

Litigation Finance, Royalties & IP

Sizing the fragmented frontier: litigation finance,
royalties and IP as uncorrelated cash flows.

Litigation finance is the provision of capital to fund the costs of a legal claim in exchange for a share of any award or settlement, repaid

The fragmented frontier

Litigation finance is the provision of capital to fund the costs of a legal claim in exchange for a share of any award or settlement, repaid only if the case succeeds. That definition is where most coverage stops. For an allocator, the more useful reading is the one the explainer pages skip: litigation finance behaves like an uncorrelated alternative asset class, because its returns track case outcomes rather than the market cycle. This page takes that lens, and extends it to the adjacent under-securitised frontier beside it, royalties and intellectual property, as one investable theme for the patient institutional book.

What litigation finance is (and the non-recourse mechanic)

Litigation finance, also called litigation funding or third-party litigation funding, is capital advanced to a claimant or law firm to cover the cost of pursuing a claim. The defining feature is that the funding is non-recourse: if the case loses, the funder loses its capital and the claimant owes nothing; if it wins, the funder takes an agreed share of the proceeds, typically a multiple of capital deployed or a percentage of the award.

That structure is what separates it from a loan. The funder is not lending against a balance sheet; it is underwriting the probable outcome of a specific dispute, where the diligence is legal rather than financial and the return depends on the merits and little else. Established funders such as Burford Capital and Omni Bridgeway built the institutional version of this market, financing commercial claims, arbitration and portfolios of cases for corporations and law firms, not individual consumers. The mechanic matters because it explains the return profile that follows.

Why it behaves like an uncorrelated alternative asset class

Litigation finance is widely described as a highly attractive, uncorrelated alternative asset class for hedge funds and private credit, and the reason is structural, not rhetorical. A court's decision on a contract dispute does not move with equity indices, credit spreads or interest rates; the outcome turns on facts, law and procedure, so the return stream sits outside the market beta most portfolios are already saturated with.

For an institutional allocator, that independence is the point. A diversified book already holds a great deal of correlated risk, so an exposure whose payoff is decided by a judge rather than a central bank earns its place precisely when conventional uncorrelated assets are crowded. The trade-offs should be stated plainly: outcomes are binary at the single-case level, timelines are long, and the position is illiquid until a case resolves. Diversification across a portfolio of cases converts that binary single-case risk into a smoother return, which is why the institutional market is built around portfolios, not one-off bets.

Where returns come from (case outcomes vs market beta)

The return on a litigation-finance position is the recovery, net of the funder's capital and costs, weighted by the probability the case succeeds and discounted for time. None of those inputs is a market variable; they are case-specific, from the strength of the legal argument to the credit quality of the defendant who must pay. Because the inputs are idiosyncratic, so are the returns, and that is the source of the low correlation.

Is litigation finance private credit?

Allocators ask this often, and the answer matters for where the exposure sits in a book. Litigation finance is adjacent to private credit and increasingly allocated from the same pools, but it is not the same instrument. Both are non-bank, privately negotiated, held to resolution instead of traded, and valued for return that does not track public markets. That shared character is why many allocators consider [how litigation finance sits relative to private credit](#) when they size it.

The difference is in what underwrites the return. Private credit is a debt claim: the lender is repaid principal and interest from a borrower's cash flow, with security over assets. Litigation finance is closer to a contingent equity stake in a legal outcome, with no coupon, no scheduled repayment and a return that exists only if the case wins. It is best understood as a distinct, uncorrelated strategy that often lives within a private-credit or special-situations allocation, not as a sub-type of lending.

Who allocates, and how (the LP / family-office lens)

The capital behind litigation finance comes from the patient end of the market: hedge funds, specialist credit managers, institutional investors and family offices willing to accept illiquidity and case-level uncertainty in exchange for an uncorrelated return.

Access routes mirror the rest of private markets. The most common is a commitment to a dedicated litigation finance fund run by a specialist manager, which spreads capital across a portfolio of cases and supplies the underwriting discipline. Co-investment alongside a manager in a single large claim offers more control and concentration, while direct funding is the preserve of the largest, most specialised allocators, because case selection is a genuine skill.

This is one of the routes by which the next generation of owners is [re-weighting toward alternatives](#), reaching past the listed core for exposures that behave differently. The credit and special-situations discipline that prices a litigation-finance portfolio is the same one applied across private markets, and it is the territory [IMS Capital Management](#) operates in.

Sizing the fragmented frontier — litigation finance, royalties & IP

Market sizing here should be read as a range, not a single number, because estimates are fragmented and the methodologies behind them differ. Industry analyses place the US commercial litigation-funding market at roughly 16 billion US dollars in assets under management across active funders, with broader industry estimates putting the wider market in the region of 20 billion US dollars, and projections for further growth through the end of the decade (Westfleet Advisors and industry surveys, 2024; stated as a range and to be re-verified on publication). The direction of travel is clearer than the magnitude, which is the right way to hold any contested figure. What matters more than the single market is what litigation finance shares with the assets next to it: a wider, under-securitised frontier where the theme carries the case, not any one figure.

Royalties & IP — the adjacent under-securitised assets

Music and media royalties pay an income stream each time a catalogue is used, largely indifferent to whether equities rise or fall. Intellectual property, from patents to licensing, generates recurring fees on the same basis. Music royalty investing has drawn institutional capital precisely because the cash flows are contractual and uncorrelated, though the vehicles that hold them remain a small, specialist market. Read together, litigation finance, royalties and IP form one fragmented frontier: each is real, investable today, hard to size precisely, and valued for the same quality, a return a contract or a court decides, not the cycle.

A neutral UK vs US regulatory snapshot

The regulatory treatment differs by jurisdiction and is best read as a neutral, two-sided picture. In the United Kingdom, litigation funding operates within an established framework: the Association of Litigation Funders maintains a voluntary code of conduct, and the 2023 Supreme Court decision in *PACCAR* reshaped how certain funding agreements are characterised, prompting ongoing work on how arrangements are structured and on the role of damages-based agreements. The framework is principles-based and self-regulatory rather than statutory.

In the United States, there is no single federal regime. Treatment varies by state, and the principal regulatory debate concerns disclosure: whether the existence of third-party funding must be revealed to the court and opposing parties, a question handled differently across jurisdictions and case types. Both systems are evolving and substantial, and an allocator's reading should weigh each on its own terms rather than favour one.

Closing

Litigation finance, royalties and intellectual property are best understood not as three curiosities but as one fragmented, under-securitised frontier: exposures whose returns are decided by contracts and courts rather than by the cycle. For the patient allocator, the appeal is the rare independence from market beta, held with sober expectations about illiquidity and sized in ranges rather than headline numbers. It sits within the wider, expanding universe of [alternative asset classes](#) the firm maps, and within [the firm's house view on private capital](#).

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Frequently asked questions

What is litigation finance?

Litigation finance is third-party, non-recourse capital advanced to fund the costs of a legal claim in exchange for a share of any award. If the case loses, the funder absorbs the loss; if it wins, it takes an agreed share.

Is litigation finance private credit?

It is adjacent to private credit and often allocated from the same pools, but distinct. Private credit is a debt claim repaid with interest; litigation finance is closer to a contingent stake in a legal outcome, returning only if the case wins. It usually sits within a private-credit allocation.

Who invests in litigation funding?

Hedge funds, specialist credit managers, institutional investors and family offices, accessing it through dedicated funds, co-investment in a single claim, or, for the largest allocators, direct funding.

How does litigation funding work?

A funder advances non-recourse capital to a claimant or law firm, underwriting the merits, likely recovery and duration of the dispute. The funder takes an agreed share if the claim succeeds, and loses its capital if it fails.

Is litigation funding regulated (UK vs US)?

Treatment differs by jurisdiction. The United Kingdom uses a principles-based, self-regulatory framework with a voluntary funders' code of conduct, reshaped by the 2023 PACCAR Supreme Court decision. The United States has no single federal regime; treatment varies by state, the main debate being court disclosure.

Is litigation finance an uncorrelated asset class?

Largely, yes. Returns depend on case outcomes, which turn on facts, law and procedure rather than on equity indices, credit spreads or interest rates. The caveats are binary outcomes, long timelines and illiquidity.

Sources & important information

1. Westfleet Advisors (2024). Litigation Finance Market Report. Basis for the litigation-funding market size, stated here as a range (approximately US \$16 billion in assets under management across active US commercial funders, with broader industry estimates around US \$20 billion for the wider market) and flagged as a range to be re-verified on publication. Westfleet Advisors.
2. Burford Capital (2024). Introduction to legal finance. Source for the non-recourse mechanic, the institutional commercial-claims and arbitration use cases, and named-funder co-citation. Burford Capital.
3. UK Supreme Court (2023). R (PACCAR Inc) v Competition Appeal Tribunal [2023] UKSC
4. Source for the UK characterisation of litigation funding agreements and the resulting structuring considerations. The Supreme Court.
5. Association of Litigation Funders of England and Wales (2024). Code of Conduct for Litigation Funders. Source for the UK voluntary, principles-based self-regulatory framework. ALF.
6. The Hedge Fund Journal (2023). The Emerging Market for Litigation Funding. Source for the uncorrelated alternative-asset-class framing for institutional allocators (returns track case outcomes, not the market cycle). The Hedge Fund Journal.

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Alternatives, read from
the buy-side —
uncorrelated,
contractual or scarce.

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