

The Advantages of Legal Funding

Oasis Legal Funding

By Gary Chodes

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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 to be 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 Oasis Legal for the funds she needed to remain healthy. "The money Oasis 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.

It's no secret that litigation is a time-consuming process, usually measured in months and years rather than days and weeks. While they await the resolution of their case, clients are left financially exposed and are 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 is frustrated by his or her inability 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 is winding its way through a lengthy legal process. In essence, 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 that funding companies take a strict "hands-off" approach to the legal process. They never

interfere with the case. 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 Oasis' legal funding program and can attest to these benefits. On eight separate occasions, he has referred clients to Oasis with satisfactory results and will continue to recommend Oasis for clients caught in a financial pinch. 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, many plaintiffs had very 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 that arise during the litigation process. If a plaintiff qualified for these loans - and many did not qualify due to low credit scores - payback of these loans was required regardless of the outcome of the legal suit.

After running up their debts via these loans, many plaintiffs ended up in a significantly worse financial condition than they were before they filed the lawsuit.

Legal funding, in contrast, is not a loan. Naturally, legal funding companies do charge fees on their investment. However, the funds are only required to be repaid if the client's lawsuit is successful. If the suit is not successful for any reason, 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 the plaintiff a head start on rebuilding their life. 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.

In addition to the benefits discussed above - solving financial problems and offering new financial alternatives to plaintiffs - legal funding buys a plaintiff time and freedom to make better decisions.

Plaintiffs under financial duress do not have time to best consider their options in the legal process. With legal funding, plaintiffs do not have to accept an early settlement offer simply because they can't afford to wait any longer.

Another important benefit for plaintiffs is that legal funding is an increasingly regulated industry, with best practices designed to protect the plaintiff's best interests. The American Legal Finance Association (ALFA), the national trade associations for the legal funding industry, has made significant progress in promoting regulatory practices across the U.S.

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 in the country to formally regulate the industry. Although this legislation is expected to serve as a model for similar legislation in other states, ALFA requires its members to adhere to all of the conditions of Spitzer agreement including full disclosure, a five-day cancellation period, and written review by an attorney.

The bottom line is that legal funding helps plaintiffs solve their financial problems and they now have the ability to pursue their case to the end to obtain the largest settlement.

Repayment is contingent upon winning their case, so clients no longer need to worry about going further into debt just to survive.

Lawyers need to become educated on legal funding as an option so they can counsel clients on this new financing alternative relative to other options.

Even if lawyers 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.

About the Author

Gary Chodes is CEO of Oasis Legal Finance and a founding member of the American Legal Finance Association (ALFA). Further information about the legal funding process and the industry's best practices can be found at: Oasis Legal Finance and ALFA (American Legal Finance Association)