

Pioneering corporate claim finance for commercial litigation

What is corporate claim finance and why is it good for business?

Juridica represents the vanguard of an innovative, market approach to valuing and financing business law claims. The Juridica model is introducing more transparency and efficiency into the dispute resolution system, while reducing unnecessary costs.

Corporate claim finance – not to be confused with class action finance, tort financing or “litigation funding” – is a new area of finance for businesses with *legitimate* commercial claims against other businesses.

Juridica allows companies that have been unable to resolve disputes through negotiation to access market mechanisms to thoroughly evaluate the merits and prospects of a legal claim, value that claim, and share the cost and risk with experienced investors.

In a typical corporate claim investment, Juridica purchases an interest in – or finances the cost of pursuing – the claim in return for a share of the reward. By treating the claim as an asset with a value that can be measured in the marketplace, Juridica adds important incentives to the corporate litigation and arbitration system: far greater transparency, reduction of unnecessary costs, faster resolution of cases, and a reduction in frivolous claims – with better outcomes for businesses.

Juridica: the gold standard of corporate claim finance

Juridica is a closed-ended investment company registered in Guernsey, United Kingdom, a headquarters chosen for its connection to both the historical basis for today’s legal system, as well as a source of new innovation.

Over the centuries English law has provided the framework for legal systems around the world and often has been the most prescient in evolving the justice system to meet the ends of justice in modern society. Juridica is regulated by and listed on the London Stock Exchange’s Alternative Investment Market (LSE/AIM: JIL).

Juridica's customers are Fortune 1000 companies, FT Global 500 companies, inventors, major universities, and the leading law firms that represent them. Juridica has approximately US\$200 million of invested capital under management.

In keeping with its goal of using innovation and rigorous analytical methodologies to support improved legal outcomes, Juridica seeks to provide attractive returns to its investors by selecting claim assets that meet well-defined underwriting criteria, that are indicative of solid and verifiable economic value, and that promote the company's strategic objectives.

Juridica's screening process ensures that only the highest quality claims are eligible for investment. Juridica rigorously evaluates numerous potential claim investments for each investment it makes. A carefully selected network of outside legal experts evaluates the merits, legal theories involved, and prospects for recovery. Juridica also maintains a standing panel of expert legal advisors, comprised of leading law professors and legal ethics experts. For each investment, a thorough ethics review and ethics advisory opinion is generated.

Claims that are frivolous or meritless are rejected out-of-hand. If Juridica decides to invest capital into a corporate claim, it is a claim that has clear merit and is one that has a high probability of settling without extended litigation or trial. Juridica opposes attempts to use outside capital to fund litigation that does not have clear prospects of success.

The lawyer's monopoly on corporate claim finance has created unneeded costs for business

For years, the system under which most litigation is financed has been great for lawyers, but bad for business. Juridica is working to change that imbalance, by applying sophisticated economic analysis and modern business standards of due diligence to the valuation of legal claims.

When claims are "financed" solely by lawyers, claim holders can lose the benefit of a thorough and completely impartial analysis of the timing and prospects for recovery on their claim.

This absence of financial rigor and due diligence in claim valuation has resulted in higher legal fees and expenses, unnecessary delays to resolution, and undue distractions to upper management. Furthermore, incentives between claim holders and their lawyers are often misaligned – contributing to overspending as well as missed opportunities to resolve claims early.

The end result is that many businesses have too much litigation for which they spend too much time and too much money to resolve – causing the real economic value of the claim asset to be needlessly eroded.

Why Juridica opposes third-party funding of class actions and does not finance personal injury claims

Juridica's innovative corporate claim finance process brings rational, economics-based evaluation models to commercial litigation between businesses. Class action financing could encourage just the opposite – as parties try to create a “perfect storm” of class action or tort litigation to force settlement by defendants unwilling to risk a large judgment, even in a baseless case. In short, class action cases are not susceptible to the market-based determinants that should drive settlements of corporate claims between businesses, and therefore are not good investment targets.

For these and other compelling reasons, Juridica does not invest in class actions of any kind. And, because our clients are corporations that create value for their shareholders and their employees, Juridica does not invest in personal injury, product liability, mass tort or shareholder class action lawsuits. Our business is about making commercial litigation more transparent and efficient so the legal system works better, not worse for business.

Why corporate claim finance will not increase the volume of litigation

Corporate claim finance is limited to business-to-business claims involving commercial disputes; these disputes are the result of business differences that the parties are unable to resolve because they have irreconcilable views on the merits or strengths of the claims and/or the amount of damages that should be awarded.

Juridica's model of corporate claim finance amplifies the role of economic rationality in the business dispute resolution process. It naturally follows that business claims that are not economically rational to begin with should never be financed.

In fact, the Juridica model of corporate claim finance will result in greater transparency in the claim resolution process, with the likely result that claims will settle earlier in the dispute resolution process.

The Law: corporate claim finance and legal history

The disassociation of law markets from capital markets is fast becoming an anachronism.

The historical prohibition against the use of outside capital to finance claims in the United States has its roots in the four-hundred year old English law principle of champerty. The doctrine of champerty was developed to prohibit tenants from financing claims against their landlords. It has never had anything to do with risk transfer by corporations. In any event, the prohibition went unexamined and unquestioned for many years, until it became apparent that the societal ills it was intended to prevent no longer existed.

Today, England has largely abandoned this prohibition, and only a handful of U.S. states still have any vestige of it. Sadly, many of the few prohibitions that still exist are a relic of the Civil Rights era, when state lawmakers in certain states tried to use this out-dated concept to make it difficult for impoverished minority plaintiffs in Civil Rights cases to gain legal support in the battle against racial segregation.

Numerous U.S. legal scholars are now convinced that separating the financial/investment aspects of contingent fee cases from the professional/fiduciary aspects will yield a more transparent market in litigation, where full information about case prospects and liability will rationalise and correct the course of a system many believe is out of control.

Academic study of corporate law finance

As corporate law finance is an emerging area and the economic and societal benefits of this innovation are becoming newly apparent, many economists and legal experts have begun to contribute expertise and research to the debate.

A leading area for study is the Rand Corporation's Institute for Civil Justice, which has launched the Law, Finance, and Capital Markets Programme to generate new research and analysis of this area. The web site for Rand's programme is:

<http://www.rand.org/icj/programs/law-finance/>