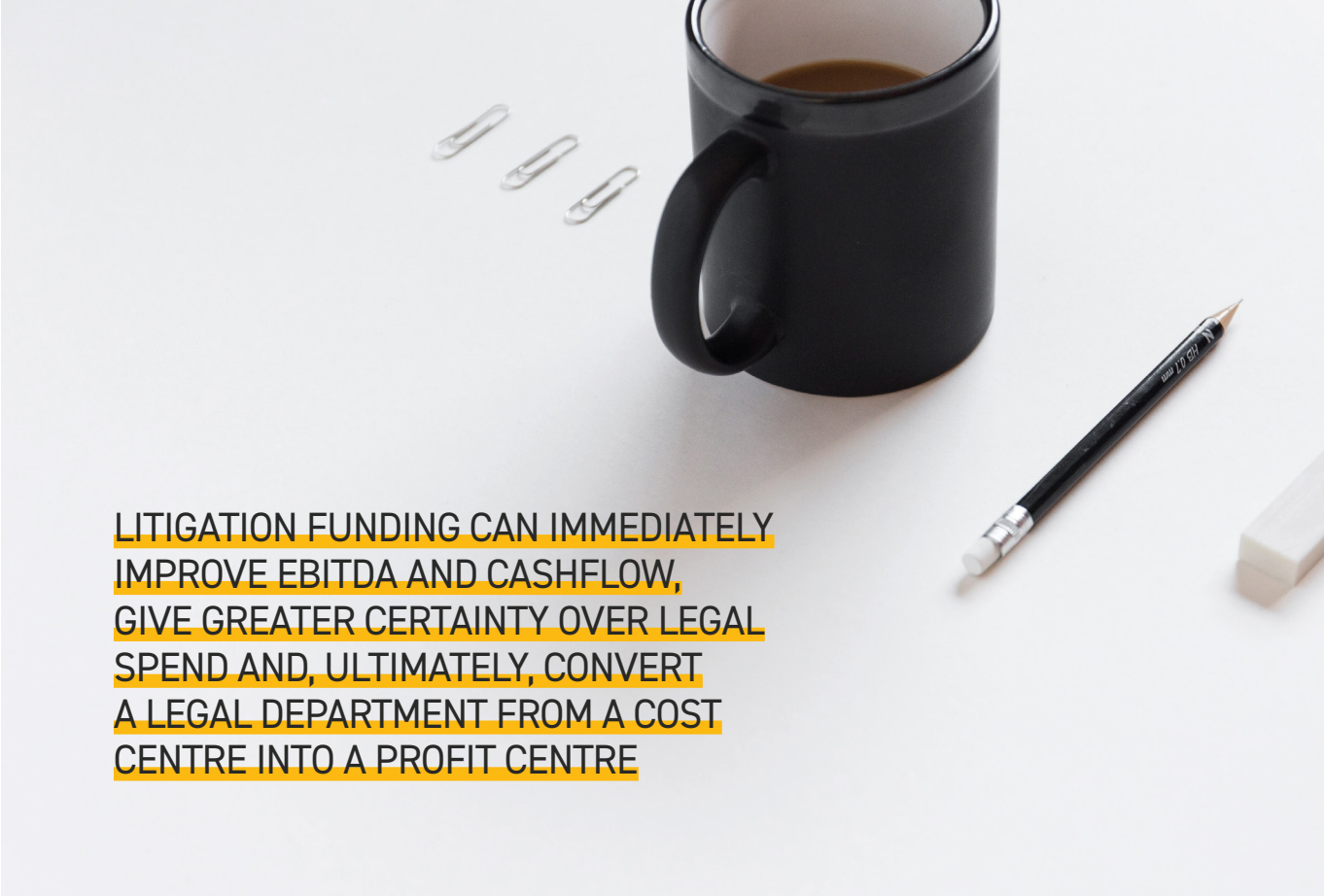
BY ANDREW JONES, MANAGING DIRECTOR, VANNIN CAPITAL, AND TIM ALLEN, PARTNER, PWC

Third-party non-recourse litigation funding has many widely-known benefits – such as shifting the risk of adverse litigation outcomes and increasing access to justice for impecunious claimants – but what is often overlooked is its ability to deliver financial, reporting and operational benefits to corporate claimants.

Litigation funding can immediately improve EBITDA and cashflow, give greater certainty to legal spend forecasts, and turn the legal department from a cost centre into a profit centre. That's why CFOs should be just as interested in its uses as heads of litigation and general counsel.

The self-funding of legal claims is an inherently unattractive prospect for a CFO, because while the current costs involved are clear, the realisation of future benefits is unknown. What's more, pursuing the claim not only distorts the performance of the core business, but also potentially depresses the market valuation of the company because of the costs being incurred.

This is where a tailored and flexible litigation funding package can have real benefits. It gives the CFO greater certainty and predictability on cash flows, because the risks are absorbed by the funder, it releases capital for core business activities and takes the costs out of the P&L. Although the company gives up a proportion of its eventual gain to the funder, there is zero cost incurred in generating that gain, and so the market valuation of the business need not be affected.



LITIGATION FUNDING CAN IMMEDIATELY IMPROVE EBITDA AND CASHFLOW, GIVE GREATER CERTAINTY OVER LEGAL SPEND AND, ULTIMATELY, CONVERT A LEGAL DEPARTMENT FROM A COST CENTRE INTO A PROFIT CENTRE

The benefits that can be achieved by using dispute resolution funding are therefore:

- **Risk management** – non-recourse litigation funding effectively shifts the entire financial risk of litigation from the claimant to a third party.
- **Unlocking value** – each potential claim is an asset of the company. Third party funding can unlock meritorious claims that might not otherwise be brought due to budget constraints.
- **Preservation of cash** – cash resources that might have been used to cover legal costs can be redeployed into the company's core operations.
- **Improved operating profitability** – the costs associated with financing legal claims are recorded within operating profit/EBITDA, whereas any awards received are recorded 'below the line' as an exceptional item. Third-party financing therefore bolsters EBITDA, which can translate into higher market value for the company.
- **Access to expertise** – a professional dispute resolution funder brings considerable litigation and arbitration experience, access to top-tier legal teams and, if requested, can add valuable strategic input.
- **Time savings** – if a funder's team helps to run the case, management and legal team time can be used for other more productive activities.
- **Better settlement prospects** – the respondent sees that an independent commercial entity, which only invests in meritorious claims, considers that the case has a strong chance of success.

Of course, the "cost" of obtaining these benefits is not really a cost at all, in an accounting sense. The company gives up a proportion of future uncertain gains, only in the event of a successful outcome.

So that's how you can turn your legal claims into financial assets, and your legal department into a profit centre.

BIOGRAPHIES



Andrew Jones
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Andrew Jones works with law firms and claimants on how third-party funding can be pursued and utilised across a broad range of high-value commercial litigation disputes. Based in London, his role focuses on identifying and providing a full appraisal of disputes that Vannin will consider for funding, as well as monitoring disputes that Vannin has committed to fund.

With over 12 years of private practice experience at two of the world's leading international law firms, Andrew's areas of expertise include general commercial litigation, corporate fraud, global investigations (both regulatory and internal/non-contentious), advisory and tax disputes. He has advised a broad range of corporate clients and financial institutions, in addition to a number of leading professional services firms. Andrew's work has frequently involved a significant international element.

Before joining Vannin in July 2017, Andrew was a Managing Associate in the Dispute Resolution practice at Linklaters in London. Prior to that, he spent more than 10 years practising in the Dispute Resolution department at Freshfields Bruckhaus Deringer LLP, including a secondment to the litigation group at Barclays Bank plc.

Andrew is a solicitor of the Courts of England and Wales.



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Tim acts as an expert on loss and valuation issues in a wide range of disputes and industries with over 25 years' experience of in excess of 130 expert assignments.

He specialises in substantial cross border disputes taken to arbitration and has acted as expert in International Arbitration proceedings brought under ICC, UNCITRAL, LCIA, ICSID and AAA rules as well as disputes in the English High Court, the English Criminal Court, the Competition Appeals Tribunal, the US Courts (State and Federal) and in Hong Kong.

He has testified on numerous occasions. He has been involved in disputes arising from breaches of contract, acquisition disputes and claims arising out of investment treaties in telecoms, mining, oil & gas, power generation, financial services and manufacturing.

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About Vannin Capital

Established in 2010, Vannin Capital is the global expert in legal finance, supporting law firms and corporations in the successful resolution of high-value commercial disputes.

From single case funding, to portfolio finance and enforcement arrangements, we offer creative capital solutions that are tailored to our clients' needs.

Our global team of legal and financial experts cover the key commercial litigation and arbitration centres from our offices in London, Jersey, Paris, New York, Washington, Sydney and Melbourne. More than just capital, we combine global experience with local knowledge to deliver the highest standard of service and expertise to our clients around the world.

A market leader, we are a member of the Association of Litigation Funders of England and Wales (ALF), conducting our business to the highest standards in line with its code of conduct.

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