

Chapter 7: Third-party Litigation Funding—List of Resources

British Columbia

Organizations

1. **BC Supreme Court Registrar Office—*Legal Profession Act* Reviews**
www.courts.gov.bc.ca/supreme_court/about_the_supreme_court/registrars_office/booleet/Legal%20Professions%20Act.pdf
2. **Canadian Bar Association—BC Branch**
 - “Class Actions in British Columbia” (April 2015).
3. **Insurance Corporation of British Columbia**
www.icbc.com/claims/injury/Treatment-and-Injury/Pages/default.aspx
4. **The Law Society of British Columbia**
 - *Code of Professional Conduct* for British Columbia, *Legal Profession Act*, *Law Society Rules* and *Member’s Manual*
 - *Benchers’ Bulletins*
 - “Advancing funds to a client to cover the cost of disbursements, medical expenses or living expenses” (*Benchers’ Bulletin*, No 3, Fall 2014) at 12, online: https://www.lawsociety.bc.ca/docs/bulletin/BB_2014-03-Fall.pdf.
 - “*Benchers’ Bulletin* Item 1”, (*Benchers’ Bulletin*, No 3, Fall 2014) online: <https://www.lawsociety.bc.ca/Website/media/Shared/docs/publications/code/bb/2014-03.pdf>.
 - *Brochures*
 - “*Law Society Fee Mediation Program*”, online: <https://www.lawsociety.bc.ca/Website/media/Shared/docs/public/FeeMediation.pdf>
 - *BC Supreme Court Registrar Fee Review*: <https://www.lawsociety.bc.ca/complaints-lawyer-discipline-and-public-hearings/complaints/complaints-about-lawyers-fees/>
 - “*Highlights of amendments to the BC Code*”, online: <https://www.lawsociety.bc.ca/support-and-resources-for-lawyers/act-rules-and-code/code-of-professional-conduct-for-british-columbia/highlights-of-amendments-to-the-bc-code/>

Other articles, reports and resources

- *Classes of Insurance Regulation*, BC Reg 204/2011.
- *Class Proceedings Act*, RSBC 1996, c 50.
- *Insurance Act*, [RSBC 2012], c 1.
- *Financial Institutions Act*, [RSBC 1996] c 141.
- Andrew Morrison, “A Contingency Fee Is Not a “Lottery Ticket”: Special Considerations for Contingency Fee Agreements” (Paper presented to the CLE BC, Costs—2015 Update, October

2015), online: <https://www.cle.bc.ca/PracticePoints/PRAC/15-contingency-fee-is-not-a-lottery-ticket-special-considerations-for%20contingency-fee-agreements.pdf>

- *Supreme Court Civil Rules*, BC Reg 168/2009.

Canada

Organizations

1. **Bentham IMF** <https://www.benthamimf.ca/home>
2. **BridgePoint Financial Services** bridgepointfinancial.ca
3. **Canadian Bar Association** www.cba.org/Home
 - Heather McDonald, “Third Party Litigation Funding: Plaintiff Identity and Other Vexing Issues” (Paper presented to the Canadian Bar Association, October 2011), online: www.cba.org/cba/cle/PDF/Heather_McDonald_paper.pdf
 - “Code of Professional Conduct”, (2009), online: [www.cba.org/Publications-Resources/Practice-Tools/Ethics-and-Professional-Responsibility-\(1\)/Codes-of-Professional-Conduct](http://www.cba.org/Publications-Resources/Practice-Tools/Ethics-and-Professional-Responsibility-(1)/Codes-of-Professional-Conduct)
4. **Easy Legal Finance Inc.** www.easylegal.ca/
5. **Federation of Law Societies of Canada** flsc.ca/
 - “Model Code of Professional Conduct” (10 March 2016), online: flsc.ca/wp-content/uploads/2014/12/Model-Code-as-amended-march-2016-FINAL.pdf
6. **Harbour Litigation Funding** <https://www.harbourlitigationfunding.com/>
7. The Law Societies of Manitoba, New Brunswick, Upper Canada, and Yukon.
8. **Ontario Class Proceedings Fund** www.lawfoundation.on.ca/class-proceedings-fund/
9. **Rhino Legal Finance Inc.** rhinofinance.com/

Other articles, reports and resources

- *Alberta Class Proceedings Act*, SA 2003, c C-16.5.
- Ranjan K Agarwal & Doug Fenton, “Beyond Access to Justice: Litigation Funding Agreements Outside the Class Actions Context” (2017) 59 Can Bus LJ 65.
- BICO Risk Management Inc, “BICO September 23 Regulatory Update”, online: www.bico.ca/blog/BICO-is-back-in-business/.
 - “BICO Risk Management Successfully Launches New Legal Expense Insurance Product”, (8 March 2017), online: www.bico.ca/blog/BICO-Risk-Management-Successfully-Launches-New-Legal-Expense-Insurance-Product/.
- Ava Chisling, “The Loan Arrangers”, *Canadian Lawyer Magazine* (14 November 2011).
- *Criminal Code of Canada*, RSC 1985, c 46.
- Michael Faure & Jef De Mot, Comparing Third-Party Financing of Litigation and Legal Expenses Insurance, *Journal of Law, Economics and Policy*, Vol. 8, No. 3, 2012.

- Financial Services Commission of Ontario, “Interim Cease and Desist Order to Bridgepoint Indemnity Company (Canada) Inc”, (7 July 2016), online: <https://www.fSCO.gov.on.ca/en/about/enforcement/cdo/pages/co-bridgepoint.aspx>.
- Jeff Gray, “The risky business of investing in lawsuits”, *The Globe and Mail*, (26 June 2012), online: www.theglobeandmail.com/report-on-business/industry-news/the-law-page/the-risky-business-of-investing-in-lawsuits/article4372582/.
- Jasminka Kalajdzic, Peter Cashman & Alana Longmoore, “Justice for Profit: A Comparative Analysis of Australian, Canadian and U.S. Third Party Litigation Funding” 16 *Am J Comp L* 93 (Winter 2013).
- Adrian C Lang & Samaneh Hosseini, “The Absent Party: An Examination of Third-Party Funding of Class Actions in Canada” (2013) 41:1 *Advocate’s Quarterly* 1.
- Naomi Loewith, “Financing the fight: Court opens door to third party litigation funding in private commercial cases”, *The Lawyers Weekly* (March 2016).
- Prof John D McCamus, *The Law of Contracts* (Toronto: Irwin Law, 2005).
- Ira Nishisato & Hugh Meighen, “Third Party Funding in Arbitration”, *Borden Ladner Gervais* (June 2016), online: blg.com/en/News-And-Publications/Documents/Publication_4544_1033.pdf.
- Ontario Law Reform Commission Report on Class Actions, 1982, Vol III.
- Ontario Class Proceedings Act, 1992, SO 1992, c. 6.
- *Ontario Courts of Justice Act*, RSO 1990, c C.43.
- *Ontario Solicitor’s Act*, RSO 1990, c S.15.
- Ontario Trial Lawyers’ Association, “OTLA Policy regarding Litigation Loan Companies”, (27 October 2015).
- Poonam Puri, “Profitable Justice: Aligning Third-Party Financing of Litigation with the Normative Functions of the Canadian Judicial System” (2014) 55 *Can Bus LJ* 34.
- “Six Things You Need to Know about Litigation Funding,” *Lexpert Magazine* (June 2017).
- Superintendent of Financial Institutions, “In the matter of the Financial Institutions Act RSBC 1996, c 141 and Bridgepoint Indemnity Company (Canada) Inc.—Undertakings of BridgePoint Indemnity Company (Canada) Inc., PBL Insurance Brokers Canada Ltd. and Mark R Frederick [FIAs. 208]” (22 September 2016), online: www.fic.gov.bc.ca/pdf/enforcement/trust/fia20160922.pdf.
- Michael J Trebilcock & Elizabeth Kagedan, “An Economic Assessment of Third-Party Litigation Funding of Ontario Class Actions” (2014) 55 *Can Bus LJ* 54.

International

Australia

- Michael Duffy, "Two's Company, Three's a Crowd? Regulating Third-Party Litigation Funding, Claimant Protection in the Tripartite Contract, and the Lens of Theory" (2016) UNSWLawJl 5, online: www.austlii.edu.au/au/journals/UNSWLawJl/2016/5.html.
- Honourable Martin Pakula, MP, Attorney-General of Victoria, Media Release, "Making Civil Justice Fairer for Victorians" (16 January 2017), online: www.premier.vic.gov.au/making-civil-justice-fairer-for-victorians/.
- IMF Bentham www.imf.com.au/about#ourhistory.
- *Legal Profession Uniform Law Application Act 2014* (Vic) sch 1.
- Victorian Law Reform Commission, "Litigation funding: Terms of Reference", (19 January 2017), online: www.lawreform.vic.gov.au/projects/litigation-funding/litigation-funding-terms-reference.
 - "Access to Justice—Litigation Funding and Group Proceedings: Consultation Paper" (July 2017), online: www.lawreform.vic.gov.au/sites/default/files/VLRC_Litigation_Funding_and_Group_Proceedings_Consultation_Paper_for_web.pdf.

Hong Kong

- Law Reform Commission of Hong Kong www.hkreform.gov.hk/en/publications/rtpf.htm.
 - *Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Bill 2016*, (Hong Kong) 2016 C1331.
 - News Release (January 2017) www.hkreform.gov.hk/en/news/newsXML.htm?newsDate=20170112&selectedSubSection=5&jumpToDetails=y#newsDetails.

United Kingdom

- Association of Litigation Funders of England and Wales associationoflitigationfunders.com/.
 - *Code of Conduct for Litigation Funders*, (November 2014), online: associationoflitigationfunders.com/wp-content/uploads/2014/02/Code-of-conduct-Nov2016-Final-PDF.pdf.
- KC Lye & Katie Chung, "Third-party Funding for International Arbitration in Singapore", *Norton Rose Fulbright* 7 (September 2016) 7, online: www.nortonrosefulbright.com/files/international-arbitration-report-issue-7-142408.pdf.
- *Courts and Legal Services Act 1990* (UK), 1990, c 41.
- *Criminal Law Act 1967* (UK), 1967, c 58.
- The Economist, "Financing Divorce: Till debt do us part", *The Economist* (Print Edition) (March 2016), online: www.economist.com/news/business-and-finance/21694473-firms-who-lend-people-seeking-end-marriage-are-attracting-interest-inside.
- David Holland, QC, Landmark Chambers, "The Changes to the Costs Regime Which Take Effect on 1st April 2013: A Note for Chancery Members", (The Chancery Bar Association, 8 March 2013), online: www.chba.org.uk/for-members/library/practice-directions-court-notice/changes-to-the-costs-regime-a-note-for-chancery-barristers.

- The Law Society of England and Wales
- *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (UK), 2012 c 10.
- Rachel Mulheron, “England’s Unique Approach to the Self-Regulation of Third Party Funding: A Critical Analysis of Recent Developments” (2014) 73:3 Cambridge LJ 570.
- Sherina Petit, James Rogers & Cara Dowling, “Third-party Funding in Arbitration—the Funders’ Perspective: A Q&A with Woodsford Litigation Funding, Harbour Litigation Funding and Burford Capital,” *Norton Rose Fulbright* 7 (September 2016) 2, online; www.nortonrosefulbright.com/files/international-arbitration-report-issue-7-142408.pdf.
- *Statutum de Conspiratoribus*, 33 Edw 1, Stat 2.
- *Solicitors Act 1974* (UK), c 47 and *Solicitors Regulation Authority Code of Conduct 2011*, online: www.sra.org.uk/solicitors/handbook/code/content.page

United States

- David S Abrams & Daniel L Chen, “A Market for Justice: A First Empirical Look at Third Party Litigation Funding” 15:4 (2013) 15 U Pa J Bus L 1075.
 - American Bar Association
 - Commission on Ethics 20/20, “Informational Report to the House of Delegates”, (27 December 2011), online: www.americanbar.org/content/dam/aba/administrative/ethics_2020/20111212_ethics_20_20_alf_white_paper_final_hod_informational_report.authcheckdam.pdf.
 - Model Rule of Professional Conduct, 2016, online: www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html.
 - American Legal Finance Association americanlegalfin.com.
 - Martha Binks & Sarah Hurowitz, “A Canadian Perspective on the Current State of Third Party Litigation Funding [TPLF],” (Article presented at Association of Corporate Counsel Annual Meeting 2016, Washington, D.C., 17 October 2016).
 - Steven Garber, “Alternative Litigation Financing in the United States: Issues, Knowns, and Unknowns” (2010) RAND Corporation Occasional Paper, online: https://www.rand.org/pubs/occasional_papers/OP306.html.
 - Joshua Hut, “What Litigation Financing is Really About”, *The New Yorker* (1 Sept 2016), online: www.newyorker.com/business/currency/what-litigation-finance-is-really-about.
 - *Maine Consumer Credit Code*, Me Rev Stat Ann tit 9-A §§12-101 to 107 (2007).
 - *Nonrecourse Civil Litigation Act*, Neb Rev Stat Ann §§25-3301 to 3309 (West Supp 2010).
 - Ohio Rev Code Ann §1349.55 (West Supp 2013).
 - Sara Randazzo, “Litigation Financing Attracts New Set of Investors”, *The Wall Street Journal* (15 May 2016), online: <https://www.wsj.com/articles/litigation-financing-attracts-new-set-of-investors-1463348262>.
 - Joshua G Richey, “Tilted Scales of Justice? The Consequences of Third-Party Financing of American Litigation” (2016) 63:2 Emory LJ 489.
 - *Rule of Appellate Courts*, NY Sup Ct App Div 1st Dept r 603.7(e).
 - Victoria Shannon Sahani, “Judging Third-Party Funding” (2016) 63 UCLA L Rev 388.
 - Joanna M Shepherd, “Ideal Versus Reality in Third-Party Litigation Financing” (2012) 8:3 JL Econ & Policy 593.
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- Andrew Ross Sorkin, “Peter Thiel, Tech Billionaire, Reveals Secret War with Gawker”, *New York Times* (25 May 2016), online: www.nytimes.com/2016/05/26/business/dealbook/peter-thiel-tech-billionaire-reveals-secret-war-with-gawker.html.
- Steven Tweedie and Nathan McAlone, “Gawker is being sold to Univision for \$135 million”, *Business Insider* (16 Aug 2016), online: www.businessinsider.com/univision-buys-gawker-for-135-million-2016-8.
- U.S. Chamber Institute for Legal Reform, “Before the Flood: An Outline of Oversight Options for Third Party Litigation Funding in England & Wales”, (April 2016), online: http://www.instituteforlegalreform.com/uploads/sites/1/BeforeFlood_vFINAL_Web.pdf.