Illinois Coalition for LEGAL REFORM

Protect Illinois Residents and Businesses: End Third Party Litigation Funding

Third-party litigation funding (TPLF) is private investment from an otherwise uninterested party, potentially including hedge funds, sovereign wealth funds and other financiers, betting on the outcome of litigation for prospective profit based on receiving a percentage of the judgment or settlement. TPLF is largely undisclosed and unregulated, leaving unknown third parties in control to increase the volume and costs of litigation that everyone must bear.

Illinois needs commonsense safeguards like disclosure agreements to prevent these funders from taking over litigation, corrupting the courts, and fueling frivolous lawsuits that hurt businesses and consumers.

TPLF Allows Unchecked Influence from Outside Parties

- Litigation funding agreements are generally kept secret, so nobody knows what control or influence the funders have over the underlying litigation or attorneys.
- The lack of required disclosure in TPLF has made courts susceptible to foreign influence, posing a threat to our economic and national security.
- Requiring the disclosure of TPLF agreements would incentivize funders and attorneys to behave ethically.

TPLF Hurts Businesses & Consumers

- There is little risk for plaintiffs who want advance non-meritorious claims and file frivolous lawsuits because third party funders cover legal costs.
- Litigation is extremely expensive, and businesses seek to avoid it, so they often settle cases rather than engage in costly litigation, regardless of whether the claims are legitimate.
- When businesses face higher litigation costs, they could be forced to raise prices for consumers.

TPLF Corrupts the Legal System

- Third party funders generally don't have to abide by any ethical or fiduciary rules.
- TPLF can weaken the fairness and integrity of the legal system by prioritizing profits over justice.
- Third party funders exercise undue control or influence over the litigation to the detriment of courts, defendants and plaintiffs.

TPLF Puts Investors Ahead of Plaintiffs

- Unlike attorneys, funders do not owe a fiduciary duty to the plaintiffs and may not be acting in their best interest.
- TPLF puts the investment interests of funders ahead of the interests of others, including the plaintiffs themselves.
- The priority of funders is their own financial investment, not the best interests of the plaintiffs.

- In fact, in some funded class actions, the funding agreements are structured so that the fewer people who claim their award, the more money the funder gets.