



# NEW JERSEY LAWYER

## Advantages of legal funding

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Legal funding creates a buffer between financial pressures on clients and successful prosecution of the case. And it frees up attorney time to focus on winning.

Over the past five years, legal funding has emerged as a valuable resource for cash-starved clients struggling to make ends meet as they wait for pending litigation to be resolved.

Although some members of the legal community were initially leery of legal funding, it has proven itself an important and valuable financial solution for both attorneys and their clients.

Take Athena Aurin, for example: Athena lost more than a third of her intestines to a medical product malfunction. After eighteen operations and sixty days of hospitalization, she found herself unable to work while she pursued her case in court.

Athena had been the breadwinner of the family. With no income, she was unable to pay for basic family needs, including her diabetic husband's insulin. As a last resort, she turned to a legal funding company for the funds she needed to remain healthy. "The money they provided helped us get our independence back," she says. "It doesn't seem like much, but it was a godsend."

### Benefits for attorneys

From a lawyer's perspective, legal funding creates a much-needed buffer between the financial pressures of clients and the successful prosecution of the case.

Litigation's time-consuming process is usually measured in months and years rather than days and weeks. While they await resolution of their case, clients are left financially exposed and unable to earn enough income for basic needs such as food, housing, medication or transportation.

Since attorneys are typically prohibited from giving their clients financial assistance themselves, they spend a disproportionate amount of time problem-solving financial issues instead of attending to the details of the case. Consequently, the case is impaired and the attorney struggling to provide the level of legal expertise the case deserves.

Legal funding alleviates the demands from needy clients on attorneys' time and resources by empowering clients to meet their own financial obligations while their case winds its way through a lengthy legal process. Legal funding gives lawyers the freedom to do what they do best - practice law.

Nothing is more discouraging to an attorney than when a client is forced to accept an early settlement because they can't afford to let the legal process run its full course. Legal funding levels the playing field by giving attorneys the time they need to press for the settlement their clients deserve.

Still, some attorneys are hesitant to recommend legal funding to their clients because they are concerned the funding company will interfere with the case. That would be a legitimate concern - if it were true. The reality is funding companies take a strict "hands-off" approach to the legal process. Instead, by addressing pressing client financial needs, they give the client's lawyer the time and resources he needs to build a better case.

Utah attorney Ron Kramer has firsthand experience with a legal funding program and can attest to these benefits. On eight separate occasions, he has referred clients to us. Kramer says, "Legal funding gives me more time and freedom to work on the case. It also allows me to create more value in a case, rather than settle early for less money."

## **Benefits for plaintiffs**

Plaintiffs directly benefit from the cash they receive through legal funding. They can use the money to avoid eviction, make car payments, buy food, purchase medicine or pay for a number of other essential living expenses.

Beyond simply alleviating these acute financial stresses, legal funding is receiving a warm welcome from plaintiffs simply because it gives plaintiffs extra options for solving their financial challenges. Prior to the emergence of legal funding, plaintiffs had few options to address their financial problems as they pursued their cases in court.

Traditionally, plaintiffs have been forced to turn to credit cards and other forms of borrowing for shortfalls arising during litigation. If a plaintiff qualified for these loans - and many did not due to low credit scores - payback was required regardless of the outcome of the legal suit. After running up their debts many plaintiffs ended up in a significantly worse financial condition than they were before they filed the lawsuit.

Legal funding is not a loan. Legal funding companies charge fees on their investment, but require repayment only if the client's lawsuit is successful. If it isn't, everyone goes their separate ways and the client's obligation to repay the cash advance simply disappears.

In most cases, the settlement amount of a successful lawsuit is enough to repay the cash advance and give plaintiffs a head start on rebuilding their lives. Since the average amount of a cash advance from a funding company is only \$3,000, clients receive enough money to cover critical expenses, but not enough to negatively impact their recovery at settlement.

In short, legal funding provides an additional financing option that may be superior to other alternatives. Indeed, for many plaintiffs, legal funding may be the only way to get money for basic living needs. Besides solving financial problems and offering financial alternatives to plaintiffs, legal funding buys a plaintiff time and freedom to make better strategic decisions: Plaintiffs do not have to accept early settlement offer simply because they can't afford to wait any longer.

Legal funding is an increasingly regulated industry, with best practices designed to protect the plaintiff's interests. The American Legal Finance Association (ALFA), the national trade association for the legal funding industry, has made significant progress in promoting regulatory practices across the United States.

Four years ago, ALFA worked with former New York Attorney General Eliot Spitzer to establish a set of best practices for legal funding companies operating in New York. In 2007, this agreement was used as the basis for legislation making Maine the first state to formally regulate the industry. Although this legislation is expected to serve as a model in other states, ALFA now requires its members to adhere to all conditions of the Spitzer agreement including full disclosure, a five-day cancellation period and written review by an attorney.

The bottom line: Legal funding helps plaintiffs solve their financial problems and pursue their cases to the end to obtain the largest settlement possible. Repayment is contingent upon winning, so clients no longer need worry about going further into debt just to survive.

Lawyers should be educated on legal funding as an option to counsel clients on this new financing alternative. Even if they do not recommend legal funding, clients may still seek it out on their own. As such, it's important for lawyers to understand the basics of legal funding and how it can help their clients.

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