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BCLI Publishes a Study Paper on Financing Litigation

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The cost of litigation is a significant barrier to accessing the justice system. While some disputes can be resolved outside the courtroom, litigation is often the only means to achieve an equitable result. However, a litigant's ability to pay for the legal fees and expenses that come with litigation may become a concern before, or during, the process. Taking a legal dispute to trial is expensive. Many litigants lack the financial resources to take on the risk of an unsuccessful case.

This study paper examines the traditional and alternative methods litigants use to pay for litigation. It reviews six financing models that have emerged both in Canada and internationally: 1) unbundled legal services, 2) third-party litigation funding, 3) alternative fee arrangements, 4) crowdfunding, 5) legal expense insurance, and 6) publicly funded litigation funds. It also identifies 18 opportunities and ideas to consider for structural, systemic or legal change to enhance the use of each financing option in British Columbia.

"The research and consultations show that many litigants in British Columbia, and across Canada, are struggling to manage the cost of litigation," states BCLI Chair Lisa A. Peters, QC. "This study sheds light on the opportunities that exist for litigants to ensure they can have meaningful and affordable access to the justice system, and we hope it will be a valuable resource for the judiciary, legal profession and the community as a whole."

The BCLI paper concludes with a chapter that briefly discusses five alternative ideas that could mitigate the rising cost of legal services and improve access to justice generally.

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The BCLI strives to be a leader in law reform by carrying out the best in scholarly law reform research and writing and the best in outreach relating to law reform.

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