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PRACTICE AREAS

Workers Compensation

Personal Injury

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Wrongful Death

Law Suit Funding: An Option of Last Resort

3/4/2010

Severe financial troubles sometimes plague individuals involved in lawsuits. They may have lost their jobs or have reduced income because of personal injuries related to their lawsuits. They might be living paycheck to paycheck, with medical bills and other expenses piling up. They might be facing an eviction or foreclosure, or having their car repossessed.

Lawsuit funding companies offer quick cash to help in these situations. But the money comes with a steep price tag.

Here's how it works. To avoid laws against high interest rates, these companies do not extend loans. Instead, lawsuit funding companies offer cash advances, and the person involved in the lawsuit (known as the plaintiff) only repays the money advanced if they receive a settlement or verdict in court. This financial arrangement is known as a "non-recourse" cash advance.

But make no mistake about it. Lawsuit financing companies charge exorbitant fees, sometimes as high as 60 percent of the amount advanced. This means you should view lawsuit financing as a last-resort source of cash, and explore other funding options first, such as a home equity loan, a personal loan or line of credit, or loan from family and friends. It may even be cheaper to hit the full limits on your credit cards. Most lawyers will gladly accept a loan arrangement you make, such as with a family member, noting in your case file that the loan is to be repaid out of the case settlement or verdict.

Your attorney cannot extend you a loan because professional ethics rules bar lawyers from becoming creditors of their clients. The underlying concern is that such financing arrangements could create potential conflicts of interest with the attorney-client relationship.

A prominent misconception is that lawsuit funding companies prey



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on people in desperate financial straits. However, because financial companies take on the risk of non-payment if a plaintiff obtains no settlement or verdict, they carefully screen cases and advance money only if they are confident in ultimate success. Lawsuit funding, when other loan sources are not available, can provide a financial cushion to ride out a tough financial stretch as your legal case progresses, giving your attorney the time needed to fully develop your case.

This is extremely important because plaintiffs often feel pressure to settle their cases quickly, even when they receive low-ball settlement offers that are far below the full value of their cases and fail to provide fair compensation. Insurance companies often play a waiting game, holding off on offering substantial money in the hope that a plaintiff will succumb to the pressure of settling for short dollars. Not only that, litigation often takes months, if not years, before reaching a trial. It pays to wait and allow your attorney the time to build the evidence needed to prove your case. Lawsuit financing or, preferably, other sources of cash can help allow this to happen.

Because of the risk (remember, no cash from the case means no repayment), the companies providing these funds tack on hefty fees, usually a flat payment agreed to in advance, or monthly fees (usually a percentage of the amount advanced) that accrue until repayment. Some companies may also charge a "processing" fee and an "origination" fee. Total fees customarily range from 37 to 58 percent.

While plaintiffs involved in personal injury lawsuits make up a substantial number of the folks receiving cash advances, plaintiffs also receive advances in other types of cases, such as breach of contract, employment discrimination, or whistleblower litigation.

If you feel a lawsuit cash advance is a viable option, you should comparison shop to get the most favorable terms. Your attorney probably has some recommendations, and you can also find plenty of options online.

My law firm, Ankin Law Office LLC, has exclusive deals with three lawsuit financing companies guaranteeing that our clients will pay no more than 37 to 39 percent fees on a cash advance. These financing companies are



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confident of repayment because we have already evaluated the cases before they start working with our clients. If our clients dealt directly with lawsuit finance companies they would undoubtedly pay substantially higher rates. And because of our ongoing relationship with the three finance companies, our clients get better service than if they worked directly with other companies.

Once you decide on the lawsuit financing company you'd like to work with, you complete and submit an application. The company will ask your attorney to provide case information to help it assess your case and estimate the likely value of an eventual settlement or verdict. It will usually make a decision quickly on whether to advance you money.

To minimize risks, litigation financing companies choose cases carefully. They advance money when they believe a case has merit and will likely result in a settlement or favorable verdict. Remember, you are only obliged to repay if you obtain a settlement or verdict. The cash advance amounts vary from company to company, ranging from a few hundred dollars to thousands of dollars.

If your case settles, or the person or company you're suing (known as a defendant) pays a verdict after losing in court, your attorney will forward the cash advance amount and fees you owe directly to the litigation financing company. If your settlement or verdict turns out to be less than what was advanced to you by the finance company, your repayment will not exceed your share of that recovery. You are not obliged to repay the entire advance in that situation.

If you are facing cash flow problems and don't want to accept a low-ball offer from an insurance company, lawsuit financing might be right for you if other sources of loans are not available. Consult with your attorney to weigh your options.