



# Litigation Funding

*Guiding you through litigation*

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# Commercial Litigation Funding

*Innovative funding and risk-sharing solutions for commercial litigation*

Commercial litigation can put a heavy financial strain on businesses. The legal process can be lengthy, with some cases taking months, and even years, to resolve. The good news is that business owners have options in commercial litigation funding that will help them pay the bills, make payroll, and keep operations running smoothly until the case is settled.

Bridge McFarland LLP are at the forefront of providing funding solutions to control the risk that comes with commercial disputes, including;

- » Commercial contract disputes
- » Professional negligence claims
- » Breach of directors' duties,
- » Shareholder/partnership disputes
- » Construction disputes
- » Property litigation
- » Financial services/insurance disputes
- » Intellectual property claims
- » M&A and warranty disputes
- » Product liability claims
- » Trust and pension issues.

We can provide your business with an integrated package of funding for own costs, disbursement funding and insurance against risk of having to pay opponent's costs. **You simply choose what is best for your business.**

# Funding your own costs...



**Hourly Rate Retainer** – A straight hourly rate basis, win or lose, with costs usually following the event. The court will usually order the losing party to pay the winning party's costs in addition to their own.

**Conditional Fee Agreement (CFA)** – If you lose the claim, you will not have to pay us any fees. You will have to pay expenses (such as court fees, experts fees etc) but these can be covered by ATE. If you win the claim, you will have to pay us fees at our normal hourly rates, plus a success fee which is set at between 20-100%. You will also have to pay expenses, VAT and any ATE premium.

**Discounted Fee Agreement (DFA)** – This is similar to a CFA, but you will pay us our fees at an agreed discounted rate and if you lose the claim you will only ever have to pay us at the agreed discounted rate. If you win, you will have to pay the difference between the

discounted rates and our normal hourly rates plus a (usually smaller) success fee. You will also have to pay expenses, VAT and any ATE premium.

**Damages Based Agreements (DBA)** – You would only pay to us an agreed percentage of any sums actually recovered from the other side (a contingency fee).

**Third party funding (TPF)** – A third party provider funds your claim in return for an agreed multiple of costs or percentage of any damages (usually 25-40%) if the claim is successful.

*The availability and suitability of these funding options (and the terms upon which we may be willing to enter into them) will depend upon our assessment of your case, including its merits, value and the other side's ability to pay.*

## Disbursement funding

Court fees have recently been increased significantly. The fee for issuing claims over £10,000 is now 5% of the value of the claim, and up to a maximum of £10,000 for claims over £200,000.

Payment of court fees and other disbursements can be funded by a disbursement funding arrangement with a third party provided by way

of a loan agreement. Simple interest is charged and only repayable at the end of a successful case. The loan and interest are backed by ATE insurance meaning there is nothing to pay if you lose the claim.

Disbursement funding can be used in conjunction with or independently from any of the methods of funding your own costs.

## Your opponent's costs

In litigation the court will usually order the losing party to pay the winning party's costs, subject to the normal rules of costs recovery.

ATE provides insurance against the risk of having to pay costs to the other side and pays or repays your own expenses (including court fees and expert fees) if you lose your claim. The ATE premium is paid calculated at the outset and paid as a percentage of damages. Premiums are staged to increase at set

intervals during the litigation and the level of cover provided can be adjusted if necessary.

The ATE premium is self-insuring meaning you only pay it if you win the claim. If you lose you do not pay anything.

ATE can be used in conjunction with or independently from any of the above methods of funding your own costs.



# Funding options explained...

		Hourly rate retainer (no ATE)	DFA (with ATE, 50% discount & 25% success fee)	CFA (with ATE and 50% success fee)
Win	Damages	£100,000	£100,000	£100,000
	Less our fees	£25,000	£25,000 + £6,250 success fee = £32,150	£25,000 + £12,500 success fee = £37,500
	Plus costs paid by other side (70% recovery)	£17,500	£17,500	£17,500
	Less ATE premium	Nil	£16,000 (20%)	£16,000 (20%)
	Net result	£92,500	£70,250	£64,000
Lose	Damages	Nil	Nil	Nil
	Plus our fees	£25,000	£25,000	Nil
	Plus costs paid by other side (70% recovery)	£17,500	Nil (Covered by ATE)	Nil (Covered by ATE)
	ATE premium	Nil	Nil	Nil
	Net result	-£42,500	-£25,000	Nil



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