



Litigation & OCL Insurance (North America)

Specific Litigation Insurance

Litigation insurance insures the outcome of a pending litigation.

Benefits of Litigation Insurance

- We can help you de-risk litigation
- We can help you monetize trial judgments subject to post-trial motions or appeal
- We can help strengthen your resolve to reject an unreasonable settlement offer
- We can help you de-risk a contingent liability associated with an extraordinary transaction

Either the plaintiff or the defendant may be the insured. Also, a litigation funder and/or law firm representing a plaintiff may be the insured. Finally, a portfolio of lawsuits funded by a litigation funder or handled by a law firm on a contingent basis may be the subject of litigation insurance.

Examples:

Plaintiff as Insured	Defendant as Insured	Litigation Funder as Insured	Law Firm as Insured
<p>If insurance is purchased prior to a trial verdict or judgment, the insurance provides the insured with:</p> <ul style="list-style-type: none"> • An alternative to settlement; • Enhanced value; • Potentially improved terms from a lender. 	<p>Where defendant is a party to a merger, acquisition, or capital infusion, litigation insurance may be a viable alternative to or a reduction of an escrow, earn-out, or contingent purchase price.</p>	<p>Protects against downside, which can help in fund raising, or help increase investment in particular lawsuit(s).</p> <p>Facilitates sale of funder's investment assests</p> <p>Facilitates borrowing against portfolio of funder's investment assests.</p>	<p>Helps provide minimum amount of recovery (facilitating financing, budgets, bonuses, etc.)</p> <p>Reduces costs of financing against contingent receivables.</p> <p>Facilitates contingent terms for clients.</p>
<p>If insurance is purchased after either a jury verdict (subject to post-trial motions) or trial judgment, either of which is subject to appeal, the insurance may facilitate:</p> <ul style="list-style-type: none"> • Allowing the Insured to report the insured portion of the judgment as earned revenue; • Monetizing the judgment by obtaining a loan secured by the judgment and the insurance. 	<p>Defendant's receipt of a proposed insurance structure (limits, retention, premium and fees) provides the defendant with an alternative to settlement.</p>		
	<p>Defendant's purchase of litigation insurance may provide support for directors and public companies to reject what is viewed as an unreasonable settlement demand without fear of shareholder lawsuits.</p>		

Contact Information

North America

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Litigation & OCL Insurance (North America) (cont'd)

Types of Litigation We Insure

- Intellectual Property (patent, trade secret, breach of license agreement, trademark litigation, etc.)
- Section 337 Investigations at the International Trade Commission
- Antitrust class actions
- Commercial litigation (breach of contract, license or lease agreement, complex financing transactions, M&A, employment disputes, etc.)

Other Contingent Liability (“OCL”) Insurance

OCL insurance insures the outcome of a specified contingent liability.

Examples of OCL Insurance Solutions

Parties to an extraordinary transaction involving:

- An **asset sale with excluded liabilities** – we may insure the risk of successor liability being imposed on the buyer.
- The sale of stock or assets of a company participating in a **multiemployer pension plan** - we may insure the risk of (complete or partial) **withdrawal liability** being assessed on the seller or buyer.
- A **premerger notification** (Hart-Scott-Rodino (HSR filing) – we may insure the risk that the proposed merger or acquisition will be enjoined as violative of antitrust law.
- A declaration or notice to (or review by) **the Committee on Foreign Investment in the United States (“CFIUS”)** – we may insure the risk that CFIUS or the President of the United States will block the underlying transaction in which a foreign person would otherwise gain “control,” directly or indirectly, of a US business.
- **Motion for Confirmation order** (regarding sale of assets, reorganizations, settlements, etc.) to be filed with a U.S. bankruptcy – we may insure whether or not the order will be entered.
- **State regulatory approval of license or permit** – we may insure the issuance of such license or permit.

What Makes Us Different

We are experienced trial attorneys and transactional / regulatory attorneys who have pioneered these insurance products. We are dedicated to insuring litigation and OCL risks efficiently and fairly. We serve as the Claim Representative on behalf of the insurers who insure these risks and we have facilitated the payment of claims by our insurers without dispute or delay.

We are market leaders. We want to be your financial solution. Our strategic thinking, business savvy and professionalism will impress you. Our underwriting can provide access to insurance capital that will help you achieve your goals.

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