

# UTILIZING EXTERNAL FUNDING IN A LAW FIRM



## THE LONG VIEW OF PRICING, PAYMENTS AND PROFIT

SERIES - 2 / ARTICLE - 12  
JULY 19, 2023

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**Whether opening a new law office or expanding an existing one, there is an essential ingredient beyond the law degree and law license that every firm must have, and that, of course, is adequate financing. Because law firms do not possess an inventory of goods against which a loan can be secured, creative financing that is unique to law firms has been developed.** Law firm funding can include investment in the positive outcome of promising litigation; however, the sharing of client and strategy information with a lender or investor can itself raise ethics issues. We will explore how best to utilize external funding for law firms.

## Capital Infusions

Non-asset-based capital infusion is the type of financing typically used in the legal profession to cover litigation expenses, to improve cash flow, and otherwise simply grow the practice. Law firms operate very differently from other types of businesses and have unique revenue models. Therefore, law firm financing must be uniquely tailored to the nature of law firm cash flows and revenues, whereas more traditional financing might not provide a solution. Due to the uncertainty of litigation outcomes, law firms rely on non-recourse financing whereby the lender agrees to only receive repayment from the profits that a file generates as opposed to holding the partners personally financially liable.

## Funding the New Firm

Often times lawyers tend to ‘think big’, and having long-term goals in mind when first starting out is always admirable. However, most experts recommend that when a new firm is being formed, the big picture should give way to the practicalities of: ‘Where do we want to be in one year, and how do we get there?’ That means obtaining adequate funding for such basics as office rent, utilities, furnishings, technology and at least part-time support staff. Because the first year will go by quickly, it is always best to have

‘year two’ laid out as well, with a growth factor built in.

For lawyers starting a new firm after coming from a large, well-established firm, there can be a tendency to try to replicate all of the features of that firm. Bear in mind that the appurtenances of the larger firm were not acquired overnight, and if big firm financing philosophies and ‘flash’ are applied to your small firm when starting out, there is a real risk of hemorrhaging money before your endeavor has a chance to get off the ground.

## Recession, Boom, Or In Between

The success of law firm funding can be dependent not only on where your financing is applied but also on when you make use of third-party funding. It is, of course, always riskier to open any new profession while the economy is in a downturn, but if circumstances force you to do so in that economic environment, then the realities of a more restricted cash flow and slower growth prospects must be factors that are taken into consideration vis-à-vis funding and spending goals. Opening a practice during boom times will not only make funding sources more readily available but will also give you the advantage of being able to point to a bullish legal market when soliciting those funds. As a practical matter, firms

**“WHETHER YOU’RE LOOKING TO START YOUR OWN FIRM, SHORE UP YOUR EXISTING PRACTICE’S CASH FLOW, OR FUEL YOUR GROWTH, LAW FIRMS OF ALL SIZES AND SPECIALTIES CAN BENEFIT FROM AN INFUSION OF WORKING CAPITAL.”**

**— Jordan Fein, CEO of Greenbox Capital**

tend to rein in elective spending during downturns so as to concentrate on the necessities, but just what constitutes ‘absolutes’ versus ‘options’ will vary depending upon how well-funded the firm is at that point, and what the prospects are for a quick revenue turnaround.

## Accelerating Firm Growth

The main benefit of law firm financing is the acceleration of growth by providing the firm with the funding necessary to promote business, improve cash flow, enable top-tier client servicing, and hire top legal professionals. As with other types of business loans, law firm financing is crucial to meeting goals for growth and scalability. As part of a firm’s goals for growth, investment in technology, staffing additions, and even office expansion are all part of a growth strategy that requires serious funding.

## Investment in Marketing

Implementing marketing channels can improve growth prospects, and among the marketing approaches that lenders can relate to are SEO campaigns, pay-per-click advertising, mass media advertising, hiring marketing strategists, subscribing to tool services, and the creation of podcasts and blogging.

## Litigation Funding

Litigation funding (also referred to as disbursement funding) covers costs incurred while defending a client or prosecuting a client’s cause. Among the litigation expenses that may very well need deep pockets in order to effectuate successful litigation are the costs of expert witnesses, filing fees, arbitration fees, forensics

and laboratory testing, and travel related to the taking of depositions and meeting with witnesses. Proceeding with interlocutory appeals along the way when relevant and funding appeals from adverse judgments can also be quite costly undertakings.

## Ethics and External Funding

Various ethics opinions provide guidance for lawyers looking to external sources for their litigation funding. In particular, the attorney’s obligation to safeguard a client’s confidential information might be compromised in the course of disclosing both the necessity for the litigation funding and the strategies that will be played out—elements that a third-party funder will most likely want to be disclosed in much detail in order to feel assured that the investment is worthwhile. Understanding how to make the requisite disclosures while adhering to client confidentiality obligations is a must for attorneys who do not wish to run afoul of their professional liability responsibilities.

## Resources Leading to Reward

With the median annual income of an attorney currently standing at \$131,990—well above the national average—starting and growing a law firm is a wise and lucrative choice. But in order to succeed, both the tools of the profession and the presentability of your particular impact must be well-funded upfront. Fortunately, a wide variety of funding opportunities are available for today’s lawyers that did not exist just twenty years ago. The ambitious, innovative professional would do well to plan carefully how to make the most of this golden funding environment.

## Executive Summary

### 1. The Issue

How to effectively deploy available external law firm funding?

### 2. The Gravamen

From start-up to established firm expansion, having in place a realistic game plan will not only sway lenders but also help make the most of every dollar funded.

### 3. The Path Forward

Working capital, litigation funding, and expansion financing are all legitimate funding targets that third-party lenders will relate to if properly prepared and presented to them.

## Action Items:

### 1 When to Fund:

Decide whether the current economic environment is the right one for starting up or expanding your practice.

### 2 Set Realistic Goals:

Assuming the timing is right, consider the practicality of your timeline markers, whether for opening a new firm or scaling for growth at your established firm.

### 3 Pitching Your Funding Needs:

Different lenders have disparate notions as to just what should be funded at a law firm, and it is, therefore, incumbent upon you to do your homework and determine which funding targets appeal to which lenders.

### 4 Navigating the Ethics:

No amount of funding is worth risking either your license or your reputation, and it is therefore, essential, to learn what your local canon of ethics has to say about disclosures in the course of applying for litigation funding.

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## Further Readings

1. <https://www.pullcom.com/newsroom-publications-Litigation-Funding-Ethical-Considerations-for-the-Plaintiffs-Lawyer-Co-author>
2. <https://www.nationalbusinesscapital.com/blog/law-firm-financing/>
3. <https://lawrina.org/blog/law-firm-financing/>
4. <https://lawyerist.com/starting-law-firm/funding-financing/>
5. <https://lawfirmambition.co.uk/topics/finance-and-accounting/law-firm-financing-options>





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After receiving his Juris Doctor degree from The John Marshall Law School in Chicago, Mr. Brochin served as an Administrative Law Judge with the Illinois Department of Labor for six years where he presided over cases dealing with job separation issues and matters pertaining to contested Unemployment Insurance claims. He also co-wrote the agency's administrative rules, and periodically served as a 'ghost writer' for Board of Review decisions. Following that position, he was Director of Development for a Chicago-area non-profit college where he was responsible for High Net Worth donations to the institution. For the next eighteen years he practiced as a solo practitioner attorney with an emphasis in the fields of Real Estate law and Commercial Contracts transactions, and was an agent for several national title insurance agencies.

In 2003 he was recruited to head up a U.S. title insurance research office in Israel, a position he held for four years, and between 2007-2017 he participated in litigation support for several high-profile cases. He has taught Business Law as a faculty member of the Jerusalem College of Technology, and has authored a wide variety of legal White Papers and timely legal articles as a professional legal content writer for GPL clients. Separate from his legal writing, he has co-authored academic articles on Middle East security topics that have been published in peer-reviewed publications.



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William Anderson is Managing Director and Head of Law & Compliance. He leads the GreenPoint practice in providing regulatory, legal, and technology solutions to law firms, legal publishers, and in-house law departments around the world, overseeing our team of experienced US attorneys and data and technology experts. Will has over 25 years' experience working with corporations to improve the management of their legal and corporate compliance functions. Will began his legal career as a litigator with a predecessor firm to Drinker, Biddle LLP. He then served as in-house counsel to Andersen Consulting LLP, managing risk and working with outside counsel on active litigation involving the firm.

Will has leveraged his legal experience interpreting regulations and appearing before federal (DOJ, SEC, FTC) and state agencies (NYAG) to oversee research and other areas at Bear Stearns. In this capacity, he counseled analysts on regulatory risk and evolving compliance requirements. Will also consulted on the development of a proprietary tool to ensure effective documentation of compliance clearance of research reports. Will then went on to work in product development and content creation for a global online compliance development firm pioneering the dynamic updating of regulated firms' policies and procedures from online updates and resources. Will holds a Juris Doctorate with High Honors from the Washington University School of Law in Saint Louis and is admitted to state and federal bars. He lives in Pawling, NY, with his wife and daughter.



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- ▶ Our core team of experienced US attorneys is based in Israel and works US hours. The breadth of experience of our attorneys ensures high-quality, cost-effective results across a wide range of legal, compliance, and regulatory matters.
- ▶ GreenPoint's methodology and proven track record of achieving client objectives has resulted in a broad base of clients in the United States, ranging from Fortune 500 insurance companies to solo practitioners, law firms, in-house law departments, and legal publishers. GreenPoint attorneys are selectively recruited and deployed based on possessing demonstrable subject matter expertise covering a broad spectrum of substantive US laws and regulations. The work product of our attorneys is thoroughly vetted internally before delivery to client. Adherence to quality, value and flexibility is at the core of our foundation.

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### About GreenPoint Global

- ▶ GreenPoint Global provides litigation support, finance and technology solutions to insurers, law firms, banks, and in-house law departments through our subject matter experts and process specialists.
- ▶ Founded in 2001 and headquartered in Rye, New York, GreenPoint has grown to over 500 employees with a global footprint. We have a stable and growing client base that ranges from small and medium-sized organizations to Fortune 1000 companies worldwide. Our production and management teams are located in the US, India, and Israel with access to deep pools of subject matter experts. Our greatest strength is our employee-base of experienced lawyers, paralegals, process specialists, financial analysts, and software developers. We have leading edge software development capabilities with over 50 professionals on staff, working on internal and client projects.
- ▶ GreenPoint is certified by the TÜV SÜD (South Asia) for the highest standards of Quality Management (ISO 9001:2015) and Information Security Management (ISO 27001:2013). GreenPoint is certified as a Minority and Woman Owned Business Enterprise (MWBE) by New York City and a Minority Owned Business Enterprise (MBE) by the State of New York. GreenPoint complies with all federal and state contracting requirements. GreenPoint is owned by its founders and principals and is debt free. For comprehensive information on our services and products under Law & Compliance and Finance, please visit our subsidiary websites through the division's menu.

