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Why companies that fund commercial litigation are targeting Houston

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Commercial litigation finance in the Lone Star State is here to stay as more litigants and law firms need help to manage costs and risks.

Anyone who has been a party to a lawsuit knows firsthand that litigation gets expensive in a hurry, especially if the case involves a complex, high-stakes commercial dispute.

Budget-busters include electronic discovery, annual rate increases and skyrocketing costs for experts. Case outcomes often come down to which side has deeper pockets and more money to spend, rather than which side's case is meritorious. Even corporate legal departments often let potential plaintiff claims lie fallow in order to avoid the impact on the company's balance sheet.

There's a reason funding companies choose to open offices in Houston and it's not an affinity for heat and humidity. This city was built on a grand tradition of wildcatting, entrepreneurship and innovation by Houstonians who appreciate the need to partner up and share serious risk. The city's strong and diverse economy—energy, health care, biomedical research and aerospace—produces a large amount of commercial litigation.

Not surprisingly, Houston also has one of the most vibrant legal markets in the U.S., with nearly all of the 100



largest U.S. law firms and many international firms opening local offices. It is also home to many of the country's most talented and fearless trial lawyers.

Enter litigation finance, which is a corporate finance tool for both companies and law firms that helps shoulder the financial risks of litigation. With litigation funding, businesses are able to hire and pay for the best lawyers, often sharing the risk of litigation with select counsel. Funding can also provide working capital to help companies keep employees and grow their businesses during protracted legal fights.

Litigation finance firms provide these services for a negotiated interest in the outcome of the case. Most funding arrangements are non-recourse, so any return to the funder is contingent upon

a successful result for the claimant in the lawsuit. If the case is unsuccessful, the funder simply loses its investment.

By partnering with a funder, the litigant with the meritorious claim can stay the course and gain strategic advice until a fair and reasonable settlement or verdict is reached. Corporate legal departments can bring affirmative litigation and share the cost of defensive litigation without reducing the company's operating profit and related market value. With funding, these law departments have the opportunity to become profit centers, rather than cost centers.

Commercial funders focus on business-to-business disputes, such as breach of contract, intellectual property, oil and gas, international arbitration and antitrust cases.