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Tribeca Capital Group Scholarship Essay

Topic: Does Litigation Finance Expand Access to Justice?

The topic of litigation finance in relation to the law is a very interesting one that arouses passion, as well as debate, among those in the law and criminal justice fields. There are varying opinions within these fields as to how and the extent to which litigation finance helps expand justice for those who have suffered from crimes and injustices. Some say it is not as effective, whereas others say it is very effective. The position I have is that it is not as effective in expanding justice, because it causes bias among lawyers by whom it is practiced, may lead to misjudged cases, and may lead to those who deserve justice not getting full justice.

Simply put, litigation finance refers to the practice by which a third party funds litigation (legal action) in a lawsuit, in exchange for a portion of any proceeds that result from the lawsuit. For example, different civil lawyers and firms that specialize in civil law may charge different amounts for a lawsuit. In addition to this, they usually charge a percentage of whatever profit might be accrued from the lawsuit the plaintiff is filing if the plaintiff wins the case. It may be 10%, 20%, 40%, or any percentage, depending on the seriousness of the case being filed, as well as the socio-economic status of the plaintiff who is filing the lawsuit. In cases where the attorney assisting the plaintiff in filing the case asks for a sizable portion of the compensation the plaintiff might get from the lawsuit, there can be a possibility for missteps in how the case is judged. It can happen such that the plaintiff loses the case, and he may just have to pay the attorney he hired a smaller amount of money, as the money they might have won from the case has been factored out. In these instances, civil attorneys will do as much as possible to win cases, and may lie or fabricate evidence in the process, thus leaving the defendant in danger of being wrongly sentenced and punished. Thus, litigation finance does not always secure full justice for those who really need it.

Another reason why I would argue that litigation finance is not always the best way to expand justice is because of potential bias among lawyers who are arguing the case. As aforementioned in the previous paragraph, There are times when a case is being considered and there is a money factor involved in whether the case is won or lost. As such, some (but not all) lawyers may resort to all kinds of tactics to make sure that the plaintiff in the case has more of an upper hand than the defendant. Therefore, because financing of litigation often tends to induce bias among lawyers who may feel they need to cut corners or act in a shady manner to win cases, it does not always expand justice well. It is better instead to

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charge very small litigation fees or even no additional fees at all, so that the proceedings can be as unbiased as possible.

Lastly, I believe that litigation finance is not really the best way to expand and ensure justice because of the possibility of full justice not being given to those who have been wronged, and the possibility of potential offenders getting away with crimes. As mentioned earlier in this essay, when civil cases involving incidents of misconduct are filed in courts of law, then there are possibilities of the plaintiff doing things to make his side more likely to win or the defense side doing the same thing. In instances where this happens, there is a possibility that if the plaintiff has indeed been wronged, he may not be given the justice that is due him . There is also a possibility that if the defendant has been wrongfully accused, he may be given an unjustified punishment. Thus, in order for cases to be as fairly judged as possible, it is necessary to limit the amounts of additional charges lawyers charge clients for winning cases. In doing so, they will be motivated to do their jobs in a fair, objective, unbiased manner when arguing cases and serving their clients.