Missions & Visions

OMNI BRIDGEWAY

Jim Batson

The business of law continues to evolve, becoming more complex and expensive by the minute, according to Jim Batson, Managing Director and U.S. Co-Chief Investment Officer at litigation financing company Omni Bridgeway. Clients now expect their lawyers to consider creative solutions to manage litigation costs and risks. Enter, litigation finance.

"We see more and more inquiries from lawyers who are looking for ways to deal with cashflow issues, both for their clients and their own businesses," Batson says. "Lawyers are also realizing how litigation finance can create an untapped revenue source and control litigation risk."

In his role at Omni Bridgeway — a global public company since 2001— Batson leverages his 20+ years of experience as a litigator to help lawyers and their clients pursue and monetize their valuable legal claims. He recently sat down with Lawyers Weekly to discuss how litigation finance fits into the business of law.

Q and A

JIM BATSON
MANAGING DIRECTOR AND CO-CHIEF INVESTMENT OFFICER, U.S., OMNI BRIDGEWAY

Q: What is litigation finance?

A: At its core, litigation finance provides non-recourse capital to parties in a litigation — usually the plaintiff. The key is that the return on that investment is derived solely from the proceeds of the litigation, meaning if the case is unsuccessful there is no other repayment obligation. It creates opportunity and manages risk. The opportunity comes from the resources it provides to the claimant— the ability to engage top counsel, hire experts, and litigate to the fullest extent necessary. As a risk management tool, it allows companies to devote resources to their business instead of to legal costs.

Q: In what kinds of cases can a litigation funder like Omni Bridgeway provide value?

A: Omni Bridgeway focuses primarily on complex commercial litigation where clients need significant capital to cover attorney fees and associated costs, usually investments of at least $1 million. The best cases for us line up with the expertise of our investment managers, most of whom are seasoned former litigators with a broad range of commercial dispute experience, such as international arbitration, antitrust, insurance recovery, patent litigation, theft of trade secrets, and cases that arise out of bankruptcy. We use our expertise to develop deal terms tailored to each individual case and offer our industry insights and advice to our clients throughout the life of the investment. It is a major reason clients come to Omni Bridgeway— we offer capital plus skills.

"Litigation financing gives lawyers a creative tool to ease the pressure on corporate legal department budgets and law firm balance sheets."

Q: What do you do when a case presents a potential judgment enforcement issue?

A: We have a global, in-house judgment enforcement team that partners with our investment managers to evaluate claims and determine collectability. Understanding how much a client may actually recover before we make an investment is a crucial factor in assessing a claim's overall value. It also allows us to be a better partner to our clients. We can advise on strategies at the outset of litigation that prevent the counterparty from attempting to dilute or obfuscate assets.

Q: How are law firms using litigation finance as part of their business model, especially when managing multiple cases on contingency?

A: More law firms are taking cases on a partial or full contingency basis. This can present major challenges to a firm's balance sheet if those cases take longer than expected, the firm wants to expand, or there is a market downturn. We can provide funding directly to law firms collateralized solely by the firm's contingency interests in a portfolio of cases. For example, if a firm has three cases on a whole or partial contingency basis, we could provide capital to the firm and receive our return from the firm's contingency interest in those three cases. As with our standard investments, these are non-recourse; we only recover our investment return if the firm recovers. A major benefit of portfolio financing is that if one case is super successful and generates enough revenue to pay our full return, then the law firm does not need to pay anything more from the remaining two cases.

Q: What are some of the misconceptions about litigation financing?

A: The most important point is that we do not control the litigation. If a client gets a settlement offer, we cannot require them to accept or decline. We are all experienced litigators and we can provide advice, but the decision is not up to us. Another misconception I often hear is that litigation financing is inflexible. There are all kinds of ways to structure deals. It is always a collaborative process with our clients. We never structure deals where the client might end up getting only a small fraction of the recovery. We use a lot of creativity in how we structure our litigation financing, so everyone gets their fair share in the success of the case.

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